



women in prison

Northern Territory

Report of the Investigation
into complaints from women prisoners at
Darwin Correctional Centre
2008

OMBUDSMAN FOR THE NORTHERN TERRITORY



The Hon C Burns, MLA
Attorney-General and Minister for Health
Parliament House
DARWIN NT 0800

Dear Minister

I present to you for tabling in the Legislative Assembly a report into women in prison in the Northern Territory.

This report is the result of an investigation conducted under section 26(1) of the *Ombudsman (Northern Territory) Act*, is furnished pursuant to Section 28(2) of the *Ombudsman (Northern Territory) Act* and is delivered to you as the Minister responsible for both the Department of Justice and for the provision of mental health services by the Department of Health and Community Services to persons incarcerated in prisons within the Northern Territory.

Yours sincerely

A handwritten signature in black ink, appearing to read "Carolyn Richards".

CAROLYN RICHARDS
Ombudsman

11 April 2008

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executive summary

In early 2006 an investigation was launched by the Office of the NT Ombudsman into systemic concerns surrounding the conditions for women prisoners in the Northern Territory. The investigation followed a series of complaints being received from women at Darwin Correctional Centre.

The central issues of complaint explored in the investigation were:

- Access to programs, education and employment for women prisoners
- The management of and support for women prisoners with mental illness, cognitive disability or acquired brain injury
- The prison's response to self harm and attempted suicide

The complaints were primarily against NT Correctional Services (Department of Justice) but also concerned the mental health care and disability services provided by the NT Department of Health and Community Services.

The investigation sought to establish the current situation on the ground for women prisoners at Darwin and Alice Springs Correctional Centres and measure it against the national and international standards and literature on best practice. It found a number of positive recent initiatives and considerable momentum and enthusiasm for change among staff and management. It also found a lack of resources, poor planning, outdated and inappropriate procedures and a failure to consider women as a distinct group with specific needs. This had resulted in a profound lack of services, discriminatory practices, inadequate safeguards against abuse and very little in the way of opportunities to assist women to escape cycles of crime, poverty, substance abuse and family violence.

Women constitute a small but growing part of the NT prisoner population. Their small numbers present both a challenge and an opportunity for the Territory to get things right. This investigation has sought to identify key problems, suggest a framework for action, and put forward a series of practical recommendations to achieve this aim.

recommendations

CHAPTER 1: The need for a women-specific approach

1. That NTCS supply this office with a draft copy of the new women's policy within six months of the release of this report.

CHAPTER 2: Programs, Education & Employment

INDIVIDUAL ASSESSMENT

2. That in light of the generally shorter sentences served by women, DCC develop a specific assessment process for women prisoners which allows for a full case plan at the 3 month rather than the 6 month point.
3. That with the roll-out of IOMS assessment tools, the shorter sentence length of women be taken into account in formulating assessment procedures.
- 3a. That the Department of Justice provide my office with a report on the revision and implementation of the sentence planning process within 3 months of the introduction of the IOMS system at NTCS.

INDUCTION

4. That the DCC Superintendent's undertaking to develop and implement a new induction process for women prisoners (with a view to making it more practical, comprehensive and targeted) be completed within 6 months of the release of this report.
5. That the new induction process include the production of a prisoner handbook (in audio as well as hard copy format) specific to women at DCC in consultation with women prisoners. Women prisoners should be invited to write or audio-record some sections themselves, and be provided with the facilities to do so.
6. That the new process and handbook be reviewed in consultation with women prisoners after a 6 month period to ensure that it is meeting its aims.

REHABILITATION PROGRAMS

7. That the Prisoner Rehabilitation Team develop a core number of programs specific to women based on the available research about best practice in women's programming and in consultation with currently serving women prisoners. That these core programs include:

- a) Alcohol rehabilitation
 - b) Family violence and abuse
 - c) Children and parenting
8. That the Prisoner Rehabilitation Team develop a delivery schedule for programs in J block for the forthcoming year.
 9. That NTCS adopt a service charter for female prisoners at DCC which ensures access to these core programs on a regular schedule regardless of class size, in order that each prisoner serving a sentence or on remand for three months or more *will* have access to a suitable program.

The core programs need not be delivered by the Prisoner Rehabilitation Team directly but could be delivered by other appropriate organisations outside the prison or in a joint partnership arrangement.

10. That NTCS appoint a project officer to actively negotiate with community organisations and other services outside the prison with a view to involving them in the delivery of rehabilitation programs (both core and non-core) to women to the greatest extent possible. The access of these organisations to the prison should be encouraged and facilitated, including by fee-for-service arrangements where appropriate.
11. That the NTCS apply within a reasonable time to the Northern Territory Government Cabinet and to any other appropriate funding source, for the necessary funds to action Recommendations 7 to 10 without removing funds from men's programming.

EDUCATION

12. That NTCS review its educational provision for women prisoners and develop short, medium and long term plans in consultation with women prisoners to enhance the variety of courses available to women at both DCC and ASCC.
13. That NTCS develop educational courses specific to the needs of women prisoners, including conducting an examination of the feasibility and delivery options of each of the following courses suggested by J block prisoners:
 - a) Accelerated Literacy
 - b) English as a Second Language
 - c) Living skills
 - d) Budgeting
 - e) Basic Hygiene
 - f) Cooking
 - g) First Aid
 - h) Courses leading to trade qualifications
 - i) Interpreting (Aboriginal languages)
 - j) Nursery training
 - k) Agriculture
 - l) Ranger, conservation and 'Caring for Country' training
 - m) Deckhand course
 - n) Crocodile management
 - o) Facilitators course
 - p) Counselling services
 - q) Certificate 4 – workplace training and assessing
 - r) Bush medicine and tucker, tracking skills
 - s) Traditional weaving

t) Aboriginal culture

and that NTCS apply within a reasonable time to the Northern Territory Government Cabinet and to any other appropriate funding source, for the necessary funds to action this recommendation.

14. That the Education Unit ensure that appropriate support is provided to prisoners undertaking external studies including liaison with the educational institution, sending assignments, receiving results, conducting examinations, obtaining required study materials, photocopying, downloading documents, supply of writing materials, and general advice and support.
15. That reasonable access to computers be provided to prisoners undertaking external courses, and that NTCS research and resolve a method of providing prisoners with essential study material from internet sites.
16. That the DCC Education Unit consult with women prisoners to develop a formalised peer tutoring network supported by qualified staff, to supplement but in no way replace the provision of formal education for the block.

EMPLOYMENT

17. That NTCS decide as a matter of policy that a similar range of employment options, including full time work, will be available to female prisoners as for male prisoners on similar classifications and that Cabinet be approached to obtain the necessary funding to implement the agreed policy.
18. That NTCS allow and encourage women, subject to reasonable security requirements, to become involved in prison industries work alongside men, and put in place the appropriate procedures to facilitate this.
19. That NTCS develop and implement a plan in consultation with women prisoners to bring its employment opportunities into line with the relevant standards. That this plan include:
 - a) Undertaking an analysis of the skills in demand in women prisoners' home towns and communities in consultation with women prisoners, community councils, land councils, Federal and Territory government departments, industry and other stakeholders. The analysis should include consideration of different types of criminal convictions and the limits they place on employment options.
 - b) Developing new work opportunities in prison to match this analysis as closely as possible.
 - c) Emphasising employment linked to vocational education which can lead to formal accreditation.
 - d) Expanding access to the Community Support Program for women prisoners at DCC including on a full time basis, and instituting access in the case of women at ASCC.
 - e) Exploring opportunities for meaningful volunteer work on the block by developing partnerships with community service organisations and government departments.
 - f) Linking employment to existing education options. For example, enhancing the employment outcomes of the existing art program by

adding an additional unit focussed on training in relevant aspects of the art industry and involving work experience for example in co-managing prisoner art exhibitions in the community.

- g) Developing the capacity of J block facilities to enable some meal preparation for J block prisoners to occur in J block, offering skilled jobs to women prisoners. In the longer term this should be linked to formal training and accreditation.
- h) Making the appropriate applications for funds and capital works within a reasonable time.

PROGRAMS/EDUCATION FACILITIES

- 20. That in the interim period before further J block capital works to expand programs space and facilities, DCC work to maximise access to programs and education facilities in the men's section to women.

OUT-OF-CELL HOURS

- 21. That DCC develop a strategy that will enable it to expand out-of-cell hours to the women's block in order to bring it into line with the national average of around ten hours per day and that this strategy be integrated in all relevant action and plans in the future, including Cabinet and other submissions for funding, until the strategy is implemented.
- 22. That DCC continue to monitor staffing levels to ensure that unscheduled lockdowns are kept to a minimum and do not again reach 2005 levels.
- 23. That DCC ensure that in future, women prisoners are not disproportionately targeted for lockdown.

POLICY REGARDING ACCESS TO MEN'S COURSES

- 24. That NTCS develop a directive on the issue of women prisoner's access to men's courses. This directive should outline relevant security and cultural limitations, but have as its basis the premise that mixing of genders for courses is supported, and:
 - a) Ensure that women of equivalent security status are able to take part in courses offered to men except where women's participation is clearly inappropriate to the nature of the program (ie some therapeutic programs).
 - b) Outline the appropriate supervision and other procedures to minimise potential risks to women prisoners.
 - c) Put in place measures and supports to ensure that the individual woman prisoner understands that she has the right to choose not to participate in a course alongside men or to discontinue a course if she does not feel comfortable, and will not be penalised for doing so.
 - d) Specify that access to men's courses is not considered an alternative to delivering courses specifically designed for and delivered to women.
- 25. That the Superintendent ensure that prison officers and other relevant staff properly understand the meaning and intent of the directive.

26. That women prisoners be clearly advised of, assessed for, and invited to participate in courses alongside men in an ongoing way where appropriate, and that access to these courses be encouraged and facilitated in a genuine and practical manner.

POLICY REGARDING OPPOSITE GENDER ESCORTS

27. That Superintendent Raby's undertaking to review and formally articulate the policy regarding opposite gender escorts be supported and actioned within six months of the release of this report.
28. That the new policy be clearly explained to prison officers and other relevant staff by way of in-service training to ensure that it is correctly implemented in future.

That the new policy specify the principle that women's access to programs, education and employment should not be limited as a result of the policy. That is, where a situation arises whereby a male prison officer is required to escort a female prisoner in a one-on-one setting, appropriate operational measures should be put in place to ensure that the program, education or employment can go ahead.

That 'Angela' and the other female prisoner who lost their CSP jobs in October 2005 receive a written apology for the way the situation was handled and the six month delay in rectifying women's access to the work program.

ACCESS TO PRISON LEAVE

29. That NTCS continue in its project to develop and implement a suitable model for gradual release for NT prisoners.
30. That NTCS review the classification system and in doing so address the specific classification issues for women raised in this report, in order to facilitate women prisoners' access to programs, education and work in the community.

CASE MANAGEMENT

31. That NTCS develop and implement a comprehensive individual case management model for the Territory over the next five years, including the development of policy and procedures, staff and training, and appropriate facilities. That the model fully recognise the specific situation of women prisoners, their generally greater need for welfare services and their shorter sentences.
32. That NTCS make application to Cabinet or other appropriate source of funds within a reasonable time, to implement Recommendation 43 of the CAYA Review of Adult Custodial Services by providing case management staff on the ratio of one case management officer per 35 to 50 inmates.

CONCLUSION RE PROGRAMS

33. That the Department of Justice take the fifteen recommendations of the NT Legal Aid Commission's 2006 paper *Managing Prisoner Growth in the NT* into account when planning and prioritising projects, goals and funding support in the future.
34. That the Department of Justice Annual Report in future specify in its standard Custodial Services Performance Reporting the precise figure for female

prisoners' "Participation in prison programs" in addition to the existing figure covering all prisoners.

35. That the Department of Justice Annual Report contain a standing section specific to female prisoners which includes:
 - a) which treatment intervention programs were delivered to female prisoners over the last financial year
 - b) which educational courses were delivered to female prisoners over the last financial year
 - c) what types of employment were held by female prisoners over the last financial year.

CHAPTER 3: Pre and Post Release

36. That women prisoners be immediately informed of the August 2006 decision to allow them to attend the men's Pre-Release Program, and that in the absence of any other pre-release program, their attendance at the men's program prior to their release be encouraged and facilitated.
37. That until women prisoners at DCC receive access to a comparable Pre-Release Program to that currently offered to men, Directive 2.15.4 be immediately amended in order to avoid the anomaly that a female prisoner's entitlements to visits are affected by a professional visit from an agency providing pre-release information.
38. That the Department of Justice prepare a submission to the NT Government that it actively support and facilitate the development of post-release housing options for women prisoners and their children such as halfway housing, bail hostels and accommodation on the OARS NT farm.
39. That the Department of Justice liaise with Territory Housing regarding changes to Territory Housing policy which would allow prisoners on short sentences to hold onto their housing during their incarceration.
40. That NTCS make application to the NT Cabinet or any other appropriate funding source, to fund a community-based women's re-entry service, including the employment of a full time case management officer based in Darwin, to provide support, information, referral and advocacy for women prisoners. Consideration should be given to employing a female ex-prisoner for this position. The service should be operational within 18 months of the release of this report.

I suggest that the service be hosted by OARS NT, Dawn House or other relevant organisation. Its functions would include:

- a) Working with women during incarceration to develop an individualised post-release plan linking the prisoner to appropriate services, including accommodation.
- b) Providing a contact point for prisoners, prison officers and other staff for concerns relating to pre and post release issues of women prisoners.

- c) Arranging for visits to the prison by Territory Housing, the Anglicare Financial Counsellor and other agencies as appropriate to the needs of the particular women approaching release from time to time.
 - d) Linking with families, Elders and communities to which women prisoners will be returning.
 - e) Assisting prisoners to deal with issues relating to children and custody.
 - f) Developing resources such as the Release Kit produced by Sisters Inside.
 - g) Working closely with OARS NT to involve women in the services it provides, such as the carpentry workshop, art workshop and art gallery, and/or developing other services specific to women.
 - h) Working with OARS NT, the NT Government and other relevant organisations to develop suitable housing options for women prisoners post release.
 - i) Advocating for the needs of women prisoners pre and post release.
41. That in addition to the service referred to in Recommendation 40, women continue to receive full access to the men's Pre-Release Program should they wish to attend.
42. That the NT Government be responsible for developing an options paper on how to obtain a full time community based re-entry support officer based in Alice Springs, to service both male and female prisoners.

CHAPTER 4: Mental health and wellbeing

GENERAL

43. That FMH and the Disability Team ensure that their clients are provided with a continuum of care from prison through to post-release support in the community, including medical and psychiatric throughcare, linkage with external support services, assistance with living skills and housing, and other practical and social support.
44. That NTCS review the application of the existing discretion (held by the Executive Director) with appropriate stakeholders such that prisoners have weekday release dates wherever possible.

SOLITARY/SEPARATE CONFINEMENT

45. That NTCS Directive 2.4.2 be reviewed for its impact on prisoners with mental illness, intellectual disability or acquired brain injury. That changes include:
- a) Setting out the principle that separate confinement is generally damaging for mental health and should be avoided wherever possible.
 - b) Setting out the principle that separate confinement may be particularly distressing for Indigenous prisoners.
 - c) Setting out the principle that the separate confinement of women in a men's block may be particularly distressing.

- d) Setting out the principle that separate confinement for extended periods (greater than 21 days) should be avoided at all costs.
- e) Requiring officers to demonstrate that the decision to separately confine a prisoner is a last resort and that all other alternatives are not feasible or appropriate.
- f) Defining minimum out of cell hours for those in confinement and the conditions for the out of cell hours (including adequate space to allow exercise in the open air).
- g) Requiring daily medical and/or FMH monitoring of those in confinement.
- h) Requiring daily visits by the Welfare Officer and/or Indigenous Support Worker of those in confinement.
- i) Amending Appendix A (“Management Regime for Separate Confinement”) to specify that the prisoner may receive visits in accordance with the entitlements of maximum security prisoners, and that the decision to provide a contact or non-contact visit should be made on a case-by-case basis. Where the visit involves children, the presumption should be to allow a contact visit.
- j) In the section relating to “Disruptive Prisoners”:

Clearly distinguishing between behaviours *intended* to disrupt and those disruptive behaviours which stem from mental illness, intellectual disability or acquired brain injury. In the latter case, the underlying principle should be that a health intervention is the priority, and that consultation with FMH or disability support officers is mandatory.

- 46. That the management cell of J block be renovated or shifted to allow access to a larger open-air area. That in the interim, prisoners confined to the management cell receive at least one hour per day in the open grounds of J block under supervision.

ACCESS TO SPECIALIST FACILITIES

- 47. That NTCS and DHCS note the conclusion in this report that patients who have been found unfit to stand trial or not guilty on grounds of mental impairment should be housed in a hospital setting rather than prison.
- 48. That the Departments move to develop an appropriate long term forensic facility in compliance with the national and international standards, to be operational within five years of the release of this report. In determining the model for such a facility, the Departments should note the conclusion of this report that it should be outside the prison and under health management.

COUNSELLING

- 49. That NTCS ensure that female prisoners are fully informed of their right to request individual counselling sessions, and the process for making such requests, through the formal induction and prisoner handbook.
- 50. That in conjunction with the new recording regime for counselling sessions at DCC, the prisoner Rehabilitation Team track the requests or referrals received for individual counselling sessions from female prisoners, and the waiting times

between requests and delivery of the service, to ensure that waiting times are within the two week range suggested by NTCS.

GENERAL RECOMMENDATIONS RE MENTAL HEALTH AND WELL-BEING

51. That DHCS and NTCS furnish a joint report to the Ombudsman within one year of the release of this report which sets out the following:
 - a) The extent to which the new screening tool is operational.
 - b) Early indications as to the level of mental health and disability needs among women prisoners at ASCC and DCC.
 - c) The types and levels of services that have been delivered to women prisoners by the new disability support officers at each prison.
 - d) The level of contact between the new Top End FMH Indigenous consultant and Indigenous women prisoners at DCC.
 - e) The proportion of prison officers having completed the three new training modules on mental health, intellectual disability and acquired brain injury.
 - f) The progress in establishing an on-site FMH presence at DCC and the impact on service provision.
 - g) The progress in developing the proposed secure mental health units.
 - h) The progress in establishing a long term forensic facility for the NT.
 - i) Other progress in mental health and disability care for women prisoners, including future strategies and long term plans for expanding services.
52. That the Department of Justice, in consultation with DHCS, research and develop options for greater front-end diversion of offenders with mental illness, intellectual disability and acquired brain injury from the criminal justice system.
53. That this report be forwarded by the Ombudsman to the Human Rights and Equal Opportunity Commission to assist them with a national review of the treatment of women with mental health problems within the criminal justice and prison systems as recommended in 2006 by the Anti-Discrimination Commission Queensland and the Senate Select Committee on Mental Health.

CHAPTER 5: Suicide & self harm

AT RISK PROCEDURES

54. That section 3.4 of the NTCS Directive 2.8.3 'At Risk' Procedures Manual in relation to court-ordered At Risk status ("Management of Prisoners Flagged At Risk prior to Reception") be immediately amended to require:
 - a) Notification of Forensic Mental Health by the primary health provider as soon as practicable.
 - b) Assessment of the prisoner within two hours by the primary health provider and as soon as practicable or within 24 hours by Forensic Mental Health.

- c) Cessation of At Risk status as per the normal procedure at section 9.
 - d) Adequate medical and mental health follow-up.
55. That the At Risk Procedures Manual be immediately amended to stipulate that in relation to prisoners identified as At Risk of self harm or suicide:
- i) Isolation in an observation cell occur only as a last resort, and only when the prisoner is a risk to other prisoners or staff
 - ii) That observation occur by way of supportive human contact
 - iii) That in the immediate aftermath of a self harm incident or suicide attempt, in addition to the procedures currently in place regarding assessment by the primary health provider and FMH, the following occur:
 - i. That urgent crisis counselling be arranged through the Prisoner Rehabilitation team, Forensic Mental Health, or an external provider
 - ii. That the prisoner be visited by the Welfare Officer or Indigenous Support Worker
 - iii. That prison staff facilitate contact with family members and other support people nominated by the prisoner

USE OF RESTRAINTS

56. That NTCS Directive 2.2.3 (Use of Restraints) be immediately amended to include the following procedures in relation to the use of the cell B6 restraint:
- a) That the procedures applying to “restraint belts, hobbles or body chains” apply to the use of the cell B6 restraint in addition to the following provisions.
 - b) That the restraint be used as a last resort only in order to protect a prisoner from harm to self.
 - c) That the use of the restraint be accompanied by constant direct supervision.
 - d) That a mattress always be used.
 - e) That a maximum duration for the application of the restraint be specified, in the order of two hours.
 - f) That a detailed report be furnished to the Superintendent by the senior officer containing:
 - i. a detailed statement of the reasons for use and thus the reasons for not using some alternative
 - ii. the time at which the prisoner was first restrained
 - iii. the names of the officers who were involved in the cell extraction or other event immediately preceding his being put under restraint
 - iv. a notation of the prisoner’s physical and mental condition once under restraint and
 - v. a statement that the Visiting Medical Officer had been notified and asked to attend

- g) That the Visiting Medical Officer note the time of his/her arrival, observations made of the prisoner, any action taken or recommended, and the time scheduled for the next visit.
- h) That if available, the Welfare Officer or Indigenous Support Worker should attend.
- i) The Superintendent should attend at or immediately after the time that the prisoner is released back into his/her cell, interview him/her and note and sign off any complaints made by the prisoner.

SUICIDE PREVENTION STRATEGY

- 57. That the use of the cell B6 restraint be phased out over a three year period from the release of this report, in conjunction with the development of a holistic suicide prevention strategy.
- 58. That NTCS in conjunction with DHCS research and develop a multi-disciplinary suicide and self harm prevention strategy for DCC and ASCC based on best practice, which emphasises the development and strengthening of protective factors and supportive relationships and case management of vulnerable prisoners and avoids the use of isolation and passive observation. That adequate training, programs, procedures and facilities be put in place to facilitate the strategy, including alignment with IOMS. That the strategy be in place within two years of the release of this report.
- 59. That DCC consult with women prisoners to consider options for the formal involvement of prisoners in suicide and self-harm prevention including the development of a peer listener scheme whereby prisoners are carefully selected, trained, paid and supported to identify and assist others experiencing distress.

CHAPTER 6: Issues arising

FACILITIES

- 60. That DCC develop a five year capital works plan for the upgrade of J block based on best practice design for women's prisons and in consultation with women prisoners, particularly the enhancement of facilities for programs, education, sport, recreation and kitchen facilities (Low Security Area).
- 61. That DCC, in consultation with women prisoners, implement Recommendation 48 of the CAYA Review of Adult Custodial Services in relation to J block within five .years of the release of this report. That this include:
 - a) Enhancing visits facilities by constructing additional shade and rain cover.
 - b) Developing appropriate visits facilities for children including an enclosed play area and playground equipment.
 - c) Expanding visiting times, especially for children.
 - d) Reviewing the telephone program to see if it can be enhanced and/or costs reduced.
 - e) Developing extended stay family visiting units.

- f) Holding more family days involving barbecues and activities.
 - g) Greatly improving facilities and support for young children to be housed with their incarcerated mother.
 - h) Making visits and family contact a programs responsibility.
62. That rather than expanding female prison capacity, the Department of Justice develop a comprehensive strategy for the establishment of further alternative sentencing and remand options for women around the Territory and that this strategy be presented to Cabinet within 12 months of the release of this report.

COMMUNICATION BARRIERS: Staffing & prisoner representation

63. That NTCS create a new senior position in DCC or allocate the responsibility to an existing job, to oversee management and services to women prisoners.
64. That a prisoner committee or representative structure be established in J block within six months of the release of this report to serve the following functions:
- a) providing a conduit for information from prisoners to management and vice versa
 - b) providing a forum for management to consult with prisoners
 - c) hearing prisoner concerns, advocating for individual prisoners and providing a unified voice to management
 - d) resolving/mediating disputes between inmates.
65. That the representatives be supported in their work including receiving basic training, reasonable access to information, to areas of the block, and to stationery, and receive a meeting with the Superintendent once per month.
66. That representatives be selected by J block prisoners and paid for their work.
67. That an NTCS Directive mandating the existence of the committee/ representative structure and setting out its functions and processes be developed within one year of the release of this report.

preface

Origins of the investigation

The role of the NT Ombudsman is to investigate complaints by members of the public about the actions of NT Government departments and authorities and NT Local Government. Complaints from prisoners make up a large proportion of those received by our office.

The Ombudsman received three letters of complaint from women prisoners at Darwin Correctional Centre in May and June 2005. Issues complained of included excessive unscheduled lockdowns and lack of meaningful activity. A number of further letters were then received raising new complaints about discrimination in access to programs and education and the management of inmates with mental illness or brain injury. Preliminary enquiries were undertaken with the Professional Standards Unit of NTCS. A number of the complaints were found to be substantiated, and a picture began to emerge of possible systemic inadequacies in the management of female prisoners at Darwin Correctional Centre. Following interviews conducted with the complainants at the prison in December 2005, the Ombudsman determined to launch a formal investigation into a number of the systemic issues raised.

Initially the investigation involved only NTCS (Department of Justice). It was later determined to broaden the investigation to include those aspects relating to mental health and disability services which were properly the responsibility of the Department of Health and Community Services.

The purpose of the investigation was to assess both the veracity of the complaints and to what extent they might constitute defective administrative action pursuant to section 26(1) of the *Ombudsman (Northern Territory) Act*, in light of national and international standards, accepted principles of best practice and inter-jurisdictional comparisons.

Jurisdiction of the Ombudsman

Pursuant to section 14(1)(a) of the *Ombudsman (Northern Territory) Act* the Ombudsman is empowered to “investigate any administrative action taken by, in or on behalf of any department or authority to which this Act applies”. Northern Territory Correctional Services (NTCS) is a division of the Department of Justice, which is a department or authority within the meaning of the Act, as is the Department of Health and Community Services.

The process whereby a person in custody may make a complaint is set out in section 17 of the Act. The actions complained of in this matter come within the definition of "administrative action" under section 3(1).

Investigative process

The investigation involved the collection of information through interviews, enquiries and documentary sources.

In May and June 2006 the issues of complaint were collated and sent in full to both the Departments of Justice and Health and Community Services respectively for a response. Both Departments prepared comprehensive reports for our office which were greatly appreciated.

The report prepared by the Department of Justice (dated 28 August 2006) warrants special mention. It was authored by Senior Project Officer Justine Mickle, who was appointed with the specific task of preparing the Department's response. I applaud the Department for taking this initiative and for the clear, candid and detailed nature of the report presented.

Other material examined in the course of the investigation included:

- Letters from the complainants
- Results of enquiries undertaken by the Professional Standards Unit of NTCS
- Review of relevant legislation, regulations, NTCS Directives and other policy documents
- NTCS records and registers
- Review of previous complaints to the Ombudsman on similar issues
- Background research into national and international standards and authoritative literature on principles of best practice
- Review of statistical data
- Comparison data and policy from other Australian jurisdictions.

Legislation reviewed included:

- *Prisons (Correctional Services) Act & Regulations*
- *Mental Health and Related Services Act.*

Interviews or consultations were held with the following individuals:

- Four female prisoners, Darwin Correctional Centre
- Recently released female prisoner
- Kevin Raby, Superintendent, Darwin Correctional Centre
- Bill Munro, Manager Prison Services, Darwin Correctional Centre
- Jens Tolstrup, Director NT Correctional Services
- Wendy Hunter, Director Strategic Initiatives and Executive Support, NT Correctional Services
- Justine Mickle, Senior Project Officer, NT Correctional Services

- Peter Warner, Manager Research and Evaluation, NT Correctional Services
- Bronwyn Hendry, Director Mental Health Services, NT Department of Health and Community Services
- Peter Mals, Forensic Mental Health Team Leader, Royal Darwin Hospital
- Bill Somerville, CEO, Offenders Aid and Rehabilitation Service NT
- Pru Gell, Domestic Violence Community Development and Training Project, Dawn House
- Judy Clisby, Manager Community Visitor Program
- Chris Howse, Aboriginal Justice Advocacy Committee, Charles Darwin University
- Fiona Hussin and Melinda Schroeder, NT Legal Aid
- Natalie Hunter, Kimberley Hunter, James Dawson, Eddie Cubillo & Sharon Payne, North Australian Aboriginal Justice Agency
- Elizabeth Grant, Lecturer, School of Architecture, Landscape Architecture and Urban Design, University of Adelaide
- Tricia Ross, Anglicare NT

Due to resource constraints, the investigation did not involve broad consultation with all serving female prisoners. Only those who had approached our office were interviewed. This did not include any women from Alice Springs Correctional Centre. It is also acknowledged that those women who approached us were disproportionately non-Indigenous and well educated compared to the general female prison population. This fact has been taken into account in the ensuing recommendations in terms of the call for NTCS to undertake broad consultation of its female population in the implementation stage, and to establish a representative committee for female prisoners in Darwin Correctional Centre whose role would include the oversight of this implementation.

The focus of this investigation is on conditions for women prisoners. It is a fact that many of the complaints raised by female prisoners may equally apply to male prisoners in the Territory. By focussing on women prisoners, the Ombudsman does not mean to imply that all of the aspects mentioned are unique to female prisoners, or to discount the impact of these issues on male prisoners. The focus on female prisoners does however reflect the recognised need to treat female prisoners as a group in their own right with distinct needs and life histories.

Our office has endeavoured through this investigation report to fairly present both sides of the issues raised and present clear and practical recommendations for the way forward.

Draft of this report

The draft of this report was sent to the Departments of Justice and Health and Community Services in April 2007. Because of its length, and the detail of its recommendations, this office felt it was appropriate to allow each department an extended period of time within which to respond.

The response of the Department of Health and Community Services was received in May 2007. Its response was directed at the recommendations which affect it, and these responses are noted in Chapters 4 and 5.

On 19 October 2007 the Ombudsman and Director of Investigations were shown around J Block by the Department of Justice's Greg Shanahan and Ken Middleton. During the visit they observed the conditions within the women's prison together with evidence of the improvements listed in Mr Shanahan's letter of 31 December 2007 referred to below. They were also given a copy of the new Women Prisoners' Handbook.

The response from the Department of Justice was received in January 2008. The covering letter (dated 31 December 2007) from Chief Executive Greg Shanahan is attached to this report. It sets out the Department's overall response and details recent improvements to conditions in J Block.

The substantial period of time taken to obtain the responses to the draft of this report means that it is now nearly a year since the draft was written. The evidence was gathered late in 2005 and throughout 2006. In the interests of getting this report released, I have not expended time re-writing it to the current date. The issues and consequent recommendations remain substantially the same. The areas of improvement instigated by the Department of Justice during 2007 have been spelt out by the Department and are incorporated in the body of the report and in Annexure E.

Acknowledgements

This office would like to acknowledge the assistance received from many people in the Department of Justice and Department of Health and Community Services, as well as the external agencies and individuals consulted, who devoted considerable time and energy to assisting with this investigation. In particular I wish to thank Senior Project Officer Justine Mickle and DCC Superintendent Mr Kevin Raby.

Most importantly I would like to thank the women prisoners who, not without risk, spoke up and shared with us their stories, concerns and visions. I have changed the names of the complainants to protect their identities.

Context to the Investigation

Female prisoners in the NT

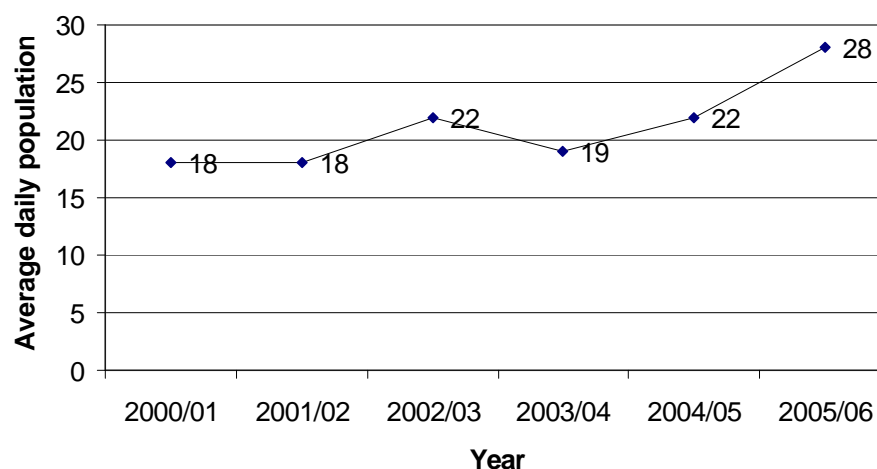
Women constitute a small but growing part of the NT prisoner population. In 2005-2006 they made up just 3.6% (average daily proportion) of total prison numbers in the Territory, significantly lower than the national average of 6.7%.¹

The average daily number of adult females in prison during 2005-06 was just 28. There were 153 receptions over the year involving 116 distinct women.²

POPULATION GROWTH

A review of previous Annual Reports and Statistical Summaries shows that the average daily population of women prisoners in the NT has risen over the last five years:

Average daily female prisoner population NT



In 2000/2001 women made up 2.8% of the prison population based on daily average figures.³ The figure is now 3.6%.⁴ This indicates that as a proportion of the NT prisoner population, the numbers of women are growing more quickly than men. While the male population is rising, the female population is rising faster.

The NT prisoner population as a whole has been growing steadily. The daily average number of prisoners (male and female) held in adult correctional institutions in the NT in 2005-06 was 791. 81% were Indigenous. There were 2,496 receptions into NT adult correctional institutions during 2005-06, involving 1,867 distinct people.⁵

¹ NT Correctional Services Annual Statistics 2005-2006 at 4

² Id at 4, 17, 20

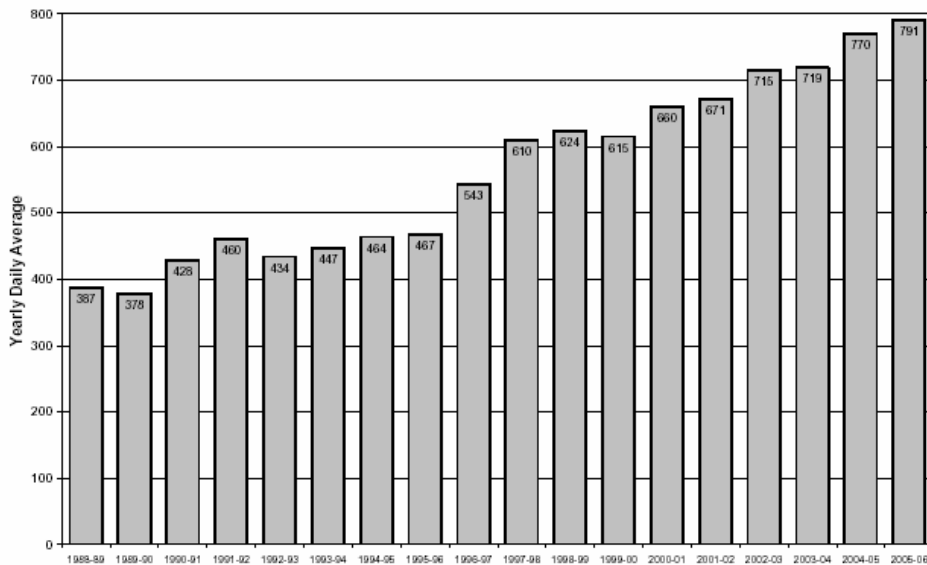
³ NTCS Annual Report 2000-2001

⁴ NT Correctional Services Annual Statistics 2005-2006 at 4

⁵ Id at 2-3

As the graph below shows, the daily average NT prisoner population has doubled in the last sixteen years:⁶

Figure 2 Yearly daily average adult prisoners from 1988-89 to 2005-06.



The rapid growth of the prisoner population in the NT reflects the national trend. Over the last ten years the number of prisoners in all Australian states and territories has increased by 39%, while the number of female prisoners has increased by 90%. This is shown on the graph below:⁷



IMPRISONMENT RATES

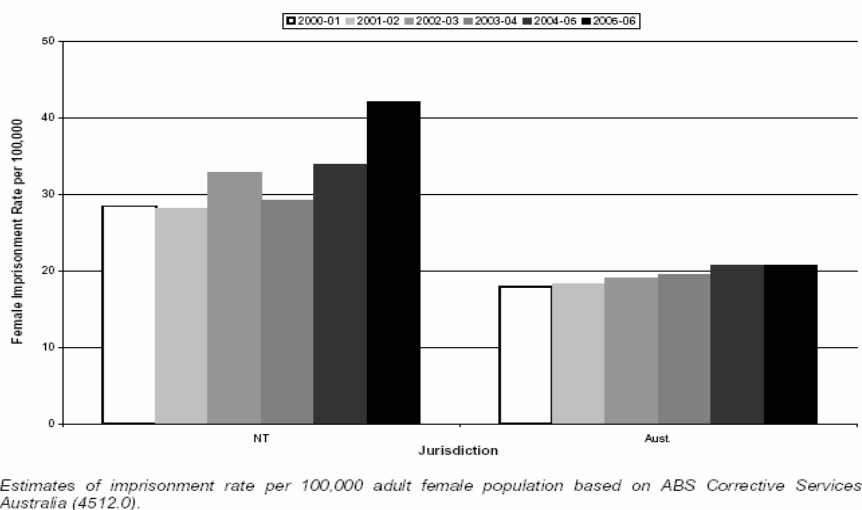
The estimated NT female imprisonment rate for 2005-06 was double the estimated Australian rate for the same period (42 per 100,000 adult females compared to 21). While the actual numbers of women are still quite small, it appears that the imprisonment rate of women in the NT is climbing faster than the national rate:⁸

⁶ Id at 2

⁷ Australian Bureau of Statistics (2006), *Prisoners in Australia 2006*, Cat no 4517.0 at 6-7

⁸ Id at 4

Figure 5 Estimated adult female imprisonment rates, 2000-01 to 2005-06.



The rate of imprisonment for adults as a whole in the NT is an extraordinary three and a half times the national rate (551 per 100 000 adults over 2005-06, compared with 156).⁹

The rising number of women prisoners in the NT presents both a challenge to prison managers and an opportunity to put in place the appropriate conditions and services to meet the needs of this group.

Facilities for women prisoners

The NT has two adult custodial institutions. Darwin Correctional Centre has a capacity of 450 prisoners while Alice Springs Correctional Centre has a capacity of 400 prisoners. Both hold prisoners on low, medium and maximum security classifications. Both hold male and female prisoners.

Darwin Correctional Centre is the principal facility for female prisoners. Alice Springs Correctional Centre has historically only held female prisoners on a very short term basis and generally only on remand, but this has been changing in recent years as pressure on the women's facilities in Darwin has grown.

In Darwin Correctional Centre, female prisoners are held in J block. This is a distinct area situated outside the perimeter fence of the rest of the prison but only about 50 metres away. J block houses female prisoners of all security classifications. It consists firstly of a small U-shaped brick building which houses maximum, medium and remand prisoners in ten cells, including a special 'management' cell. There is a fence across the front of the U-shape, enclosing a small courtyard, separating these prisoners from the rest of J block. Beside this building are dongas (dismountables) in a U-shape which house low security female prisoners. There are eight cells in the Low Security Area sharing two communal toilets and two showers. The block is surrounded by a small area of lawn and a perimeter fence. The total capacity of J block is 35 prisoners (18 cells).

Standard out-of-cell hours for the medium/maximum/remand area of J block is 8.30am to 3.15pm or 6 hours 45 minutes per day. That is, at 3.15pm prisoners are

⁹ Id at 2

locked in their cells until the following morning. A dinner plate is delivered to each cell at around 5pm and prisoners eat on their beds.

For the low security part of J block, prisoners are not locked into their cells but they are expected to stay in their rooms from 11pm onwards. They are able to leave to go to the bathroom or have a cigarette (the individual cells have no toilet or shower).

Except for patrol checks during the night, the whole block is unmanned by prison staff from 3.15pm until the 8.30am unlock.

In Alice Springs Correctional Centre, female prisoners are held in H block, a block within the main ASCC perimeter fence surrounded by medium and maximum security male prisoners (low security male prisoners are held outside the perimeter fence in the Cottages). H block has one dormitory-style sleeping area and an eating/TV area. If individual confinement is considered necessary, this occurs in one of the men's blocks. There is an outdoor caged area at the front of H block and a fenced area at the rear. At 30 June 2006 there were 11 women prisoners in ASCC.¹⁰

Profile of women prisoners

Little is known, in terms of research or statistical data, about the background of women in NT prisons. Little information is gathered by NTCS or the Office of Crime Prevention that would paint a picture of the general profile of women prisoners. Of that information that is collected, rarely is any distinction made between males and females in the publicly available statistics.

This is unfortunate given that the background and offending behaviour of women prisoners commonly differs in important respects from male prisoners. Such is the experience interstate and internationally where studies have been conducted.

NTCS' lack of corporate knowledge about the profile of its female prisoners, and how it might be different to male prisoners, provides an obstacle to developing a more targeted approach to the women in its custody.

What is known about women prisoners in the Territory is that of the 116 distinct women received into the NT prison system over 2005-06:

- 83% were Indigenous
- 53% were received at Darwin Correctional Centre and the rest at Alice Springs.¹¹

At 30 June 2006 there were 35 women in prison in the NT. Of these women:

- 63% were Indigenous
- 63% were sentenced and the rest were unsentenced.¹²

Women prisoners in the Territory on average spend about 2 months in prison, or 3 months on average if sentenced. This is about half the time spent in prison by men.¹³

¹⁰ NT Correctional Services Annual Statistics 2005-2006 at 13

¹¹ Id at 20

¹² Id at 13

¹³ Estimate provided by Department of Justice, 5 Jan 2007

Over two thirds of female prisoners surveyed on one day in January 2007 had been in prison before. Two thirds reported being under the influence of a substance at the time of their offence, mostly alcohol.¹⁴

National surveys of women prisoners from other jurisdictions may be helpful in building a fuller picture of the likely profile of women prisoners in the Territory. A 2004 study of 470 women incarcerated in prisons in six Australian jurisdictions found:

- 87% of the women were victims of sexual, physical or emotional abuse in either childhood (63%) or adulthood (78%). The majority were victims of multiple forms of abuse.
- Childhood and adult abuse were correlated with drug dependency and mental health problems.
- 55% of the women met the criteria for drug dependency and 27% for alcohol dependency.
- Physical abuse in childhood was a predictor of violent offending.
- Alcohol dependency among Aboriginal women was three times higher than for non-Aboriginal women.¹⁵

It is important to keep in mind the differences between the Territory's demographics and prisoner population compared with other states. In particular, the Territory has the highest proportion of Indigenous women in prison. Another important difference would be the proportion of prisoners coming from remote communities rather than towns and cities.

WA comes the closest to the NT in terms of its proportion of Indigenous women. 50% of women prisoners received into WA prisons are Aboriginal.

In 2002 the WA Department of Justice carried out a comprehensive Prisoner Characteristics and Needs Survey of its women prisoners. Key findings were:¹⁶

- For 40% of the women surveyed, the current period of imprisonment was their first experience in prison. Approximately half of the non-Aboriginal women (52%) surveyed were in prison for the first time, and only 21% of the Aboriginal women.
- 19% were wards of the state as a child, including 26% of the Aboriginal women.
- 43% were the carers of dependents before entering prison.
- 51% reported a previous mental health diagnosis. The most common mental health issues reported were unipolar depression (36%) and anxiety (21%). 15% of the women reported that they had been previously admitted to a mental health unit/institution. The non-Aboriginal women surveyed reported a higher incidence (57%) of diagnosed mental health issues than the Aboriginal women (41%).
- 52% reported that they had seriously thought about and/or attempted suicide prior to imprisonment. 12% had attempted suicide in prison. 22% of Aboriginal women and 13% of non-Aboriginal women had self-harmed in prison.
- 74% experienced abuse as an adult and 57% as a child. Of the women who had experienced abuse either as an adult or child, 58% had never received any assistance to deal with this.
- 80% reported frequent use of drugs or alcohol.

¹⁴ Ibid

¹⁵ Johnson, H. (2004) *Drugs and crime : a study of incarcerated female offenders*, Australian Institute of Criminology, Canberra.

¹⁶ WA Dept of Justice (2002), *Profile of Women in Prison* at 5-21

The survey also found that most women shared a combination of these characteristics. Almost all (96%) had been diagnosed with a mental health issue, experienced abuse as an adult or child, and/or used alcohol or drugs frequently. 37% of those surveyed had all of these characteristics. These findings demonstrate clearly that women prisoners represent a very high needs group of the population.¹⁷

In 2003 a specific survey was done of Aboriginal women in prison in NSW. The Speak Out Speak Strong study conducted by the NSW Aboriginal Justice Advisory Council involved interviews with half of the Aboriginal women in prison in NSW at that time. Of those surveyed:

- Most performed significant roles in their communities and families as carers before their imprisonment. 86% were biological mothers of between one and six dependent children. Most were single mothers. 29% regularly cared for children other than their own biological children. 29% were normally responsible for the care of other people such as mothers, fathers and other family members.
- Almost all were unemployed at the time of their last offence, but almost half were not receiving any Centrelink payments. 43% of women who had dependent children had no income from either employment or Centrelink benefits.
- 15% were homeless.
- For 80%, alcohol or drugs were a factor in their offending.
- 70% were abused as children, most sexually abused. 68% said they still needed support or counselling to deal with this issue. Most said that their alcohol or drug use was related to their abuse as children.
- 78% were victims of violence as adults, mostly domestic violence. 60% said they still needed support or counselling to deal with this issue.¹⁸

It is likely that women in prison in the Territory share many of these characteristics.

Institutional change in NT Correctional Services

THE CAYA REVIEW

NTCS recently engaged CAYA Management Consulting International to undertake a comprehensive review of its operations and future directions.¹⁹ The resulting report of the Review of Adult Custodial Services (the "CAYA Review") laid out a thorough framework for broad organisational change within NTCS. All 71 recommendations were endorsed by Cabinet in March 2004 and funding of \$26.5 million committed to their implementation over four years.

At its heart the Review called for broad cultural change in NT Corrections: moving from a primary focus on security to a primary focus on prisoner rehabilitation. The recommendations set down a practical program for action in human resources and at an operational level.

¹⁷ Id at 22

¹⁸ Lawrie, R. (2003), *Speak out speak strong : researching the needs of Aboriginal Women in Custody*, Aboriginal Justice Advisory Council at 18-22, 25, 27, 45, 48-49, 50-51

¹⁹ CAYA Management Consulting International (2004), *A Path to Good Corrections: A Review of the NT Correctional Services – Adult custodial operations*, CAYA Management Consulting International for NT Correctional Services

Unfortunately the Review did not consider issues specific to women prisoners in any detail. At 5.2, under the heading “Women’s Programs, Accommodation and Issues”, the authors’ only comment is that:

Women’s programs were not specifically part of the Terms of Reference. The Review Team looked at these matters, but not thoroughly enough to make recommendations.

Notwithstanding this limitation, many of the Review’s recommendations are highly relevant to this investigation. A number of the issues raised by the complainants are the subject of specific recommendations relating generally to both male and female prisoners. The broader principles of cultural change underlying the Review are also highly consistent with the reforms suggested by the complainants.

Recommendations 43-53 and 66 of the CAYA Review are relevant to the issues raised by the complainants concerning education, employment and program opportunities provided to prisoners in general. These recommendations involve the following strategies:

- Increasing case management staff (Recommendation 43)
- Expanding prison industries (Recommendation 44)
- Setting educational targets regarding literacy, numeracy and English comprehension (Recommendation 45)
- Reviewing inmate needs, program fit and program effectiveness (Recommendations 46, 52 and 53)
- Expanding program and education hours, including the introduction of evening courses (Recommendation 47)
- Enhancing programs, policies and facilities to allow for more contact between prisoners and their children (Recommendation 48)
- Developing halfway houses, a mobile work camp and farm camp for minimum security prisoners (Recommendations 63 and 66)

In relation to the issues of mental health and disability, I note that the Review focused only on the issue of mental illness and did not give specific consideration to the issues of acquired brain injury and cognitive disabilities. Nevertheless, a number of recommendations flowing from the CAYA Review are relevant to all three issues:

- Enhancing general staff training and development (Recommendations 12-15 and 18-20)
- Moving towards a Living Unit model of unit management (Recommendations 31-32)
- Establishing secure mental health units within DCC and ASCC (Recommendations 39-42)
- Assessing inmate needs and providing additional case management staff and psychologists (Recommendation 43)

Recommendation 35 involves the establishment of a task force to assess compliance with the *Standard Guidelines for Corrections in Australia*. The Standard Guidelines include the general provision that:

1.41 The management and placement of female prisoners should reflect their generally lower security needs but their higher needs for health and welfare services and for contact with their children.

It is now four years since the Northern Territory Government endorsed all 71 recommendations of the CAYA Adult Custodial Services Review, the implementation of which was to occur within four years (from March 2004). An important component of this investigation was therefore analysing the Department's progress in its implementation of the Review.

NEW INITIATIVES SINCE THE INCEPTION OF THE OMBUDSMAN'S INVESTIGATION

Significant developments have occurred in NT Corrections since the investigation began in February 2006. These have arisen as a result of the CAYA Review, but also as a result of initiatives from within the Department of Justice and the Department of Health and Community Services and a number of key new staff, such as the new Superintendent of Darwin Correctional Centre Mr Kevin Raby. Public attention and the activism of women prisoners themselves have also played an important role in bringing about recent change.

There is no doubt that there is currently significant momentum in a number of areas pertinent to this investigation, particularly in the area of prisoner mental health and disability. This investigation report acknowledges the important progress made to date as well as highlighting the areas requiring further action.

The Northern Territory Government has just announced an intention to erect a new correctional centre. It is hoped that this report and its references to national and international research and standards will play some part to inform those entrusted with the design of facilities, processes, and opportunities for the rehabilitation of offenders.

Issues of complaint

Below is a list of the main issues of complaint raised by the complainants (four Darwin women prisoners plus one recently released prisoner) which formed the basis of the investigation. Discussion and findings relating to each issue can be found in later chapters.

- **OVER-ARCHING ISSUE**

That NTCS policy and practice fails to recognise or treat women prisoners as a specific group requiring a distinct response.

- **PROGRAMS, EDUCATION AND EMPLOYMENT**

- No meaningful individual assessment process
- Lack of consultation
- Key program areas neglected
- Limitations in program delivery
- Frequent cancellations
- Limited facilities for education and programs

- Little support for prisoners undertaking external education
- Limited out-of-cell hours
- Discrimination in access to education and programs compared with male prisoners
- Limited support for peer education
- Limited employment opportunities
- Discriminatory impact of rule disallowing mixed gender supervision
- Lack of pre-release program or other support

- **MENTAL HEALTH AND WELL BEING**

- Inadequate or inappropriate management of or support for women prisoners with mental illness, acquired brain injury or cognitive disabilities
- Unreasonable impacts on the well-being of remaining prisoners as a result of current practices in relation to women prisoners with mental illness, acquired brain injury or cognitive disabilities
- Inappropriate response to self-harm and attempted suicide & self-harm
- Inadequate access to counselling

- **OTHER ISSUES**

- Inadequate physical facilities
- Facilities for children (both to stay and to visit)

the need for a women-specific approach

In the first interview conducted for this investigation, one of the complainants summed up her complaint in the following terms. She said that the problem is that women prisoners at Darwin Correctional Centre are neither fully part of the prison, but nor are they separate. On the one hand, they do not receive equal access to services available in the men's prison on account of the fact that they are women. On the other hand, there is little consideration of their specific needs as women prisoners independent from the larger prisoner mass. This means they lose out on both accounts. There is neither equal treatment and nor is there differential treatment on the basis of differing needs.

This observation proved to be a recurring theme throughout the course of the investigation.

The investigation has found that NTCS policy and practice fails to recognise or treat women prisoners as a specific group requiring a distinct response. In general, the only times when women prisoners *were* treated as a distinct group were to *exclude* rather than provide for differing needs. An example is the unwritten policy excluding women from almost all programs and education run for men at both DCC and ASCC. This is discussed further in the Programs, Education and Employment chapter.

Two over-arching questions have framed our office's approach to this investigation:

- What attention is paid to whether women as a group receive an adequate level of *mainstream* services?
- To what extent does Corrections recognise the specific needs of women prisoners, and to what extent are these needs met?

The principle that women prisoners require a specific policy response is very well established in the research literature. Carlen (1998) has persuasively argued that:

A coherent and effective policy towards women in the criminal justice and penal systems will only be developed when it is recognised: that women's crimes are committed in different circumstances to men's; that women's lawbreaking is, on the whole, qualitatively

*different to men's; and that therefore the response to both men and women lawbreakers should be in-part gender-specific, rather than merely crime and sentence specific.*²⁰

Singer et al (1995) observe that “the crimes that women commit are often a reaction to negative life events, a response to crisis or prolonged disadvantage.”²¹

The HM Chief Inspector of Prisons (1997) has similarly concluded that:

*Women have different physical, psychological, dietary, social, vocational and health needs and they should be managed accordingly. As one correspondent put it to us, it is not merely a question of women receiving equal treatment to men; in the prison system equality is everywhere conflated with uniformity; women are treated as if they were men.*²²

Byrne and Howells (2002) extrapolate from this to suggest that:

*All prison regime changes should be submitted to ... a 'gender test' by asking whether the proposed innovations require differential implementation in women's and men's prisons because of the biological and culturally induced differences between male and female prisoners.*²³

Bloom, Owen and Covington (2003) point out that this is more than just a question of principle. The failure to have in place a women-specific approach can lead to a misalignment with women's realities and many practical difficulties:

*Gender differences in behaviour, life circumstance, and parental responsibilities have broad implications for almost every aspect of criminal justice practice... day-to-day practice in probation, jail, prison, and parole becomes problematic because behavioural and situational differences between female and male offenders are ignored.*²⁴

For example, gender neutral policies and procedures in correctional settings in relation to searches, restraints, and isolation “can have profound effects on women with histories of trauma and abuse.”²⁵

The result of a failure to acknowledge and respond to these differences is the woman prisoner who is “often defined as inconvenient and difficult to work with in a system designed to supervise the behaviour of men.”²⁶

Obviously a gender-specific approach to the management of women prisoners is more easily implemented in jurisdictions with stand-alone female facilities and greater female populations. But such an approach is certainly not precluded by small numbers and joint facilities.

Bloom and Covington define being gender responsive as:

[C]reating an environment through site selection, staff selection, program development, content, and material that reflects an understanding of the realities of women's lives and addresses the issues of the participants. Gender-responsive approaches are multidimensional and are based on theoretical perspectives that acknowledge women's pathways into the criminal justice system. These approaches address social (e.g.,

²⁰ Cited in Byrne, M. & Howells, K. (2002), “The Psychological Needs of Women Prisoners: Implications for Rehabilitation and Management”, *Psychiatry, Psychology and Law*, Vol 9, No. 1, pp34-43 at 5

²¹ *Id* at 38

²² *Id* at 6

²³ *Id* at 39

²⁴ Bloom, B., Owen, B. & Covington, S (2003), *Gender-Responsive Strategies: Research, Practice and Guiding Principles for Women Offenders*, National Institute of Corrections, US Department of Justice at 12

²⁵ *Id* at 25

²⁶ *Id* at 24

poverty, race, class and gender inequality) and cultural factors, as well as therapeutic interventions. These interventions address issues such as abuse, violence, family relationships, substance abuse and co-occurring disorders. They provide a strength-based approach to treatment and skill building. The emphasis is on self-efficacy.²⁷*

In the NT women prisoners are managed under exactly the same rules, policies and classification systems as men. They are one block among many others at the prison (both in Darwin and Alice Springs Correctional Centres). But there are some important practical differences in the way they are managed. Primarily, these differences are the result of restrictions on mixing between genders rather than any recognition of the specific needs of women.

For example, programs and education are in almost all respects run separately for men and women. But the small numbers of women are not considered sufficient to “justify” the full range of programs being run for them, therefore women receive access to only a fraction of those offered to men. At the same time, no specific plan is developed for the programs to be run for women that might take into account their needs as a group.

A second example is in the recruitment of prisoner welfare staff. At the end of 2006 Darwin Correctional Centre increased its numbers of Indigenous Support Workers from one to three. One of the new recruits was female. The Superintendent and Manager Prisoner Services expressed appreciation of the fact that a female worker had joined the team. They expected that this would mean she would be more accessible to female prisoners. The recruitment of a female is certainly a beneficial development but the way it came about was somewhat accidental. There had been no independent consideration of whether it might be suitable for the prison to institute a female-identified position in order to give Indigenous women appropriate access to an Indigenous Support Worker. Nor had prison management considered this as an option for the future at time of interview on 15 November 2006.

The Standard Guidelines

The need for different treatment of women is enshrined in the *Standard Guidelines for Corrections in Australia*:

1.41 The management and placement of female prisoners should reflect their generally lower security needs but their higher needs for health and welfare services and for contact with their children.

When NTCS was asked in May 2006 in what way they had implemented this standard, they could point to only one policy document. NTCS Directive 2.4.6 (“Accommodation of Infants in Custody”) states that:

5.1 The Commissioner may allow female prisoners to keep their children within the Correctional Centre where the occupancy is in the best interests of the child, providing the offence for which the offender is being held does not pose a risk to the child and adequate facilities are available.

The extent to which this policy is actually accessible in a practical sense is questionable. See the “Issues Arising” section for further discussion of this point.

In any event, the fact that NTCS was not able to outline any other policy which refers to the specific needs of women or otherwise implements Standard Guideline 1.41 is highly unsatisfactory.

²⁷ Id at 76

Recommendation 35 of the CAYA Review of Adult Custodial Services called for the establishment of a task force to assess compliance with the *Standard Guidelines for Corrections in Australia*. The basis for this recommendation was the recognition that although the Territory has committed to following the *Standard Guidelines*, “there is no formal process to assess compliance”.²⁸

NTCS has not established a task force as recommended. Instead, Director Tolstrup advised that each new NTCS Directive (the rules and policy that cover the day-to-day management of prisoners) that is written is being assessed against the Standard Guidelines. He explained that this occurred prior to the CAYA Review also. He acknowledged therefore that no new action has been taken as a result of Recommendation 35.²⁹

The assessment of each new Directive against the Standard Guidelines does not occur in any standardised form and nor is any of the information compiled into a report. Of the results of assessment to date, Mr Tolstrup could state only that no individual Directive has been found to breach the Guidelines.

The basic problem with this approach is that it occurs backwards. At no point does it involve asking the basic question – “Has Standard Guideline 1.41 (for example) been implemented?” It asks only – “Does this particular policy directive breach the Guidelines?” In fact, it is completely possible that no individual Directive breaches Standard Guideline 1.41 but nor is the standard anywhere put into practice.

In addition, the current approach does not appear particularly accountable as there is no clear way to access or assess the results in any compiled form.

In my view the problem identified in the CAYA Review remains. There is still no process whereby correctional operations as a whole are measured against the Standard Guidelines and no plans to carry this out. At a time when NTCS has committed itself to significant cultural change and the alignment of its operations with its Mission and best practice standards,³⁰ this is a serious gap.

Women’s policy

NTCS has begun the process of developing a women’s policy. This is a positive development which will be highly constructive in laying the framework for a more considered whole-of-department approach to women prisoners.

NTCS is receiving assistance in the task from the Office of Women’s Policy within the Department of the Chief Minister, who are providing research support and advice. The policy is expected to be finalised this year.

The Office of Women’s Policy’s involvement dates in part from a visit they made to J block (the women’s block) at DCC in September 2006. The women prisoners had prepared a comprehensive report which they presented to Women’s Policy at the meeting. The *Women Behind Bars* report discusses many issues central to this

²⁸ CAYA Management Consulting International (2004), *A Path to Good Corrections: A Review of the NT Correctional Services – Adult custodial operations*, CAYA Management Consulting International for NT Correctional Services at 26

²⁹ 7 December interview

³⁰ See, for example, the NT Department of Justice Strategic Plan 2005-2009 which includes as a “Strategic Priority”, to “Align custodial and community based work practices with national best practice standards incorporating the implementation of the CAYA Review of Adult Custodial Services.”

investigation from the perspective of the women themselves, and for this reason it is attached as an appendix to this report (Appendix D).

I am aware that there is enthusiasm and expertise within the Department to complete this project, particularly with Senior Project Officer Justine Mickle, who also prepared the NTCS submission to this investigation.

I urge the Department to consult fully with women prisoners and closely consider our office's findings contained in this report in the formation of the new policy.

I refer the Department to Bloom, Owen and Covington (2003), which sets out a strategy for the development of correctional services policy for women. Key elements of the strategy are:

- **Create Parity**
Parity differs conceptually from "equality" and stresses the importance of equivalence rather than sameness: Women offenders should receive opportunities, programs, and services that are equivalent, but not identical, to those available to male offenders.
- **Commit to Women's Services**
Executive decision-makers, administrators, and line staff must be educated about the realities of working with female offenders. Establishing mission and vision statements regarding women's issues and creating an executive-level position charged with this mission are two ways to ensure that women's issues become a priority. A focus on women is also tied to the provision of appropriate levels of resources, staffing, and training.
- **Develop Procedures That Apply to Women Offenders**
Another key element of policy for women offenders concerns a review of policies and procedures. Although staff working directly with female offenders on a day-to-day basis are aware of the procedural misalignment of some procedures with the realities of women's lives, written policy often does not reflect the same understanding of these issues...
- **Respond to Women's Pathways**
Policies, programs, and services need to respond specifically to women's pathways in and out of crime and to the contexts of their lives that support criminal behaviour...
- **Consider Community**
Given the lower risk of violence and community harm found in female criminal behaviour, it is important that written policy acknowledge the actual level of risk represented by women offenders' behaviour in the community and in custody. The recognition and articulation of this policy will enable the development of strong community partnerships, creating a receptive community for model reentry and transitional programs that include housing, training, education, employment, and family support services... Community programs are better equipped than correctional agencies to respond to women's realities...
- **Include Children and Families**
... female offenders' ties to their children are often compromised by criminal justice policy. ACA policy states that the system should "facilitate the maintenance and strengthening of family ties, particularly between parents and children."³¹

The authors suggest that policy should also include guidelines for staff for appropriate interaction with women prisoners, to cover "cross-gender supervision strategies, appropriate language to be used in referring to women, and the meaning of professional boundaries".³²

³¹ Bloom, Owen & Covington (2003) at 84-85

³² Id at 25

Howells (2000) concludes that the “critical questions” for prison managers in relation to women prisoners are:

- *Are needs being adequately assessed at the individual and population level?*
- *Are these assessments of needs driving and defining the content of our intervention, management, rehabilitation and after-care programs?*
- *Or are interventions offered based on the uncritical assumption that the program needs of women prisoners are the same as those of men?*

... There is no inevitable contradiction between an insistence on the partial specificity of the needs of female prisoners and the necessity for parity between women and men in work, leisure, programs or education provision.³³

I make the following recommendation, which I am pleased to be advised, is supported by the Department of Justice.

Recommendation:

- 1. That NTCS supply this office with a draft copy of the new women’s policy within six months of the release of this report.**

³³ Howells, K., “Treatment, Management and Rehabilitation of Women in Prison: Relevance of Rehabilitation Principles”, Paper presented at the *Women in Corrections: Staff and Clients Conference*, Australian Institute of Criminology and Department for Correctional Services SA, Adelaide, 31 October – 1 November 2000 at 7

programs, education & employment

The purpose and justification of a sentence of imprisonment or a similar measure deprivative of liberty is ultimately to protect society against crime. This end can only be achieved if the period of imprisonment is used to ensure, so far as possible, that upon his return to society the offender is not only willing but able to lead a law-abiding and self-supporting life.

Standard Minimum Rules for the Treatment of Prisoners, Rule 58

Introduction

The complainants state that there is a lack of education, employment and programs available to women prisoners which are suited to their needs. They suggest that there is little attempt to identify the specific programming and educational needs of women prisoners and to develop courses appropriately. They also point to practical and policy obstacles which act to restrict their current options.

Minister for Justice Peter Toyne stated in September 2005 that:

Prison management has for some time recognised that the provision of services to women at the prison needs to be addressed.³⁴

This has been a strong theme in almost all the interviews conducted with prison and Departmental staff and in the written responses received. At almost every opportunity, the Department has conceded, in at least some respects, the lack of opportunities and services for women prisoners. Despite this widespread recognition, any concrete progress is difficult to see. The reasons generally provided are the “insufficient” numbers of women and “resource constraints”.

³⁴ Correspondence to Opposition Leader Jodeen Carney MLA in response to a complaint from a J block prisoner, 28 September 2005

The complainants describe J block as containing many women who are keenly seeking the tools and support to turn their lives around. For many, this is the first time in their lives when they have not been occupied with caring for children, dealing with alcohol abuse, living with abusive partners, or the first time in their lives when they have had regular meals and a roof. Many see this as a perfect opportunity to work on themselves, but seek help to do so. The complainants claim that this help is largely unavailable. They state that women prisoners are provided with few opportunities which could assist them in escaping cycles of crime, violence and poverty upon their release.

This is not to extol the virtues of imprisonment for women in desperate need. Imprisonment should never be considered as anything other than a last resort, if at all. The literature states clearly that rehabilitation programs are much more effective in a community rather than a prison setting. This investigation did not assess the adequacy of community alternatives to imprisonment for female offenders in the Territory, or assess whether imprisonment for these women is appropriate at all, but merely considered what is in place once a woman is imprisoned in the NT.

The investigation found the complaints to be substantiated. The failure to provide an adequate level of service to women prisoners represents a wasted opportunity: both at a personal level for the prisoners themselves, and at the level of public policy in terms of the possibilities for reduced recidivism and improved social outcomes.

In the course of the investigation, NTCS was asked to outline the research and policy basis underlying the formation of current employment, education and program options for women prisoners. It was not able to do so. Their 28 August 2006 submission to our office states that:

*A gender specific approach to employment, education and program options for women prisoners does not currently exist within NT Correctional Services... There is no specific policy underlying employment, education and program options for women prisoners; or indeed other gender specific requirements.*³⁵

The complainants together with other women prisoners have clearly outlined on a number of occasions what they perceive as the main areas of unmet need together with some modest practical suggestions for the way forward.

As long as very significant amounts of public money are used to incarcerate individuals, mostly repeat offenders, it is unreasonable to then deny those individuals the tools which may assist some to turn their lives around.

Individual assessment

Complaint

The complainants report that initial assessment of female prisoners (either at the time of reception or sentence) is inadequate. Programs, employment and education needs of each individual are not meaningfully assessed. This means that there is little ability

³⁵ At 3-4

for the prison to address those individual needs and little knowledge of the needs of women prisoners as a group.

Angela described the interview she had with a prison officer a few weeks after she entered the prison in 2004. She said she was asked a series of questions focussed on the specifics of her crime, rather than possibilities for rehabilitation. The officer did not explain what programs, education or employment options were available or suggest or arrange any appropriate options for the prisoner. No concrete outcome, such as the development of an individual plan, resulted from the assessment.

NTCS response

NTCS denies this allegation. In relation to the individual complainant, the 28 August 2006 submission to the Ombudsman states that the prisoner's interest in undertaking education was noted as early as her Induction Security Assessment, and she was subsequently assessed with specific regard to educational and vocational training by Education Unit staff. The Initial Security Assessment noted her family history, secondary education and work experience.³⁶

NTCS describes the general assessment process as follows:

Several levels of assessment are undertaken at different times by different parties.

Classification and Security Assessments

As per Directive 2.6.1 'Classification and Security Assessment' there are five phases of the "Classification & Security Assessment Process Schedule."

Table: Classification and Security Assessment process schedule

Assessment type	Timing
<i>Immediate Risk and Security Assessment</i>	<i>First day received</i>
<i>Induction Security Assessment</i>	<i>Within 7 days of being sentenced</i>
<i>Initial Security Assessment</i>	<i>Within 1 month of being sentenced</i>
<i>First Security Assessment Review</i>	<i>Within 6 months of being sentenced</i>
<i>Security Assessment Review</i>	<i>Within 12 months of being sentenced</i>

Education, employment and rehabilitation needs are referred to at section 1.1.3 in the Manual as follows:

"Within the constraints of security and management, a prisoner's health, welfare, psychological, educational, vocational training and employment needs are taken into account during the Classification & Security Assessment process."

The Initial Security Assessment is routinely conducted by prison officers of the Classification unit within one month. It includes a section that addresses "...education, work history, special skills and interests".³⁷

DCC Superintendent Mr Kevin Raby states that the emphasis of these assessment processes is on security and classification rather than assessing prisoner needs or reducing reoffending.³⁸ However DCC Manager Prisoner Services Mr Bill Munro explains³⁹ that the processes at DCC have recently been remodelled to include more of a prisoner needs assessment function. He stated that in October 2006, the prison

³⁶ At 11-12

³⁷ At 11-12

³⁸ 15 November 2006 interview

³⁹ Ibid

began to put a member of the programs team alongside the prison officer carrying out the one month classification assessment ('Initial Security Assessment'). This role of this person is to discuss with the prisoner (male or female) their needs regarding support services and programs. Following this meeting a number of referrals are then issued, attached to the classification document. The purpose is to ensure that all prisoners received into the prison at least get preliminary referral to programs, education and support services. Mr Munro advised that as at 15 November, this had occurred with all 96 prisoners received since October.

Prior to October 2006, Mr Munro explained, the prisoner would be informed of programs on offer at the induction session conducted by the Welfare Officer and Indigenous Liaison Officer, which usually occurs when the prisoner is on remand. To access programs the prisoner would then need to self-refer, by putting in a request form to be assessed for programs.

This new process aims to capture every prisoner and make sure they are appropriately referred at the outset. Over the next six months, prisoners who are referred can then undergo an education assessment and a programs assessment, and join the waiting list for programs. In all likelihood, continues Mr Munro, the person will not get on a program in that next six months, but will generally get a job and start education, such as literacy. All prisoners then have a review classification meeting. Depending on the length of sentence, that can be after 6 months or 12 months. If their sentence is under 6 months it is unlikely, unless the prisoner requests it, that they will have a classification review in that time. At the review it is intended that more of a case plan can be developed.

Mr Raby recognises that the classification and assessment function as it occurs in the Territory is very basic compared to other states. He explains that he intends for classification to operate more like case management and for Prisoner Services staff to have greater involvement. This will require a significant shift in thinking and is likely to meet with resistance from custodial staff, however, and is therefore not a project which will be completed in the short term. The changes explained by Mr Munro are the beginning.⁴⁰

NTCS Directives such as that quoted above cover both DCC and ASCC. I have not been advised of any modifications to the ASCC assessment process along similar lines as DCC.

The Department of Justice is currently in negotiations for the introduction of an Integrated Offender Management System across the Territory. This new system is likely to include the introduction of a standardised prisoner needs/risks assessment tool similar to those currently in use interstate and internationally. When in place, this tool will help to enhance and systematise prisoner assessment processes. IOMS is discussed further in the Case Management section below.

Relevant standards

- ***Standard Minimum Rules for the Treatment of Prisoners:***

65. The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The treatment shall be such as will encourage their self-respect and develop their sense of responsibility.

⁴⁰ Ibid

66 (1) To these ends, all appropriate means shall be used, including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment counselling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of his social and criminal history, his physical and mental capacities and aptitudes, his personal temperament, the length of his sentence and his prospects after release.

(2) For every prisoner with a sentence of suitable length, the director shall receive, as soon as possible after his admission, full reports on all the matters referred to in the foregoing paragraph. Such reports shall always include a report by a medical officer, wherever possible qualified in psychiatry, on the physical and mental condition of the prisoner.

(3) The reports and other relevant documents shall be placed in an individual file. This file shall be kept up to date and classified in such a way that it can be consulted by the responsible personnel whenever the need arises.

69. As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a programme of treatment shall be prepared for him in the light of the knowledge obtained about his individual needs, his capacities and dispositions.

Relevant literature

Studies in the area of prison assessment and classification have found that these tools must be developed specifically for women in order to be effective. Many of the available standardised assessment tools have been criticised for being mismatched to women's circumstances:

Traditionally and statistically based on experiences with male offenders, community and prison classification systems are often unable to accurately assess either the risks or the needs of women... Current classification and assessment mechanisms, calculations of community risk, or custodial placement are based on individual offender characteristics. These actuarial approaches assign various weights (usually through a point system) to arrive at a score that, theoretically, represents the type or level of community supervision or institutional placement that an individual requires...

Van Voorhis and Presser found that gender differences were often ignored in this process, as with previous studies of assessment and classification procedures for women:

"Although many respondents discussed differences between men and women offenders in terms of needs and risks to institutional and public safety, few states have incorporated these differences in objective classification instruments."

In a national survey of women's programs in the criminal justice system conducted by Morash and Bynum, classification, screening, and assessment were mentioned as critical management problems because they did not provide needed information, were not adapted to women, and were not useful in matching women's needs for programming.

Additional concerns have been raised, particularly by Canadian scholars, regarding the reliability and validity of risk assessment and classification instruments as they relate to women and to people of colour. Most risk-assessment instruments are developed and validated for white males, and the use of these tools with women and non-white offender populations raises empirical and theoretical questions about their utility.

...

The problem of over-classification of female offenders is also significant. With risk assignment scores based on male behaviour, women are often given scores that do not

match their actual levels of violence or escape potential. This over-prediction (or over-classification) problem results in useless scores that are often overridden in actual practice. Over-classification can result in unwarranted assignment to higher security levels and to exclusion from community corrections placements.

...

Van Voorhis and Presser conclude by suggesting:

"If we started with women, we might expect to see classification systems which focused more attention on factors that seem key to women's reintegration—their children, relationships, abuse, earlier trauma, mental illness, and job skills."⁴¹

Findings

This new process at DCC is obviously an improvement on the previous system which was generally dependent on the prisoner self-referring by submitting a formal request prior to any type of programs assessment. Those prisoners received since October 2006 who have been part of this process have yet to reach (at time of writing) the six month point when, it is stated, more of a case plan is to be developed.

The average length of stay for females in NT prisons is around two months. If sentenced prisoners only are counted, the average length of stay is approximately three months. Both of these figures are around half that of male prisoners.⁴² Therefore most women will never reach the six month review or the case plan.

Recommendations:

2. That in light of the generally shorter sentences served by women, DCC develop a specific assessment process for women prisoners which allows for a full case plan at the 3 month rather than the 6 month point.

3. That with the roll-out of IOMS assessment tools, the shorter sentence length of women be taken into account in formulating assessment procedures.

The response to these recommendations from the Department of Justice was as follows:

The general intent of these recommendations is supported however, they could only be implemented with significant additional funding.

IOMS has been a major project of the Department of Justice and is expected to be operating in 2008. A revised sentence planning process will be implemented which provides for a sentence plan at one month for both men and women. Sentence length will be taken into account for both men and women. Plans for those with shorter sentences will be less complex and focus on reintegration needs.

I am not persuaded to alter recommendations 2 and 3 above, but I feel that in light of the Department's response, it would be appropriate for the Department to provide

⁴¹ Bloom, B., Owen, B. & Covington, S (2003), *Gender-Responsive Strategies: Research, Practice and Guiding Principles for Women Offenders*, National Institute of Corrections, US Department of Justice at 17, 19, 20

⁴² Estimates prepared by Peter Warner, NTCS, 5 January 2007

me with a report on the implementation of IOMS as it impacts on the sentence planning process.

I therefore make the following further recommendation.

Recommendation:

3a. That the Department of Justice provide my office with a report on the revision and implementation of the sentence planning process within 3 months of the introduction of the IOMS system at NTCS.

A full assessment process is obviously of little benefit to either the prison or the prisoner if it cannot be matched with appropriate services. In November 2006, one of the complainants, "Debbie", describes a programs assessment she received only one month earlier. She stated that this was the first such assessment she had received in the two and a half years since she entered prison, despite requesting to attend many programs. She believed that the assessment only occurred as a result of our investigation. The interview was conducted by staff of the Prisoner Rehabilitation Team and at the end of the interview the officer recommended that she attend a Drug and Alcohol program and a Cognitive Skills program. Debbie asked when she might be able to attend these programs. The officer said that this would be dependent on finding sufficient J block numbers to make the programs viable. Debbie then heard nothing. She said that the assessment interview took four hours but believes nothing came of it due to the unavailability of programs for women.

Prisoner Induction

Complaint

The complainants assert that induction of new prisoners at DCC is inadequate – they are not properly informed of what to expect in prison nor what programs, education, employment and support services are available.

"Gina" entered DCC in March 2006. She asserts that she never received an induction visit from welfare staff. For her first six months in prison, no J block prisoners were given a copy of the Prisoner Handbook, nor did any female prisoners know it existed. Even when the updated Prisoner Handbook was made available, she points out that much of it was irrelevant to female prisoners as it described processes and options often only available to men. She believes that the lack of general induction information disadvantages Aboriginal women in particular as they are generally less likely to ask questions of staff, including about the rules of the prison. Gina claims that women are routinely breached and punished for breaking the rules but have little knowledge of what the rules are.

NTCS response

NTCS responded to this complaint as follows:

Options with regard to programs are explained in an Induction session provided by the Welfare services staff. An information pamphlet is also provided (Attachment 4 "How to see these people") which includes reference to Treatment Programs in general and the process required to access them. Nevertheless, it is the case that group programs are not generally made available to the women prisoners at this time.⁴³

I was also informed on 5 September 2006 that an Induction CD had been produced in a number of Aboriginal languages and that CD players were to be installed to allow new prisoners to hear the CD.⁴⁴ As at April 2007 I was not aware that this had occurred in J block yet.

I am aware from other prisoner complaints to our office that the Prisoner Handbook was out of print for most of 2006. The revised booklet has now been published and is being distributed.

A June 2005 paper by a visiting social work student recognised that:

At the time of this report female prisoner induction by the PRT had been identified as a gap in service provision that was being recommenced. Although prisoners receive a Prisoner's Handbook, due to literacy levels this is often not sufficient for women who are in prison for the first time to develop an understanding of the prison system. A more formal induction process is necessary to facilitate integration and improve knowledge around programs and services. The female prisoners at DCC, through consultation, appeared to possess limited accurate information on programs and general services available to them, both while in prison and post-release. The lack of information or misinformation that female prisoners possess appears to impact negatively on their motivation to participate in and access treatment programs whilst in DCC.⁴⁵

Gina has recently written a paper about induction for DCC management which sets out a suggested induction format for women prisoners at DCC.

DCC Superintendent Kevin Raby acknowledges that the induction process for female prisoners could be improved. He has received Gina's paper and has tasked a Chief Prison Officer with looking into the options, including the possibility of developing a handbook specific to women prisoners.

Relevant standards

- **Standard Minimum Rules for the Treatment of Prisoners**

35(1) Every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution.

35(2) If a prisoner is illiterate, the aforesaid information shall be conveyed to him orally.

- **Standard Guidelines for Corrections in Australia**

1.4 All prisoners should be inducted into the prison by undergoing a formal reception process as soon as practicable after receipt that provides key summary information

⁴³ 28 August 2006 NTCS submission to the Ombudsman at 12

⁴⁴ Email from Justine Mickle, NTCS, to Investigating Officer Renee Lees

⁴⁵ Silva (2005), "Identifying and Addressing the Needs of Female Prisoners at Darwin Correctional Centre", unpublished paper at 2

necessary to the prisoner understanding the prison regime and the requirements placed on prisoners.

1.5 If a prisoner is illiterate, information should be conveyed orally. Such information should be presented in a linguistic and culturally relevant form, using interpreters where necessary.

1.6 In order to maximise the understanding of information by prisoners and to aid the better assessment of prisoners a further or extended period for assessment and orientation should also be provided where practicable, using interpreters where necessary.

I make the following recommendations in relation to Induction, which are supported by the Department of Justice.

Recommendations:

4. That the DCC Superintendent's undertaking to develop and implement a new induction process for women prisoners (with a view to making it more practical, comprehensive and targeted) be completed within 6 months of the release of this report.

5. That the new induction process include the production of a prisoner handbook (in audio as well as hard copy format) specific to women at DCC in consultation with women prisoners. Women prisoners should be invited to write or audio-record some sections themselves, and be provided with the facilities to do so.

6. That the new process and handbook be reviewed in consultation with women prisoners after a 6 month period to ensure that it is meeting its aims.

The Department has, in relation to Recommendation 5, advised me in December 2007 as follows:

A new handbook is complete and was developed with significant input from the women prisoners. The handbook is lengthy and detailed. Methods of recording a version of the new handbook will be explored and a low-technology approach identified that involves the women and is possible within resources. A short version was created for all new offenders to receive on reception. Additionally, the Prisoner Services Team has developed a summary of their services that is provided in hard copy to offenders on reception. It has recently been translated into four languages and will be available on CD to both men and women. This new approach, including establishing the preference of the offender to receive information in audio and/or different languages, will be trialled in the near future.

In relation to Recommendation 6, the Department advised me that:

The prisoner handbook is currently under review in consultation with the women prisoners to ensure that it is meeting its aims.

Rehabilitation programs

Introduction

Rehabilitation, along with punishment and deterrence, is held to be one of the key aims of imprisonment. Rehabilitation in a prison environment entails the provision of services and interventions to prisoners, either therapeutic or more practically oriented, to assist them to develop personal tools to escape cycles of crime.

Rehabilitation should not be an abstract concept but should relate directly to the task at hand. As Bloom, Owen & Covington (2003) state:

Women's most common pathways to crime involve survival efforts that result from abuse, poverty, and substance abuse.

Therefore rehabilitation for most women prisoners entails interventions which can assist in addressing issues of abuse, poverty and substance abuse, among other key areas. As Bloom (1999) states:

Factors such as racism, sexism, and economic oppression cannot be overlooked in discussions of effective interventions for women offenders. While dealing with individual issues and therapeutic approaches is important, the larger social issues of poverty, race and gender inequalities have a profound impact on the lives of women involved in the criminal justice system. Successful interventions must relate to the social realities from which women come and to which they will return. They must also be sensitive to cultural differences and expectations.

In this section, I use the term "rehabilitation programs" to refer to those interventions which aim to address cycles of offending. Examples are drug rehabilitation or family violence programs. There is no clear line between rehabilitation programs and educational or vocational courses but I have presented them in separate sections below for ease of discussion.

Rehabilitation programs in the Territory are largely delivered by the Prisoner Rehabilitation Teams at both prisons, and are called "Treatment Intervention Programs". The role of these teams is as follows:

Prisoner Rehabilitation Teams located at both Darwin and Alice Springs Correctional Centres have two core functions: providing interventions targeting offending behaviour and delivering support services to prisoners ... Prisoner Rehabilitation staff, under the direction of the Principal Psychologist, conduct assessments, provide interventions where possible, and make recommendations for post release treatment.⁴⁶

Complaint

In March 2006, a six week "Introduction to Alcohol Awareness" course was run by the Prisoner Rehabilitation Team in the women's block at DCC. This was the first

⁴⁶ Department of Justice Annual Report 2005/2006, at 53

rehabilitation program to be offered to women by the Prisoner Rehabilitation Team since early 2004.⁴⁷ As at early 2007, there had not been another such program run.

In addition to the one-off course from the Prisoner Rehabilitation Team, Pru Gell of the Domestic Violence Community Development and Training Project (a division of the Darwin non-government women's organisation Dawn House) visits J block every Wednesday morning to facilitate a group art program. "The art activities are used as a mechanism to encourage participation and to explore sensitive issues", including domestic violence.⁴⁸

The complainants argue that key program needs for women prisoners have been neglected. There is a lack of programs and education which might address needs such as alcohol treatment, drug rehabilitation, family violence, parenting and living skills such as budgeting and basic hygiene. In particular:

- A number of the complainants expressed concern that while almost all J block prisoners have experienced family violence (and for many J block prisoners it was an important contributor to the crime for which they were incarcerated), there is no structured intervention program directly addressing the issue. While the women prisoners with whom my office have spoken have found the DVCDT group to be extremely valuable, Ms Gell stresses that it is not intended to function as a core family violence program and also cannot supplant an individual counselling and case management approach for the many survivors of family violence in the women's block.
- The great majority of J block prisoners are mothers, state the complainants, and relationships with children and concern for children's welfare is a primary source of deep distress for many. No program exists to support women prisoners in maintaining family ties, deal with child welfare issues, help with parenting skills or reintegrate with children after release.
- Rather than "Introduction to Alcohol Awareness", the complainants argue that a more comprehensive rehabilitation program is necessary for the large number of chronic alcohol and inhalant abusers received into the women's block, many of whom return again and again. Amanda states that the only alcohol treatment provided is two tablets upon admission. For drug users, the limit of any treatment is one tablet taken for three days. Unlike most other jurisdictions, the Territory has no dedicated Drug and Alcohol Workers in the prison system to provide specific counselling or other services.

NTCS response

DCC Superintendent Kevin Raby and Manager Prisoner Services Bill Munro explain that the difficulty in running programs for women is the limited resources available to DCC as a whole. Due to the women being such a small yet diverse group, the usual ten to twelve participants which a men's program might attract cannot be replicated among women. "Running programs for two to three women is not a good use of resources", explains Mr Raby.⁴⁹

He recognises, however, that the prison is under a duty to provide programs to women nevertheless. He points out the DCC programs team (when all positions

⁴⁷ 15 November 2006 interview with DCC Superintendent; Silva (2005), "Identifying and Addressing the Needs of Female Prisoners at Darwin Correctional Centre" at 2

⁴⁸ 28 August 2006 NTCS submission to Ombudsman at 6

⁴⁹ 15 November 2006 interview

become filled) is now larger and the capacity for delivering programs to women in 2007 is greater than in previous years. A number of new program options for women are also being explored – problem-solving, parenting and ‘stress-management’ programs.

In relation to the availability of programs to the even smaller number of women at ASCC, NTCS advises as follows:

The position of ASCC Manager of Prisoner Services has been filled only recently. It is his view that women prisoners are a “special needs population” that require interventions and approaches that are significantly different to that provided to male prisoners. It is his perception that, as case management is implemented at ASCC, women would be prioritised for sentence planning, specialised case workers assigned and accommodation and specific programs be resourced and made available.

It has been the Clinical Services approach, given various restrictions and the availability of custodial escorts, to offer programs on an individual basis within H Block (i.e. Alcohol, Illicit Drugs, Cannabis, Anger Management and Cognitive Skills). One woman has undertaken the Introduction to Illicit Drugs program....

Clearly recruitment to positions remains a barrier to service delivery, as funded positions remain vacant. There has been little or no response to extensive advertising at a local and national level. Alternative strategies are being developed including the engagement of external providers.

Tangentyere Council for example, has been delivering the ‘Family Wellbeing’ and ‘Indigenous Family Violence’ programs [male prisoners only] and further individual counselling has been delivered by the group facilitator. The Elders’ Visiting Program has recently been expanded to include women Elders and women prisoners.⁵⁰

Relevant standards

The NT Government does not have the choice as to whether or not it provides rehabilitation services to prisoners. International law clearly states that rehabilitation *will* be the primary aim of incarceration.

INTERNATIONAL STANDARDS

- ***International Covenant on Civil and Political Rights***

Article 10(3) The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. ...

- ***Standard Minimum Rules for the Treatment of Prisoners***

65. The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The treatment shall be such as will encourage their self-respect and develop their sense of responsibility.

66(1) To these ends, all appropriate means shall be used, including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment, counselling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of

⁵⁰ 28 August 2006 NTCS submission to the Ombudsman at 26, 45

his social and criminal history, his physical and mental capacities and aptitudes, his personal temperament, the length of his sentence and his prospects after release.”

- ***European Prison Rules***

66. To these ends all the remedial, educational, moral, spiritual and other resources that are appropriate should be made available and utilised in accordance with the individual treatment needs of prisoners. Thus the regimes should include:

...

(b) arrangements to ensure that these activities are organised, so far as possible, to increase contacts with and opportunities within the outside community so as to enhance the prospects for social resettlement after release.

(c) procedures for establishing and reviewing individual treatment and training programmes after full consultations among the relevant staff and with individual prisoners who should be involved in these as far as is practical.

NATIONAL STANDARDS

- ***Standard Guidelines for Corrections in Australia***

[Prisoners will be] kept active within a dynamic and structured environment that provides opportunities for some reparation to be made to the community.

[Prisoners will be] provided with opportunities to address their offending behaviour and actively encouraged to access evidence-based intervention programmes, education, vocational education and work opportunities.

1.41 The management and placement of female prisoners should reflect their generally lower security needs but their higher needs for health and welfare services and for contact with their children.

3.6 Prisoners should be provided with access to programmes and services, including education, vocational training (and employment), that enable them to develop appropriate skills and abilities to lead law abiding lives when they return to the community.

3.7 Prisoners should be actively encouraged to accept full responsibility for the consequences of their offending behaviour.

3.10 Programmes and services provided to address criminogenic needs should be based on best practice and have solid evidence as to their efficacy.

3.11 All programmes should be periodically evaluated in relation to the achievement of their objectives and the views and experiences of prisoners.

3.13 Programmes and services provided to prisoners, especially women, indigenous prisoners and prisoners from non-English speaking backgrounds, should be established following close consultation with the appropriate community groups and experts.

- ***AMA Position Statement – Health Care of Prisoners and Detainees***

8.4 Adequate facilities for detoxification and for management of alcohol and substance abuse must be available to prisoners and detainees.

Relevant literature

Sorbello, Eccleston, Ward and Jones (2002) argue that the provision of appropriate rehabilitation services for women prisoners should be given higher priority than service for men because:

International and Australian research continually highlights that despite some common psychological and social difficulties (eg substance abuse, physical abuse), women offenders appear to have experienced more severe and complex psychological trauma than men...

[For example] *approximately 25 to 40% of the general female population have experienced sexual abuse, with this figure increasing to 85% in female offenders...*

*Posttraumatic stress disorder is estimated to be higher than 80% among women offenders compared to 55% among war veterans.*⁵¹

Not only does the background of women prisoners often differ from men, but also their response to imprisonment (shaped, as it is, by their background).

For example, trauma may not always be something of the past, but may be in part a continuing consequence of the prison environment itself. The WA Department of Justice (2000) found that:

*It is important to address the needs of female prisoners who have been abused particularly as they have difficulty in coping with authority figures and also engage in unhealthy coping strategies. This is often exacerbated by imprisonment. Imprisonment may often cause abused women to be re-traumatised making it more imperative that any issues surrounding past abuse are addressed.*⁵²

To be effective, argue Sorbello et al, rehabilitation programs offered to women prisoners must fully address this issue of victimisation and support women to develop self-esteem and an internal locus of control:

Essentially, therapeutic interventions are required that uncover evidence of success in these women's lives, and build on this success to ultimately empower women to achieve a good life...

*Currently, stand-alone self-esteem programs prevail, nevertheless these are in danger of being irrelevant and superficial. We suggest that self-esteem is more effectively enhanced through programs monitoring mastery in core areas, such as trauma, substance abuse, parenting and vocational training.*⁵³

Similarly, traditional substance abuse treatment programs are unlikely to meet the needs of women prisoners. Holistic programs that address the link between trauma and substance misuse are required.⁵⁴

Some research suggests that intensive therapeutic work on issues such as sexual abuse in a prison environment, especially in a group format, can be too confrontational and even harmful if the woman does not yet have the containment and coping skills required to deal with the emerging issues.⁵⁵ This should be taken into account in the development of programs and in the mix of group programs to individual counselling.

⁵¹ Sorbello, Eccleston, Ward & Jones (2002), p198-199

⁵² Profile of Women in Prison – Full Report, p60

⁵³ Sorbello, Eccleston, Ward & Jones (2002), p200

⁵⁴ Sorbello, Eccleston, Ward & Jones (2002), p202

⁵⁵ Correctional Service Canada (2002), The 2002 Mental Health Strategy for Women Offenders at 21

An empirical evaluation of one intensive abuse program for women prisoners found that at 21 months follow-up, women participating for 6-12 months had less than half the recidivism rate of non-participants.⁵⁶

However, argue Sorbello et al, preventing re-offending should not be seen as the sole aim of rehabilitation programs:

*Merely addressing women's criminogenic needs ignores the pervasive influence of a diverse range of gender-specific physical, psychological, social and welfare needs... Correctional policy needs to look beyond recidivism rates to recognising the various obstacles preventing female offenders from living balanced and fulfilling lives... and equip them with the necessary life skills to live such lives.*⁵⁷

Sorbello et al suggest that an "enhancement model" is a more useful theoretical framework to guide the holistic development and implementation of women-specific programs. This model attempts to reduce recidivism by enhancing offender capabilities (ie non-criminogenic needs) to improve quality of life.⁵⁸

This is a model that has proven successful. In a study of strategies for working with women offenders in community correctional settings, Austin et al found that the most promising community-based programs for women offenders do not employ the clinical model of correctional treatment. Effective programs work with clients to broaden their range of responses to various types of behaviour and needs, enhancing their coping and decision-making skills. These programs use an "empowerment" model of skill building to develop competencies that enable women to achieve independence.⁵⁹

Rather than recidivism alone, Bloom (1999) suggests that short-term and long-term outcome measures for female-specific programs could include:

- *program participation/ completion/ discharge;*
- *alcohol/drug recovery;*
- *trauma recovery;*
- *attainment of General Equivalency Diploma, trade, college degree;*
- *employment;*
- *safe and sober housing (i.e., drug- and alcohol-free housing);*
- *improved relationships with family and significant others;*
- *regaining custody of children; and*
- *maintenance of physical and mental health.*

Bloom (1999) suggests the following guiding principles for the development of gender-responsive programs:

- *Equality does not mean sameness; equality of service does not mean giving women access to services traditionally reserved for men. Equality must be defined as providing opportunities that are relevant to each gender. Thus, services and interventions may appear very different depending on to whom they are being delivered;*

⁵⁶ Sorbello, Eccleston, Ward & Jones (2002), p199-200

⁵⁷ Id at 202-204

⁵⁸ Id at 198, 204

⁵⁹ Bloom, B. (1999), "Gender-responsive programming for women offenders: Guiding principles and practices" *Forum in Corrections Research*, Vol 11, No. 3, p22-27

- *Gender-responsive programs are not simply “women only” programs that were designed for men;*
- *Females’ sense of self is manifested and develops differently in female-specific groups as opposed to co-ed groups;*
- *The unique needs and issues of women and girls should be addressed in a woman-focused environment that is safe, trusting and supportive;*
- *Whenever possible, women and girls should be treated in the least restrictive programming environment available. The level of security should depend on both treatment needs and concern for public safety;*
- *Cultural awareness and sensitivity should be promoted, and the cultural resources and strengths in various communities should be utilized.*

In addition, Indigenous specific programs have consistently been found by Indigenous people in prison to be more meaningful than mainstream programs.⁶⁰

In 1998 the National Institute of Justice (US Department of Justice) conducted a survey of female prisoner programs in state-level prisons and jails across the United States. Departmental staff, corrections administrators, program administrators, program staff and participants identified the following as key elements in the success of programs for women.⁶¹

Program Staff

- Staff are dedicated/caring/ qualified.
- Ex-addicts or ex-offenders are on staff.
- Women staff members serve as role models.

Meeting of Specific and Multiple Needs

- Program has a comprehensive or multifaceted focus.
- Program addresses rudimentary or basic needs.
- Program establishes a continuum of care.

Program Participation

- Participants like the program.
- Inmate participation is high or self-initiated.
- Participants help run the program.

⁶⁰ Simpson, J. & Sotiri, M. (2004), *Criminal Justice and Indigenous People with Cognitive Disabilities: A discussion paper*, Aboriginal and Torres Strait Islander Services, Australian Government at 32

⁶¹ Morash, M., Bynum, T.S. & Koons, B. A. (1998) “Women Offenders: Programming Needs and Promising Approaches”, *Research in Brief*, National Institute of Justice, US Department of Justice at 7

Peer Influence

- Other participants provide positive peer influence.
- Other participants provide pressure (e.g., to be a good mother).
- Other participants provide support.

Individualized, Structured

- Clear, measurable goals are established.
- Treatment plans and programming are individualized.
- Program is intensive and of appropriate duration.
- Appropriate screening and assessment are provided.

Technology, Resources

- Equipment, money, and other resources are available.
- Adequate space is available.

Acquisition of Skills

- Marketable job skills can be acquired.
- Parenting and life skills are taught.
- Education addresses thinking and reasoning.
- Anger management is taught.

Program Environment

- Atmosphere is “homey”; climate is conducive to visits.
- Communications are open; confidentiality is kept.
- Rapport with other participants is good.
- Participants are separated from the general population.
- Program enrolment is small.

Victimization Issues

- Program addresses self-esteem.
- Women are treated like human beings.
- Program addresses domestic violence.
- Program addresses empowerment and self-sufficiency.

Administrative and Staff**Interaction**

- Administrative support and communication are good.
- Management style is non-aggressive.
- Security staff are understanding and supportive.

Assistance From Outside the**Facility**

- Outside private-public partnerships exist.
- Interagency coordination exists.
- Some staff come from outside the department of corrections.

While it is clear that rehabilitation programs can be successful in reducing recidivism, assisting recovery and building self-reliance, it is also the case that the prison environment is not an ideal setting for healing. As Bloom, Owen and Covington (2003) state, “Because the corrections culture is influenced by punishment and control, it is often in conflict with the culture of treatment.”⁶²

The best outcomes in prison programming often occur where programs are provided by independent, community-based services, thus limiting the confusion of security and welfare roles that tend to arise in a prison environment, and increasing women’s trust of the services. Another important benefit (especially in light of the usually short

⁶² Bloom, Owen & Covington (2003) at 78

sentences served by women prisoners) is the continuity in service provision in that women would be able to continue to work with service providers and support workers on their release.⁶³

Expanding on these ideas, Sisters Inside and the Aboriginal Family Violence Prevention and Legal Service (Victoria) have developed a set of principles to guide the development of service models for women prisoners. These centre around the notion of recognising and building on women prisoners' strengths, as the best basis for recovery and survival.

- **Woman-centred**
Women in prison and women who have experienced imprisonment must be involved in the establishment and management of services.
- **Independent**
Services must be structurally independent of prison authorities. Prison authorities, by definition, have prison security as their primary goal. Services must have the successful decarceration of women as their overriding objective.
- **Community-controlled**
Services must be linked to their communities via their management structures and practice.
- **Culturally diverse**
Services must reflect the diversity of cultures of imprisoned women. Aboriginal and Vietnamese services are particularly urgently required, but culturally appropriate services should be accessible to all.
- **Networked**
Services centred on women in, and after, prison, must be networked between themselves and with other community services that can benefit women surviving imprisonment. No one service can provide the cultural diversity and diversity of practice that is required to meet the needs of all women who are imprisoned. Services and service networks must be able to "broker" specialist services as required. It is vital that the diversity of services available in the community be extended to women surviving prison – to maximise their choices and their prospects of survival and recovery.⁶⁴

PROGRAMS TO SUPPORT RELATIONSHIPS WITH CHILDREN

No figures are recorded on the number of women in prison in the NT who are mothers or who were the primary or sole carers for dependent children prior to incarceration. The complainants report that it is the overwhelming majority. This would reflect the interstate and international surveys on this issue.

For example, 75% of women prisoners in Victoria have dependent children.⁶⁵ Of Aboriginal women prisoners in NSW, 86% were biological mothers of between one

⁶³ Flat Out Inc.(Victoria), 2003 forum "Call me by my first name"; Byrne, M. & Howells, K. (2002), "The Psychological Needs of Women Prisoners: Implications for Rehabilitation and Management", *Psychiatry, Psychology and Law*, Vol 9, No. 1, pp34-43 at 41

⁶⁴ Sisters Inside Inc. & Aboriginal Family Violence Prevention and Legal Service (2005), *Building on Women's Strength: Developing community-based service models for women in prison and released from prison in Victoria*, unpublished discussion paper, at 21

⁶⁵ Sorbello, Eccleston, Ward & Jones (2002) at 200

and six dependent children. Most were single mothers. 29% regularly cared for children other than their own biological children.⁶⁶

Maintaining contact with children is likely to be particularly difficult for women prisoners from Central Australia. About half (54) of the 116 distinct women received into NT prisons over 2005/2006 were received at ASCC rather than DCC. Of those received at Alice Springs, most are likely to have been transferred to DCC to serve their sentence. The great majority of women received at ASCC, 50 out of 54 distinct women over 2005/2006, were Indigenous.⁶⁷ Due to the vast distances involved, the cost of telephone calls, the fact that many families do not have a telephone, and the low levels of literacy precluding letter-writing, it is possible that many of these women have little or no contact at all with their children during their incarceration.

Sorbello, Eccleston, Ward & Jones (2002) note that:

Dependent children, pregnancy and family ties are more pressing issues for female offenders than male offenders...[Female prisoners] experience overwhelming feelings of despair, frustration and depression regarding the prolonged separation and the impact of their incarceration on the child.

To strengthen mother-child interactions during incarceration, emerging parenting programs provide a context for women to explore and manage their experiences as mothers. Other programs focus on enhancing mother-child contact through visitation programs, or by encouraging younger children to reside in an enriched prison environment. These programs reportedly reduce separation trauma for children and increase self-esteem and rehabilitative prospects for mothers...

Finally, positive family ties are essential to community reintegration, and possibly insulate against recidivism, reduce disciplinary problems during incarceration, improve mental health, and increase the probability of family reunions following release.⁶⁸

Similar sentiments are expressed by Bloom, Owen & Covington (2003):

Incarcerated women tend to experience a sense of isolation and abandonment while in prison because of their inability to keep their families together. Research demonstrates that recidivism is less likely among both male and female offenders who maintain ties to their families and communities during incarceration.

The only source of hope and motivation that many women have while under criminal justice supervision is their connection to their children. Recognizing the centrality of women's roles as mothers provides an opportunity for the criminal justice, medical, mental health, legal, and social service agencies to develop this role as an integral part of program and treatment interventions for the female offender population.

Promoting relationships between mothers and their children also entails providing programs and services that increase a woman's ability to support her children following her release. The majority of women offenders are poor; they possess few job skills and little education. Without attention to the improvement of women's capacity to support themselves, responsible connections between mothers and their children cannot be maintained.⁶⁹

Sisters Inside runs a number of innovative programs in Queensland to assist mothers in prison in maintaining relationships with their children as well as providing assistance directly to the children themselves. For example:

⁶⁶ Lawrie, R. (2003), *Speak out speak strong : researching the needs of Aboriginal Women in Custody*, Aboriginal Justice Advisory Council at 18-22

⁶⁷ NT Correctional Services Annual Statistics 2005/2006 at 20

⁶⁸ At 201

⁶⁹ At 57

- **Kids of mums in jail camps** are for women in prison and their children over a school holiday period. Through the project SIS [Sisters Inside] assists with the development of parenting skills for women who are about to be released from prison. The project facilitates parent/child contact that would not be otherwise be available to families; provides a safe environment for the children to work through their trauma issues regarding their mother being in prison; provides information to prisoners about family support upon release; promotes the rights of the children to their family members and provides information and support about combating abuse at home. The most important strategy to this project is that the camps are children focused. This project has been very successful in the reunification of the children and their mothers.
- **The Crucial Connection Program** is designed to “reconnect” homeless young people, or those at risk of homelessness, who have a mother incarcerated, with extended family, work, education, training and with their communities. Counselling & family support provide culturally appropriate and accessible individual support and counselling services for young people, their mothers and families. Advocacy raises understanding of the issues faced by the young people and families of women in prison for key stakeholders including prison authorities, government and non-government organisations. Resource development develops a range of resources using a variety of media and styles and in languages other than English. Activity programs (including camps and adventure activities) provide access to a range of activities that compliment the other components in this program and respond to the cultural, recreational and social needs of the young people & families of women in prison.⁷⁰

Findings

The Department’s public assertions and mission statements strongly emphasise the role of rehabilitation in Territory prisons. Unfortunately this has not been matched by actual services for female prisoners. There remains a significant gap between the Department’s public statements and the situation on the ground.

For example, the 2004/2005 Annual Report refers to:

- *providing for the safe care and custody of prisoners and detainees and supporting strategies that contribute to a reduction in their likelihood of re-offending on release (p44)*
- *ensuring that a range of rehabilitation and reparation programs are available to sentenced prisoners, community-based clients and juvenile detainees which encourage them to become socially responsible members of the community. (p44)*
- *a safe and secure custodial service including rehabilitation, reintegration and care of adult prisoners. (p44)*
- *the provision of interventions targeting offending behaviour (p46)*
- *address offending behaviours by providing intervention programs that target the individual’s offending behaviour. (p46)*

Contrary to the impression created by the Annual Report, in the 2004/2005 financial year the prison did not deliver a single rehabilitation program to women. As stated above, the March 2006 “Introduction to Alcohol Awareness” program was the first Prisoner Rehabilitation Team program to be offered to women since early 2004.

⁷⁰ Sisters Inside Inc. & Aboriginal Family Violence Prevention and Legal Service (2005) at 26

In the same period the DCC Prisoner Rehabilitation team has delivered nine different programs to male prisoners (most of which have been delivered a number of times over that period):

- Introduction to Alcohol Awareness
- Alcohol Treatment Program
- Introduction to Illicit Drug Awareness
- Illicit Drug Treatment Program
- Sexual Offenders Treatment
- Cognitive Skills Program
- Indigenous Family Violence Program
- Problem Solving/Victim Awareness Program
- Pre-Release Program⁷¹

I note that these courses are not available to all men and at all times. I also do not wish to imply that services for men in prison in the Territory are particularly well-resourced either. For example, there are still no rehabilitation programs available to male maximum security or remand prisoners in either correctional centre due to lack of funding. My office has been strongly critical of this fact.

It is completely unacceptable that in a three year period, the Prisoner Rehabilitation Team has run only one six week course for women prisoners at DCC. Furthermore, prison management was not able to give my office any definitive indication of when the next course might be offered or even what the next course might be.

It is clear that the variety and frequency of programs offered to women at DCC is significantly lower than the variety and frequency of programs offered to men as a group. But this simple comparison does not give the full picture. What is more important is whether there is substantial equality, in terms of whether the level and types of programs match the needs of women.

The group art program run in J block every Wednesday morning by the Domestic Violence Community Development and Training Project (Dawn House) is an example of a successful program from a community-based provider which is well-valued by many J block prisoners for its continuity and the level of respect and responsibility it affords participants who are able to make it their own. One complainant noted that it was “the only thing that kept me sane”. Another complainant, Gina, explained to our office that a presenter of this program was the only staff person in the whole prison with which she felt comfortable discussing her suicidal thoughts. The importance of these types of qualities of programs can become lost when simple comparisons are drawn between the numbers of programs on offer to women and men.

Nevertheless, it is clear that women prisoners at DCC deserve more from the Prisoner Rehabilitation Team.

While Mr Raby has stated that three new program options for women are being explored (problem-solving, parenting and ‘stress-management’ programs) by the Prisoner Rehabilitation Team, I have not been given any indication as to when these might be delivered. At the time, neither Mr Raby nor Mr Munro was able to anticipate whether or how many programs might be made available to women in 2007.

⁷¹ 20/11/06 Email from NTCS Professional Standards Unit to Ombudsman’s office; Department of Justice Annual Report 2005/2006 at 53; Department of Justice Annual Report 2004/2005 at 46

At the time the investigation officer interviewed Mr Raby and Mr Munro on 15 November 2006, the Prisoner Rehabilitation Team's programs schedule for 2007 was being developed. There were no plans to develop a programs schedule for women as a group or to develop any short or long term strategy for women's programming.

Mr Munro stated that:

The approach is to look at the individual needs of prisoners and how to meet them... You could put a program in the women's block, but if the women don't think that it meets their specific needs, they won't attend.

He explained that the focus is on identifying individual needs and matching those needs to a suitable program. Whether the program is then actually offered will depend on whether there are an adequate number of individuals in that section with corresponding needs in order to make the program viable.

However, the evidence overwhelmingly points to the fact that this gender-neutral "individual needs" logic results in almost no programs being offered to women at all. This is because there are rarely enough raw numbers of women for programs to be considered "viable" within the framework described by Mr Munro.

The first step: Considering women as a group

The "individual needs" approach represents the failure to plan for women as a group. What is required is a different framework which allows for individual differences but also considers women as a group. By this I mean that if a plan for programs is drawn up for the prison as a whole, somebody asks the question "Will any of them be available to women?" or even "What is the programs plan for the women's block?" Considering women as a group must be the first step taken, even before the gender-specific needs of women prisoners are recognised (this latter issue is discussed further below).

I have no doubt that individual programs staff are very conscious of these questions. But at the level of prison management, departmental policy and resource allocation, there appears to be little recognition of women as a group, let alone a group with differing needs to the male population.

The gender-neutral "individual needs" approach to programming has failed to result in the delivery of programs to women prisoners due to their small numbers in comparison to men.

An additional reason why this approach does not work for women is that such an approach is not consistent throughout the prison. If women prisoners were treated as gender-neutral individuals in a consistent way, they would be able to access the programs available to men of their same security rating. But this is not the case. As women they are excluded from attending men's programs. This differential treatment confers a responsibility on prison management to ensure that women as a group are properly serviced in their own right.

This issue of the exclusion of women from men's programs, education and employment is taken up further at the end of this section.

The second step: Gender-specific program content

NTCS reports that “It is the view of the Acting Manager of Prisoner Services that the programs offered in DCC are based on best practice methods and current research for delivery to male prisoners”⁷² [my emphasis]. In the case of the 2006 Introduction to Alcohol Awareness Program it was adapted from the men’s program by the Prisoner Rehabilitation Team to better meet the needs of female participants.⁷³

It is acknowledged by NTCS however that “a gender specific approach to education, employment and program options for women prisoners does not currently exist within NT Correctional Services”.⁷⁴

Gender specificity means developing services, policies and program content which take as their starting point women’s needs rather than those of the male prisoner norm. By gender-specific program content I mean not only that the content of individual programs is appropriate to women, but that the types of programs offered are appropriate, including the development of new courses specifically for women.

Programs designed especially for women interstate, for example, include self-esteem, parenting, communication and assertiveness, skills and change, life choices and stress management programs. The Correctional Service of Canada has a comprehensive collection of ‘core programs’ designed for women prisoners which are grouped under the headings:

- Living Skills Programs
- Substance Abuse Programs
- Survivors of Abuse and Trauma Programs
- Mother-child Program
- Other programs and Services⁷⁵

The literature resoundingly critiques those jurisdictions which have sought to apply men’s programs to women as if there were a one-size-fits-all approach.⁷⁶ The Territory has largely avoided this mistake by offering almost no rehabilitation programs to women at all.

If programs were to be offered to women on a more regular basis, the NTCS would be in little position to ensure that they were fully targeted and gender-appropriate as they have almost no relevant base of structured research or consultation to draw from which identifies the specific needs of women prisoners in the Territory.

I am aware of only one such study. It was conducted by visiting social work student Carla Silva in June 2005 and resulted in a brief paper entitled “Identifying and Addressing the Needs of Female Prisoners at Darwin Correctional Centre.” Its conclusions were never formally accepted at a higher level.⁷⁷ Neither the current DCC Superintendent nor the Manager Prisoner Services, when asked by my investigating officer, were aware of the research having occurred. Nevertheless, the four pages of findings appear to contain the only such research on the subject in the recent history of Corrections in the Territory.

⁷² 28 August 2006 NTCS submission to Ombudsman, p5

⁷³ Ibid

⁷⁴ Id at 3-4

⁷⁵ Byrne & Howells (2002) at 40

⁷⁶ See, for example, Sorbello, Eccleston, Ward & Jones (2002); Bloom (1999); Bloom, Owen & Covington (2003); Byrne & Howells (2002)

⁷⁷ 28 August NTCS submission to the Ombudsman at 3

This is not to suggest that there is no starting point available to NTCS if it were to move towards a gender-specific approach to programming. There is a copious amount of interstate and international research on the subject. Moreover, there is no shortage of practical ideas among DCC women prisoners themselves as to what is needed.

I do not doubt that Prisoner Rehabilitation Team staff are fully cognisant of the need for gender specific courses. Ms Silva's June 2005 paper reported that:

There is a large amount of research that supports the needs of incarcerated women are different from those of men. Treatment programs are more appropriate if they are gender-specific and incorporate an approach that is sensitive to the specific characteristics and situations of female prisoners. As many female prisoners come from backgrounds of abuse and poverty, which is evidenced in DCC's female prisoner population, male-based programs can ignore specific female needs and experiences of victimisation, physical and sexual abuse, self-image and parenting. Treatment programs for women offenders appear more effective when they are comprehensive and holistic, addressing a number of their needs. It is supported by the PRT that current programs would need to be revised and adapted to suit the needs of female prisoners to be effectively responsive and appropriate.

While individual programs staff may be fully committed to these issues, it appears that funding and planning priorities for the DCC and NTCS as a whole do not allow for much in the way of proactive research and development of courses specifically for women. This is evidenced by the fact that no new courses developed specifically for women have been delivered since Ms Silva's comments in June 2005. The Prisoner Rehabilitation Team still has no programs within its repertoire that have been developed for women only.

I propose the development of three core programs specifically designed for women (alcohol rehabilitation, family violence and abuse, and children and parenting), and the commitment to deliver them on a regular schedule. The programs should be designed in a flexible delivery mode and need not be on a class basis. For example, the Children and Parenting program could involve one-on-one support and regular events where families are invited into the prison (where families reside in the Darwin area). In the case of the alcohol rehabilitation and family violence/abuse programs, they could involve some group aspects as well as a regular schedule of individual counselling by qualified drug and alcohol workers and Aboriginal organisations.

Recommendation:

7. That the Prisoner Rehabilitation Team develop a core number of programs specific to women based on the available research about best practice in women's programming and in consultation with currently serving women prisoners. That these core programs include:

- a) Alcohol rehabilitation**
- b) Family violence and abuse**
- c) Children and parenting**

The Department of Justice's response to this recommendation was as follows:

The general intent of this recommendation is supported, however, it could not be implemented in full without significant additional funding.

It is acknowledged that the programs identified as 'core' are valuable interventions. Delivery would clearly require additional resources, particularly professional staffing (to identify and secure gender appropriate programs as well as the additional cost of delivering the programs through external or internal providers). Delivery of services by an external provider is another option. An external specialist is currently providing the Parenting program, and the Treatment Team is delivering 'Cognitive Skills' which is a core offence-related program.

Current demand on existing rooms (within which programs can be delivered) and office space (to accommodate additional staff) is at full capacity. Funding of \$370,000 has recently been approved to enable a marginal expansion of the facilities within J Block in the short term. The 'programs/education' building component is approximately \$70,000.

Recommendation:

8. That the Prisoner Rehabilitation Team develop a delivery schedule for programs in J block for the forthcoming year.

This recommendation (8) is supported by the Department.

Recommendation:

9. That NTCS adopt a service charter for female prisoners at DCC which ensures access to these core programs on a regular schedule regardless of class size, in order that each prisoner serving a sentence or on remand for three months or more *will* have access to a suitable program.

The core programs need not be delivered by the Prisoner Rehabilitation Team directly but could be delivered by other appropriate organisations outside the prison or in a joint partnership arrangement.

The Department of Justice responded to Recommendation 9 in draft as follows:

The general intent of this recommendation is partially supported, however, those aspects that are supported could not be implemented in full without significant additional funding.

Programs that focus upon offending behaviour and require acceptance of guilt can be inappropriate for some remandees who are presumed innocent and plead not guilty. The service charter will form a component of the Female Offender Policy. The level of delivery is dependent upon some additional resources; and the results of efforts to engage external providers and secure external funding to delivery e.g. domestic and family violence programs.

NTCS program strategies have been informed by the growing body of international evidence on 'what works' to target re-offending. Having regard to this literature, NTCS has opted to focus resources on those offenders who pose a moderate to high risk of re-offending. This means that in reality, that we do not attempt to meet all the needs of every offender.

In addition to this, there are other reasons why prisoners do not always access or complete rehabilitative programs, some include a refusal to participate and the

difficulties in providing specific programs to smaller groups serving relatively short custodial sentences. Most woman prisoners received into custody have substantial health care and welfare issues which are addressed as a priority to their program needs leaving little opportunity to effectively screen and assess these women for inclusion in any particular programs. Combined with this is the emerging body of evidence suggesting that the delivery of intensive services to low risk, short-term prisoners may be counterproductive.

I am not persuaded to change my recommendation by the response from the Department. The Department has already affirmed the need and desirability to provide the said core programs. The Department has not provided me with the detail of the evidence it suggests contradicts the sources set out in this report. If funding is available to honour the service charter to provide the core programs on an ongoing basis, then I can see no valid objection to this recommendation. At Recommendation 11 below, I recommend that the Department apply to Cabinet for the funding for implementation of this Recommendation. Recommendation 9 therefore remains the same as it was in draft form.

Recommendation:

10. That NTCS appoint a project officer to actively negotiate with community organisations and other services outside the prison with a view to involving them in the delivery of rehabilitation programs (both core and non-core) to women to the greatest extent possible. The access of these organisations to the prison should be encouraged and facilitated, including by fee-for-service arrangements where appropriate.

The Department of Justice has advised me that:

The general intent of this recommendation is supported, however, additional resources would be required.

I am pleased that the Department supports this recommendation and I acknowledge that implementation of the recommendation could not occur without significant additional funding. I have not been advised by the department that it has made or intends to make application to Cabinet for such funding. Recommendation 11 below addresses this aspect of the matter. My recommendation regarding the appointment of the project officer therefore remains the same as in draft.

In the draft of this report, I made a recommendation that the Northern Territory Government make the necessary funds available to action recommendations 7 to 10 without removing funds from men's programming.

The department's response was: *Noted. The allocation and prioritisation of additional funding is a matter for Government.*

I take the point that the allocation of funding is a matter for Government, and my office is not able to make any recommendations about what Cabinet should do. It is my intention to provide the Minister for Correctional Services with a copy of this final report. I have changed my draft recommendation to require that NTCS apply to Cabinet for the necessary funding.

Recommendation:

11. That the NTCS apply within a reasonable time to the Northern Territory Government Cabinet and to any other appropriate funding source, for the necessary funds to action Recommendations 7 to 10 without removing funds from men's programming.

Education

Education in NT prisons is delivered both by NTCS staff and external training providers visiting the prisons. Prisoners are also able to do courses by correspondence through the NT Open Education Centre or other external institution.

NTCS is a registered training provider offering nationally accredited programs. Prisoner educational attainment (eg Certificate I or unit of competency) is recognised as equivalent to the same course of study delivered in any other educational institution outside prison.

Complaint

The complainants argue that educational options offered in DCC are inadequate, not suited to their needs, of limited quality, and delivered in an ad hoc way.

At the time of complainant interviews in early 2006, J block prisoners were involved in a number of educational courses, both general and vocational:

- On Tuesdays at 9-11.30am the weekly computers session would occur. This session was held in the computer room in the main (men's) complex of DCC. The computer session incorporated Certificates I and II in Business Administration, Adult Literacy and Numeracy, and Certificate I in Community Services. All would occur at the same time in the same room with one lecturer.
- Horticulture ran on Fridays at 9 -11am
- Art ran all day on Thursdays.
- A number of women were also involved in secondary education courses through NTEOC

The complainants explained that Certificates I and II in Business Administration consisted of a booklet which students worked their own way through during the weekly computer sessions. The course covered basic computer skills such as word processing, data entry and the internet. Students requested access to business-type

units such as marketing and accounting but these were not covered in the Certificate I and II courses.

Certificate I in Community Services – Work Preparation was run through Batchelor Institute. It was a basic introduction to work in fields such as aged care, childcare and health.

The complainants point out that even out of those courses which have been offered to women, many courses have run more in theory than in practice. They state that educational provision is generally ad hoc, under-resourced, disjointed and frequently cancelled for the day due to lockdowns, random drug searches or staff unavailability. For example:

- The actual face-to-face hours in most courses are very limited – around two to two and a half hours per week.
- There is sometimes a waiting list to attend a course, such as was previously the case with the Thursday art and craft program.
- Some courses have been available to Indigenous women only as they were run through Batchelor Institute of Indigenous Tertiary Education. A non-Indigenous complainant requested to do First Aid but this was refused as the provider was Batchelor.
- A music course was offered to J block prisoners around the beginning of 2006 but the complainants state that the teacher rarely attended. They state that facilities were few and in no way comparable to those available to male prisoners which include a music room and recording studio.
- Creative writing has been offered in the past but it consisted of being given a photocopied booklet which the prisoner must work their own way through. There are no face-to-face sessions involved.
- One complainant, Amanda, asserted that prisoners undertaking courses through the NT Open Education Centre receive little practical or other support from prison staff. She said that prisoners must find out about their course and organise their enrolment themselves. NTCS pays the annual school fee but prisoners must provide everything else including purchasing all paper, pens and stationary items. She stated that the Education Unit does not download course material or photocopy papers for students. She further alleged that she missed her Mathematics exam due to lockdowns in the week of 13-17 March 2006, and personally had to chase up officers over a number of days to arrange for one to supervise her so that she could sit her exam within the NTEOC timeframe.

Amanda was further upset by what she perceived as the Education Unit then taking the credit for her hard work. For example, she alleged that NTEOC certificates commending her for her results, especially in Mathematics, were withheld by the Education Unit and she was not even informed that she had been awarded the certificates until she read about it in the newsletter.

- A Hospitality course was announced in early 2006, to run every Tuesday from 1-2.30pm. However only one class ever occurred. It does not appear that the participants were ever properly advised of the cancellation of the course and the reason for its cancellation.

- On the very day the investigating officer attended the prison to interview complainants (21 March 2006), computers, literacy and numeracy had been cancelled for the second week running. Prisoners had not been informed of the reason for that day's cancellation.
- Prisoners on remand (whether male or female) are not generally entitled to in-house prisoner education. This is the case even for prisoners on remand for extended periods of 12 months or more. They may undertake external studies but are provided with limited support in doing so. One complainant commented that the situation in Darwin Correctional Centre is worse for male remandees, who unlike female remandees cannot attend art.

In interviews with complainants conducted on 15 November 2006, they advised that only one day previously, Education staff had announced to J block that the education budget had been cut for 2007. The only education available to female prisoners at DCC, they were told, would now be literacy & numeracy, Horticulture and Art.

Amanda further alleged on 21 February 2007 that:

- Three staff positions in education had been lost as a result of the cuts, affecting both male and female prisoners.
- All computer-based training for male and female prisoners had been cut as a result of the loss of the computer tutor position.
- The staff cuts had resulted in some students who had completed courses being unable to get accreditation for the course. For example, Debbie completed 12 months of a Certificate II in Business Studies in 2006. The Senior Education Officer refused to certify her as there was no longer an accredited tutor to do so, and no alternative arrangements had been made.
- There was no access to music courses for any women prisoners for the foreseeable future.
- NTEOC courses were available but had to be completed in the prisoner's cell time with the prisoner's own resources, and were limited by the lack of access to computers, liaison and staff support.
- There were ongoing problems with the Education Unit's ad hoc approach to records, accreditation and enrolment in relation to NTEOC and Charles Darwin University courses.
- Access to most if not all tertiary courses for women prisoners had been blocked on the basis that DCC "will not set prisoners up for failure" as most CDU courses contain an on-line component which is not accessible to prisoners. The Education Unit would not assist with alternative arrangements.
- The Education Unit had dismissed out-of-hand suggestions for courses put up by J block prisoners.
- "Free (no cost to the Department) nonsensical or trivial 3 day and one week courses in J block such as line dancing, wok cooking and basic hospitality (no accreditation, housekeeping only)" were being introduced "to appease the requirements of the Ombudsman investigation to make up numbers and reflect a programming element for women".

On 15 March 2007 she further asserted that:

- The line dancing course had been cancelled.
- Women have had no access to computers since the computer lecturer position was cut in 2006.
- The Tuesday education session which had occurred from 9am to 11.30am had now been shortened to 1-2.30pm
- The only course run in the session was Certificate I in Work Preparation. This was supposed to be an 80 hour course. Amanda states that she and Debbie were told not to return after 3 ½ hours and 2 ½ hours respectively. They had been signed off and given their certificates (dated 1 March), due to “Recognised Prior Learning”, despite no actual assessment. Five other women were still completing the course. Amanda stated that she would have liked to have completed the course, both to refresh her skills and assist other women, but she had not been able to attend since she was deemed to have completed it. She claimed that she saw her education file and it records that she received the 80 hours.
- Five women were currently completing a Certificate II in Horticulture through CDU. The course had been purely theory-based as they had not been allowed to leave J block to attend the agriculture area.

Female prisoners have responded to the shortfalls in formal educational provision by developing their own networks. Many J block prisoners are involved in supporting each other through education, including well-established and successful self-organised tutoring programs. For example, Amanda has assisted others to attain high school certificates through NTOEC. Gina had been teaching other women crocheting on her own initiative (including making blankets for Dawn House). She had also offered to teach literacy, numeracy and first aid. She was told this was “not allowed” (that is, for prisoners to teach other prisoners) and the prison did not want it, but she had been doing so anyway.

The complainants state that these efforts are given little recognition or support from prison administration. They have requested that this tutoring become formalised to enable it to be properly structured and supported. They state that this has been refused.

NTCS response

NTCS acknowledges that:

*The Education Unit shares the complainant’s concerns regarding the level of cancellations of education classes.*⁷⁸

It denies Amanda’s allegations about the lack of support for students undertaking external courses. The Education Unit staff state that they regularly support students undertaking NTEOC studies. They do acknowledge that the complainant’s results could have appeared in the newsletter prior to being received by her.⁷⁹

⁷⁸ 28 August 2006 NTCS submission to the Ombudsman at 7

⁷⁹ Id at 8

It acknowledged that the Hospitality course was cut short and explained that this was due to the trainer's availability problems and the release from prison of some of the participants.⁸⁰

In response to J block prisoners' requests for their informal tutoring activities to be formally recognised and supported by DCC prison administration, NTCS states:

Whilst peer support is a generous and valuable contribution by the women, it can be seen that the staff are under some pressure to deliver adequate services and compensate for lower staffing levels. Alternatives, such as formalised peer support models, may be considered in the future as a part of the solution to this significant problem. Supplementary to this is the recent finalisation of a Directive that enables employment of prisoners under certain circumstances. However energy is currently directed to securing a substantial and sustainable solution to this critical area.⁸¹

NTCS reports that a number of factors influence the delivery of prisoner education from semester to semester:

- *Requirements imposed by the Australian Quality Training Framework standards, by education/training organisations and funding bodies;*
- *Requirements for a minimum number of members per class (e.g. six per Drink Driver Education class);*
- *The course length extending beyond the prisoner's release date (e.g. 30 week Interpreters course);*
- *Requirements for a lack of criminal record in order to undertake certain placements/registration;*
- *'Indigenous only' access to certain courses (e.g. occurs where the Bachelor Institute is the only institution able to deliver a certain course; as referred to at complaint 2.1.2.4);*
- *Requirements for a level of access to the internet or other resources which are not available within current capacity/prison context;*
- *Costly course fees (e.g. Drink Driver Education);*
- *Changes in offerings and content from semester to semester; and*
- *Requirements regarding assessment and registration.⁸²*

Prisoner education has to date been jointly funded by NT and federal governments, however federal funding has diminished dramatically in recent years. This has placed NTCS in a difficult position leading to some educational services being scaled back:

NTCS staff at a number of levels have made efforts to counteract a significant loss of Australian Government funding for prisoner education in the NT.

The Aboriginal Tutorial Assistance Scheme funded tutors at both DCC and ASCC to support the low levels of literacy and numeracy of many Indigenous prisoners. The tutors were employed directly by the Department of Education, Science and Training (DEST) and assisted NTCS lecturers who worked one-on-one and with small groups of three or four prisoners. This funding was withdrawn at the beginning of 2005.

DEST has also advised that funding for prisoner education under the National Indigenous English Literacy and Numeracy Strategy (NIELNS) will be reduced over 2005-2008, and totally removed by the end of 2008. It is recognised by NTCS that Indigenous prisoners, who make up about 80% of the prisoner population, have some of the lowest literacy and numeracy skills in the country. Skill training in this regard is seen as being crucial to meeting post-release employment needs, as well as to everyday communication in the mainstream community.

⁸⁰ Id at 7

⁸¹ Id at 10

⁸² Id at 6

*At the cessation of funding by DEST for tutors, NTCS identified funding from within existing resources to continue the program to end June 2006. The loss of NIELNS funds may render some teaching staff redundant and will severely impact on delivery of prisoner education. Strenuous efforts are being made to lobby for the reinstatement of funding to ensure these needs can be met to an acceptable level.*⁸³

DCC Manager Prisoner Services Bill Munro advised in an interview on 15 November 2006 that Batchelor Institute of Indigenous Tertiary Education would no longer be offering any prisoner education. This decision has meant the loss of a number of courses previously offered. For J block, this meant the loss of the Community Services Certificate I course. Batchelor's First Aid course, which had not in any case been offered for some time, was also lost.

The Department acknowledged that the education budget had been cut for 2007. The only education available to female prisoners at DCC would now be literacy & numeracy, Horticulture and Art. There would be no budget for music. The computer lecturer position had been dropped due to a loss of federal funding meaning an end to the Certificate courses run through the computer session.⁸⁴ Superintendent Raby stated that this would not affect prisoners wishing to study external courses. Furthermore, negotiations were underway with Charles Darwin University to provide additional courses relevant to future employment options. He gave no indication as to when this might occur or what those courses might be.⁸⁵

The 28 August NTCS submission stated that a "Bucket Stoves and Indian Woks" two-day workshop would be run for women at both ASCC and DCC. This is not an accredited training unit but is focussed on food preparation, hygiene and nutrition for a remote community context.⁸⁶ I am informed that it has now been delivered in J block.

In relation to education for women prisoners in ASCC, NTCS advised as follows:

Female prisoners attend the ASCC education and programs area (Q Block) every Monday afternoon and participate in either computer or ceramics activities. Support has been provided to access external education and one person has enrolled with CDU in an Aged Health Care course. Negotiations with Central Australian Aboriginal Congress have resulted in the recent delivery of health-based programs to female prisoners. A range of workshops are being offered covering Sexual Health, Nutrition, Personal Hygiene, and Family, Child and Infant Health. Arrangements have also been made to purchase four sewing machines for the women to learn sewing skills, although this is dependent upon the preferences of the fluctuating population of women in ASCC at a given time.

Whilst women housed in ASCC H Block commonly have 11 hours out-of-cell time; the Sport and Recreation Officer has enabled the women to leave the block and spend a day per week in the Management Zone visits area. The art tutor has engaged the women in a cooperative art project to paint this area. Women have also joined crochet lessons, which have been run by one of the female prisoners, with equipment provided by Education.

Life skills, and particularly 'caring for the family', has been identified as a need for the women. The DHCS Remote Public Health Nutritionist specialises in the development of cooking skills for those living in remote areas and/or those with limited equipment and access to shopping. The Education Officer has recently confirmed that this workshop will be delivered to the women in ASCC. The DCC Senior Education Officer is also seeking delivery of the same program in J Block. [ie the "Bucket Stoves and Indian Woks" workshop referred to above.]

⁸³ Id at 8-9

⁸⁴ 7 December 2006 interview with Jens Tolstrup and Theresa Westmacott

⁸⁵ 21 December 2006 email to Investigating Officer Renee Lees

⁸⁶ 28 August 2006 NTCS submission to the Ombudsman at 7

A formal assessment of education needs is not undertaken with ASCC women and assistance is provided on an individual basis. It is notable that recruitment to positions within ASCC has been a significant challenge; including the position of the Senior Education Officer. Furthermore, the funding for the art tutor, who has made a valuable contribution to recreational activities for the women in particular, will end in December 2006. Note the recent changes to federal funding as detailed above.⁸⁷

Relevant standards

INTERNATIONAL INSTRUMENTS

- ***Universal Declaration of Human Rights***

Article 26(1) Everyone has the right to education.

- ***Universal Declaration of Human Rights***

Article 27(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

- ***Basic Principles for the Treatment of Prisoners***

6. All prisoners shall have the right to take part in cultural activities and education aimed at the full development of the human personality.

- ***Standard Minimum Rules for the Treatment of Prisoners***

65. The treatment of persons sentenced to imprisonment or a similar measure shall have as its purpose, so far as the length of the sentence permits, to establish in them the will to lead law-abiding and self-supporting lives after their release and to fit them to do so. The treatment shall be such as will encourage their self-respect and develop their sense of responsibility.

66(1) To these ends, all appropriate means shall be used, including religious care in the countries where this is possible, education, vocational guidance and training, social casework, employment, counselling, physical development and strengthening of moral character, in accordance with the individual needs of each prisoner, taking account of his social and criminal history, his physical and mental capacities and aptitudes, his personal temperament, the length of his sentence and his prospects after release.”

77(1) Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterates and young prisoners shall be compulsory and special attention shall be paid to it by the administration.

77(2) So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.

(78) Recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of prisoners.

⁸⁷ Id at 26

- **Resolution 1990/20 of the UN Economic and Social Council**
 - (a) Education in prisons should aim at developing the whole person, bearing in mind the prisoner's social, economic and cultural background;
 - (b) All prisoners should have access to education, including literacy programmes, basic education, vocational training, creative, religious and cultural activities, physical education and sports, social education, higher education and library facilities;
 - (c) Every effort should be made to encourage prisoners to participate actively in all aspects of education;
 - (d) All those involved in prison administration and management should facilitate and support education as much as possible;
 - (e) Education should be an essential element in the prison regime; disincentives to prisoners who participate in approved formal educational programmes should be avoided;
 - (f) Vocational education should aim at the greater development of the individual and be sensitive to trends in the labour market;
 - (g) Creative and cultural activities should be given a significant role since they have a special potential for enabling prisoners to develop and express themselves;
 - (h) Wherever possible, prisoners should be allowed to participate in education outside the prison;
 - (i) Where education has to take place within the prison, the outside community should be involved as fully as possible;
 - (j) The necessary funds, equipment and teaching staff should be made available to enable prisoners to receive appropriate education.

- **The CPT Standards**, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment, 10th General Report [CPT/Inf (2000) 13]

25. Women deprived of their liberty should enjoy access to meaningful activities (work, training, education, sport etc) on an equal footing with their male counterparts... Moreover, depending upon the circumstances, denying women equal access to regime activities could be qualified as degrading treatment.

NATIONAL STANDARDS

- **Royal Commission into Aboriginal Deaths in Custody**

Recommendation 184: That Corrective Services authorities ensure that all Aboriginal prisoners in all institutions have the opportunity to perform meaningful work and to undertake educational courses in self-development, skills acquisition, vocational education and training including education in Aboriginal history and culture. Where appropriate special consideration should be given to appropriate teaching methods and learning dispositions of Aboriginal prisoners.

- **Standard Guidelines for Corrections in Australia**

[Prisoners will be] kept active within a dynamic and structured environment that provides opportunities for some reparation to be made to the community.

[Prisoners will be] provided with opportunities to address their offending behaviour and actively encouraged to access evidence-based intervention programmes, education, vocational education and work opportunities.

1.14 ...If education or vocational training is available, untried prisoners should be encouraged to avail themselves of these opportunities.

3.6 Prisoners should be provided with access to programmes and services, including education, vocational training (and employment), that enable them to develop appropriate skills and abilities to lead law abiding lives when they return to the community.

3.8 Prisoners who are approved to be full time students should be remunerated equivalently to prisoners who are employed in full-time work.

3.9 A high priority should be accorded to programmes addressing illiteracy and numeracy. Relevant prisoners should be encouraged to engage in such programmes but should not be compelled.

3.11 All programmes should be periodically evaluated in relation to the achievement of their objectives and the views and experiences of prisoners.

3.13 Programmes and services provided to prisoners, especially women, indigenous prisoners and prisoners from non-English speaking backgrounds, should be established following close consultation with the appropriate community groups and experts.

4.13 Provision should be made for prisoners to be released from work to attend approved programmes and education.

Relevant literature

The obligation on prison authorities to provide genuine educational opportunities for prisoners is made very clear in the international instruments quoted above. Andrew Coyle, in *A Human Rights Approach to Prison Management*, explains that the obligation goes beyond basic education:

Education should go much further than teaching these basic skills. Education in the fullest sense should be aimed at developing the whole person, taking account of prisoners' social, economic and cultural background. It should, therefore, include access to books, classes and cultural activities, such as music, drama and art. This form of activity should not be regarded as merely recreational but should be focussed on encouraging the prisoner to develop as a person.

What is needed is a balanced programme of activities which include the industrial work and skills training described earlier in this chapter, education and cultural activities and physical education. All elements of this programme should be provided at some level in all prisons, although the exact balance may vary from one to another depending upon the age, abilities and needs of prisoners. Some prisoners, especially the younger ones, may need to have education during the day as if they were at school. For others it may be provided in the evening after a normal working day. In other situations prisoners may spend half of the day working and half on educational activities. This is not unusual when there is not enough work to keep all prisoners busy for a full day.⁸⁸

Coyle recognises that there are specific difficulties involved in providing education to women prisoners:

Because of their smaller numbers or because of restricted accommodation the access which women prisoners have to activities is often more limited than that available to men. For example, there may be fewer opportunities for education or skills training. Work opportunities may be restricted to that which is regarded as traditional work for women, such as sewing or cleaning. The prison administration should make sure that women have the same opportunities as male prisoners to benefit from education courses and skills training. The same applies to access to facilities for physical exercise and sports. If

⁸⁸ Coyle, A (2002), *A Human Rights Approach to Prison Management: Handbook for Prison Staff*, International Centre for Prison Studies, London at 91

there is a shortage of facilities or trained staff within prisons it may be possible to involve local agencies and non-governmental organisations in providing activities for women prisoners.

*Wherever possible the activities which are made available to women prisoners should be designed for them rather than simply being adapted from programmes designed for men.*⁸⁹

Despite these difficulties in providing education to women, in the *Manual on Human Rights Training for Prison Officials*, the United Nations High Commissioner for Human Rights declares that “No distinction should be made between women and men as regards the types of education and training activities made available to them.”⁹⁰

The *NSW Select Committee on the Increase in Prisoner Population* similarly recommended that women be provided with no less choice and access to programs and education as male inmates.⁹¹

Vocational training in prison, in particular, is known to reduce both short and long-term recidivism for male and female prisoners. Some studies show that the outcomes are more pronounced for female prisoners.⁹²

Vocational education in prison has been the subject of national attention in recent years. The *National Strategy for Vocational Education and Training for Adult Prisoners and Offenders in Australia* was developed in 2000 with the cooperation of correctional administrations of all states and territories including the NT. The focus of the strategy is on enhancing access to, participation in, and the accountability of vocational education in prisons.⁹³

The national strategy is underpinned by the following principles, endorsed by NTCS:

- *Prisoners should be encouraged to access accredited VET programs;*
- *VET programs should be an integral part of prisoner management plans, and recognised as integral to the rehabilitative process for prisoners;*
- *Education and training pathways are developed, and delivery is flexible, so that it accommodates the prisoner’s sentence term and individual learning needs;*
- *Delivery of VET should meet the standard of delivery which is available in the community;*
- *Courses should have meaningful outcomes in relation to employment opportunities, and can articulate with further education and training available on release; and*
- *Models should be developed to reflect best practice for addressing the differing learning needs of minority/disadvantaged groups (i.e. Aboriginal and Torres Strait Islanders).⁹⁴*

⁸⁹ Id at 134

⁹⁰ Office of the United Nations High Commissioner for Human Rights (2005), *Human Rights and Prisons: A Manual on Human Rights Training for Prison Officials*, Professional Training Series No. 11 at 105

⁹¹ NSW Select Committee on the Increase in Prisoner Population (2000), *Interim Report: Issues Relating to Women* at 81

⁹² Cameron, M. (2001), “Women Prisoners and Correctional Programs”, *Trends and Issues in Crime and Criminal Justice*, No. 194, Australian Institute of Criminology at 4

⁹³ Commonwealth Department of Education and Training (2001), *National Strategy for Vocational Education & Training for Adult Prisoners and Offenders in Australia* at 5

⁹⁴ Fitzgerald, C., Manners, C. & Hunter, W., “Vocational Education and Training in Northern Territory Correctional Centres”, Paper presented at the Best Practice Interventions in

NTCS stated in 1999 that these principles “have enabled best practice interventions to be implemented for Indigenous prisoner VET in the NT”.⁹⁵

Under the National Strategy, at 4.3 and 4.4, reporting and evaluation measures are to be established to monitor the qualitative and quantitative outcomes for prisoners.

This objective is similar to Recommendation 45 of the CAYA Review of Custodial Services which declared that “targets for achieving literacy, numeracy and English comprehension be established and the spaces to deliver the programs be provided.”

Much of the literature on vocational education for women in prison is critical of the common tendency for prisons to prepare women for stereotypical “pink collar jobs” only, such as “secretarial work, horticulture, sewing and service occupations (ie laundry and food service)”. As Lahm (2000) finds, “this abundance of traditional programming is preparing females to enter gender-stereotyped occupations in the real world, which are also among the most unstable, low paying jobs.”⁹⁶

As well as the types of education offered, Danby et al (2000) found that the prison environment itself is an obstacle to educational attainment for women prisoners. The authors assert that “the structural and cultural dimensions of prison life work against effective participation in the types of education that would contribute to rehabilitation.”⁹⁷ The study looked into education in Queensland women’s prisons and the response of prisoners themselves to education.

*Overall, the research found that women’s involvement in prison education is framed by a culture of containment and retribution. The prison culture is manifest most poignantly in the invasive body searches, practised rehearsal of prison rules by staff, pervasive surveillance of physical movement and communication and highly scrutinised visits with families including children and infants. Cultural factors combined with structural factors such as movement through the system, sentence length and the mix of work and education converge to impair effective participation in education. This echoes the findings of Cox and Carlin (1998) that 50 percent of inmates in their sample reported that they were not satisfied with the extent of the education and training they receive in custody.*⁹⁸

Respondents to the study also mentioned similar concerns about course delivery to those noted by the complainants above. Even when inmates had access to courses, disruptions appeared to be a major difficulty in the actual conduct of the class. One type of disruption involved participants being pulled out of class:

*You’re lucky if you get through the curriculum at all because there’s so many disruptions and you know, like one course I was in we’re in the middle of class and then they pulled everyone for UTs [urine tests] ... and then you know one girl got dragged out ‘cause she’d been breached and had to go the breach cells.*⁹⁹

Corrections for Indigenous People Conference, Australian Institute of Criminology and Department for Correctional Services SA, Adelaide, 13-15 October 1999 at 1

⁹⁵ Ibid

⁹⁶ Lahm, K. (2000), “Equal or Equitable: An Exploration of Educational and Program Availability for Male and Female Prisoners”, *Federal Probation*, Vol 64, No. 2, at 39, 43

⁹⁷ Danby, Dr S., Farrell, Dr A., Skoien, P. & Quadrelli, C., “Inmate Women as Participants in Education in Queensland Correctional Centres”, Paper presented at the Women in Corrections: Staff and Clients Conference, Australian Institute of Criminology and Department for Correctional Services SA, Adelaide, 31 October – 1 November 2000 at 9

⁹⁸ Id at 6

⁹⁹ Id at 8

To be successful, courses also need to be culturally appropriate and tutors need suitable expertise in Indigenous education. For example, a study of a literacy and numeracy education program in SA found that an open-learning style of education is not suitable because many Indigenous prisoners do not have the skills required for independent learning.¹⁰⁰

In relation to peer tutoring schemes among prisoners, the international authorities endorse their role:

Where there are insufficient resources, educational programmes can be provided by inviting prisoners with academic ability to teach other prisoners free of charge and under supervision.¹⁰¹

*Prisons are often places where there is a great deal of untapped potential among the prisoners. Some of them may be educated to a high level; some may even have been teachers before coming to prison. Consideration should be given to encouraging such prisoners to help with the education of less able prisoners under appropriate supervision.*¹⁰²

Findings

The educational options described by the complainants in early 2006 (literacy and numeracy, horticulture, art, Certificates I & II in Business Administration and Certificate I in Community Services, in addition to NTEOC courses) represent a fairly basic offering in comparison to those educational courses available to male prisoners around the same period.

The educational courses available to DCC male prisoners over 2005 and 2006 were:

- Literacy and Numeracy
- National art and craft training package
- External courses through NTOEC
- Diploma in Interpreting (in partnership with the Indigenous Interpreter Service and Batchelor Institute of Indigenous Tertiary Education)
- Aboriginal Health Worker course
- Drug and Alcohol Studies
- Horticulture
- Construction/Woodwork
- Automotive
- Drink Driver Education (in partnership with CDU)
- Road Safety (in partnership with CDU)
- Learners and Provisional Drivers Licence courses (in partnership with CDU)
- Deckhand's Course (delivered in partnership with Seafood and Maritime Industry Training)
- Bucket Stoves and Indian Woks (food preparation, hygiene and nutritional health program delivered in conjunction with the DHCS)

¹⁰⁰ Cameron, M. (2001), "Women Prisoners and Correctional Programs", *Trends and Issues in Crime and Criminal Justice*, No. 194, Australian Institute of Criminology at 5

¹⁰¹ Office of the United Nations High Commissioner for Human Rights (2005), *Human Rights and Prisons: A Manual on Human Rights Training for Prison Officials*, Professional Training Series No. 11 at 106

¹⁰² Coyle, A (2002), *A Human Rights Approach to Prison Management: Handbook for Prison Staff*, International Centre for Prison Studies, London at 92

- Crocodile Handling and Farming course (in partnership with the International College of Advanced Education (ICAE)/Myriad Group Training)¹⁰³

These courses were also available to male prisoners in the Territory over 2005 and 2006 but I am not specifically aware if they were offered in DCC or ASCC:

- Creative writing
- Indigenous Tertiary Preparation course (in partnership with Batchelor Institute of Indigenous Tertiary Education)
- Certificate I Access to Employment and Further Study (to target literacy and numeracy skills and to link participants to future employment and study pathways)
- Certificate I in Work Preparation (to help students hone their job seeking skills)
- Metals/Engineering (probably offered in ASCC only)

Again, as with rehabilitation programs, the above courses were not available to all male prisoners and were not running at all times.

It was extremely disappointing to learn that educational provision in NT prisons has been significantly reduced for 2007. This has occurred both as a result of Batchelor Institute's decision to cease prisoner education and as a result of federal government decisions to no longer fund certain programs.

I am aware that these cuts have affected both male and female prisoners. I am not aware of the precise extent of the reductions for male prisoners at DCC and for both male and female prisoners at ASCC.

Given the already limited offerings for women prisoners in DCC and the exclusion of women from men's courses (except for the one woman who is permitted to attend the agriculture area for horticulture alongside men), it would have been preferable for J block to have been quarantined from the cuts.

The cuts have left only three educational options for women prisoners at DCC – literacy and numeracy, art and horticulture. While Superintendent Raby states that women prisoners will still be able to do external courses, I note that this mode of learning was described as inappropriate for Indigenous prisoners in the SA study described above. Furthermore, no access to computers has been offered since the computer tutor position was cut.

In relation to ASCC, its educational provision to women prisoners is also very limited. While a variety of workshops have been run, no vocational education or other courses leading to accreditation are available, except for one student who is enrolled in external study through CDU. The position of art tutor was cut in 2006. No formal educational assessment is conducted of women prisoners, unlike men at the prison.

I find this situation unacceptable. NTCS is not fulfilling its obligations to provide women prisoners with meaningful educational opportunities to escape cycles of poverty and crime. NTCS is also failing to provide education to women prisoners on an equal footing to men. I find this to be "improperly discriminatory" within the meaning of s26(1)(b) of the *Ombudsman (Northern Territory) Act*.

While both the *National Strategy for Vocational Education and Training for Adult Prisoners and Offenders in Australia* (at 4.3 and 4.4) and Recommendation 45 of the

¹⁰³ Department of Justice Annual Report 2005/2006 at 53; Annual Report 2004/2005 at 46

CAYA Review of Custodial Services call for the development of educational targets and outcomes measures, NTCS has not done so. In a 7 December 2006 interview with Jens Tolstrup, Director NTCS, he stated that no targets for educational attainment for either male or female prisoners have been developed.

DCC women prisoners have been clear in pointing out what they see as the main areas of unmet educational need for women prisoners. They have made a number of practical suggestions about courses they believe should be available:

- Accelerated Literacy
- English as a Second Language
- Living skills
- Budgeting
- Basic Hygiene
- Cooking
- First Aid
- Courses leading to trade qualifications
- Interpreting (Aboriginal languages)
- Nursery training
- Agriculture
- Ranger, conservation and 'Caring for Country' training
- Deckhand course (currently available to male prisoners)
- Crocodile management (currently available to male prisoners)
- Facilitators course
- Counselling services ("to incorporate help for wayward kids and so on")
- Certificate 4 – workplace training and assessing
- Bush medicine and tucker, tracking skills
- Traditional weaving
- Aboriginal culture

Recommendation:

12. That NTCS review its educational provision for women prisoners and develop short, medium and long term plans in consultation with women prisoners to enhance the variety of courses available to women at both DCC and ASCC.

This recommendation is supported by the Department of Justice.

In the draft of this report, I made the following recommendation :

That NTCS develop educational courses specific to the needs of women prisoners, including conducting an examination of the feasibility and delivery options of each of the following courses suggested by J block prisoners:

Accelerated Literacy; English as a Second Language; Living skills; Budgeting; Basic Hygiene; Cooking; First Aid; Courses leading to trade qualifications; Interpreting (Aboriginal languages); Nursery training; Agriculture; Ranger, conservation and 'Caring for Country' training; Deckhand course; Crocodile management; Facilitators course; Counselling services; Certificate 4 – workplace training and assessing; Bush medicine and tucker, tracking skills; Traditional weaving; Aboriginal culture.

The Department of Justice responded as follows:

The general intent of this recommendation is supported, however, it could not be implemented in full without significant additional funding.

The feasibility of delivery will be examined. This will provide an indication of the additional resources required to overcome a number of barriers to delivery, whether courses are delivered by NTCS staff or by external providers. Some external providers will not deliver to classes below a minimum number of students as a minimum number of hours of enrolment are required under the vocational education and training funding policy. A range of programs may be delivered outside the formal certification framework e.g. for the development of life skills and for reintegration purposes rather than for vocational purposes

Rooms within which education can be delivered and office space for staff are currently at full capacity. Funding has recently been approved to expand facilities within J Block (at an approximate cost of \$70,000). In the short term, this will provide for a marginal increase in the capacity of the infrastructure to accommodate educational courses.

I take this to mean that the Department agrees that courses specific to the needs of women prisoners should be provided, but there are insufficient resources to provide these. It has also agreed to assess the feasibility of the listed courses. I have therefore amended the draft recommendation to include the need for the Department to approach Cabinet for the additional funds.

Recommendation:

13. That NTCS develop educational courses specific to the needs of women prisoners, including conducting an examination of the feasibility and delivery options of each of the following courses suggested by J block prisoners:

- a) Accelerated Literacy
- b) English as a Second Language
- c) Living skills
- d) Budgeting
- e) Basic Hygiene
- f) Cooking
- g) First Aid
- h) Courses leading to trade qualifications
- i) Interpreting (Aboriginal languages)
- j) Nursery training
- k) Agriculture
- l) Ranger, conservation and 'Caring for Country' training
- m) Deckhand course
- n) Crocodile management
- o) Facilitators course
- p) Counselling services
- q) Certificate 4 – workplace training and assessing
- r) Bush medicine and tucker, tracking skills
- s) Traditional weaving

t) Aboriginal culture

and that NTCS apply within a reasonable time to the Northern Territory Government Cabinet and to any other appropriate funding source, for the necessary funds to action this recommendation.

Recommendation:

14. That the Education Unit ensure that appropriate support is provided to prisoners undertaking external studies including liaison with the educational institution, sending assignments, receiving results, conducting examinations, obtaining required study materials, photocopying, downloading documents, supply of writing materials, and general advice and support.

Recommendation 14 is supported by the Department of Justice

In the draft of this report I made a recommendation that reasonable access to computers (and where required, internet) be provided to prisoners undertaking external courses.

The Department advised me that it supports this recommendation but that *“Access to the internet is not an option due to security requirements.”*

I readily acknowledge the reason for this qualification, however, it must be said that these days, the use of information from the internet is integral to any external study program or course. If the department is supportive of external study by prisoners, then it must find a compromise to the dilemma of internet use.

For example, if the course provider could provide the prison with a list of essential web sites for the study unit, these could either be printed out or emailed to the prisoner. The department could also research the internet control or filter programs which are currently available.

Recommendation:

15. That reasonable access to computers be provided to prisoners undertaking external courses, and that NTCS research and resolve a method of providing prisoners with essential study material from internet sites.

In relation to peer tutoring, I am fully aware that such schemes cannot replace the need for adequate qualified staff, but it would appear that women prisoners have themselves developed a partial solution to compensate for the low staffing levels and this should be supported.

Recommendation:

16. That the DCC Education Unit consult with women prisoners to develop a formalised peer tutoring network supported by qualified staff, to supplement but in no way replace the provision of formal education for the block.

This Recommendation is supported by the Department of Justice.

Employment

Complaint

Complainants report that there is a lack of meaningful employment and practical training available to J block prisoners, especially full time employment. For example, women prisoners are not able to be engaged in prison industries work unlike male prisoners at DCC.

One complainant has previously submitted a formal Superintendent's request asking that J block prisoners be involved in community or volunteer work. She gave as an example the three days in 2005 when J block prisoners packed six thousand bags for the Arafura Games. This was instigated and organised by the prisoners themselves. The complainant suggests that J block could be usefully engaged in many similar projects, such as making or packing items for charity or disaster relief, at minimal cost to NTCS and without J block prisoners necessarily leaving the block.

She suggests that such activities would be embraced by J block prisoners. They would be beneficial to self esteem and mental health, as well as alleviating boredom and promoting new skills.

NTCS response

EMPLOYMENT OPTIONS IN DCC

In the 15 November interview, Superintendent Raby acknowledged that women cannot access prison industries work such as kitchen work and construction work done by male prisoners. He provided my office with the J block work roster as at 13 November 2006. It lists the following jobs:

Main section:

- Laundry / cat carer
- SPO Office/ Officer Dining Room cleaner

- Art/Programs Room cleaner
- Pool area cleaner
- Pathways cleaner
- Reception area cleaner
- Rubbish
- Dining room/drains/breakfast issue

Low Security Area:

- Laundry
- Bathroom cleaner
- Kitchen cleaner
- Rubbish/stores/meal trolley
- Officers' Social Club cleaner
- Gardens/mowing/whipper snipping

Mr Raby stated that he believed most of these jobs were full time. The Senior Prison Officer's report, however, states that most of these positions take 15-20 minutes per day, usually conducted at 2.30pm "Cleanup".

The two prisoners employed as Officers' Social Club cleaners usually work on Mondays, Wednesdays and Fridays, however at 13 November 2006 they had only been working one day per week for the previous few weeks due to upgrades to the Club. Gardens/mowing/whipper snipping in the Low Security Area occur only on an ad hoc basis as directed.

In addition to the above positions, one prisoner who is currently studying Certificate II Horticulture works in the Agriculture section on Mondays, Wednesdays and Fridays, and also works as the J block seamstress (mending prison uniforms, making pyjamas, dilly bags for Reception prisoners, and boxer shorts for sale through the weekly prisoner buy).

I am aware that at different times female prisoners have been employed on the Community Support Program alongside men (the work parties conducting gardening, cleaning and other jobs around Darwin). No women were employed on CSP as at November 2006. Three women were employed on CSP as at March 2007. As detailed below, women have only been permitted to work on CSP for a maximum of two days per week whereas men are allowed to work five days.

EMPLOYMENT OPTIONS IN ASCC

In relation to employment options for women held in Alice Springs, NTCS advises that:

Women in ASCC have relatively few options regarding employment. The Superintendent acknowledges that employment is limited to personal and block hygiene and laundry work and is conscious of the need to offer more.

Whilst it was the practice for women prisoners to remain in ASCC for up to 14 days this level of work opportunity was considered appropriate. As it is apparent that female prisoners are remaining in ASCC for longer periods of time, other opportunities are being sought. The Job Centre initiative is also planned for ASCC and should expand the options available for women prisoners from the current level.

NEW DEVELOPMENT: JOB CENTRES

An innovative development in the area of employment is the recent establishment of Job Centres at both prisons. These involve members of the Commonwealth Government's Job Network providing services to prisoners in much the same way as they might for job seekers on the outside.

The initiative will not increase the number of jobs available in the prison but is designed to help to prepare the prisoner for employment after release.

The following information was received from Superintendent Raby and Manager Prisoner Services Mr Munro at the 15 November interview.

Job Centres are in the process of being established in both J block and the men's Living Skills (low security) Unit at DCC. These will involve a physical office space to be staffed by Job Network members when they visit the prisons. Larrakia Development Corporation has donated used computers and relevant software to DCC to be installed in J block and the Living Skills Unit, while DEWR are sending across two touchscreens (identical to those in Job Network agencies and Centrelink).

The Job Centres will not be staffed at all times but will be available for job agencies to use as office space when they visit the prison and for prisoners to use the computers for writing CVs. The time of the week when that prisoner's agency comes in will be that prisoner's time of the week at the Job Centre.

Job Network providers are able to sign on prisoners who have twelve months or less left to serve. Each prisoner can be a member of one provider. Individual prisoners will be referred to the Job Network provider which is most relevant to the geographical area the prisoner is likely to return to after release. The provider will assess the prisoner's training needs and try to find job opportunities in that region for the prisoner on their release.

At November 2006, Max Employment had started visiting J block every Friday morning. Contact had been made with ITEC, JobFind and Mission Australia to arrange for them to start regular visits also.

The agencies will be able to provide training to prisoners in areas such as applying for jobs and preparing a CV, as well as structured "pre-pre-employment programs". Clients can be pooled between different providers to allow sufficient numbers of participants for training to go ahead. Because they are registered Job Network providers, these agencies can draw on Commonwealth sources of funding for training which the prison cannot.

Job agencies can also assist in identifying prisoner needs and referring the prisoner to relevant agencies such as Territory Housing or the prison welfare officer.

The Job Centre at DCC will only be able to be accessed by low security prisoners.

In relation to women at ASCC, a Job Centre is also being established at that prison. I am not aware of to what extent it is yet operational or what level of access the women prisoners will receive.

Relevant standards

INTERNATIONAL INSTRUMENTS

- ***Basic Principles for the Treatment of Prisoners***

8. Conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their integration into the country's labour market and permit them to contribute to their own financial support and to that of their families.

- ***Standard Minimum Rules for the Treatment of Prisoners***

71. (1) Prison labour shall not be of an afflictive nature.
(2) All prisoners under sentence shall be required to work, subject to their physical and mental fitness as determined by the medical officer.
(3) Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.
(4) So far as possible the work provided shall be such as will maintain or increase the prisoners' ability to earn an honest living after release.
(5) Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.
(6) Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, the prisoners shall be able to choose the type of work they wish to perform.
72. (1) The organization and methods of work in the institutions shall resemble as closely as possible those of similar work outside institutions, so as to prepare prisoners for the conditions of normal occupational life.

- ***European Prison Rules***

71(3) Sufficient work of a useful nature, or if appropriate other purposeful activities, should be provided to keep prisoners actively employed for a normal working day.

- ***The CPT Standards***, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment, 10th General Report [CPT/Inf (2000) 13]

25. Women deprived of their liberty should enjoy access to meaningful activities (work, training, education, sport etc) on an equal footing with their male counterparts... Moreover, depending upon the circumstances, denying women equal access to regime activities could be qualified as degrading treatment.

NATIONAL STANDARDS

- ***Standard Guidelines for Corrections in Australia***

[Prisoners will be] kept active within a dynamic and structured environment that provides opportunities for some reparation to be made to the community.

[Prisoners will be] provided with opportunities to address their offending behaviour and actively encouraged to access evidence-based intervention programmes, education, vocational education and work opportunities.

3.6 Prisoners should be provided with access to programmes and services, including education, vocational training (and employment), that enable them to develop

appropriate skills and abilities to lead law abiding lives when they return to the community.

4.2 Prisoners should have access to a range of productive employment and facilities which provide them with the opportunity to utilise their time in prison in a constructive and beneficial manner. Prison labour should not be of an afflictive nature.

4.4 All sentenced prisoners should be required to work, subject to their physical and mental capacity, but the maximum number of hours of work for prisoners should be prescribed in legislation or rules.

4.8 Wherever possible, prisoners should be employed to undertake as much of the cooking, cleaning, gardening and routine maintenance as is consistent with reducing the costs of imprisonment to the community.

4.9 The prisoner work force should be provided with a 'Code of Conduct' that prescribes a set of guiding principles and duty of care obligations which assist them in determining acceptable workplace conduct.

4.10 Work should provide opportunities for prisoners to acquire skills that are in demand in the employment market so they have real employment opportunities upon release.

4.11 Prison employment should offer opportunities to achieve national competency accreditation.

4.12 Work opportunities should be free of gender stereo-typing and be designed to reflect the needs of different minority groups within the prisoner population.

4.13 Provision should be made for prisoners to be released from work to attend approved programmes and education.

4.14 Wherever possible, prisoners should be employed in work that provides a specific benefit to the community.

Relevant literature

Prison employment has been shown to reduce both short and long-term recidivism for prisoners. Recidivism rates of participants in prison education, vocation and work programs have been found to be 20 to 60% lower than non-participants.¹⁰⁴ The outcomes may be even more pronounced for women prisoners compared with men.¹⁰⁵

Studies have also shown that participants in prison work programs are more likely to be employed following release and have higher earnings than non-participants. In addition, reduced idleness and boredom among prisoners leads to reduced tension and fewer conduct problems in the prison environment and healthier mental well-being for prisoners.¹⁰⁶

As with vocational education, prison employment should be geared towards available jobs within the community to which the prisoner will return upon release. This means that correctional administrators need to actively undertake job market research and

¹⁰⁴ Re-Entry Policy Council, *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community* at 223

¹⁰⁵ Cameron, M. (2001), "Women Prisoners and Correctional Programs", *Trends and Issues in Crime and Criminal Justice*, No. 194, Australian Institute of Criminology at 4

¹⁰⁶ Re-Entry Policy Council, *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community* at 213, 223

consult with relevant stakeholders in developing the most appropriate employment options for prisoners.¹⁰⁷

Employment in in-house catering, where it is structured to lead to formal qualifications, can provide one of the best groundings for transition to work outside the prison.¹⁰⁸

Another option, as suggested by the complainants, is to develop work opportunities within the prison which assist non-profit organisations. The Re-Entry Policy Council states:

Partnering with nonprofit, volunteer, and community service organizations to provide work experience to prisoners can produce many of the benefits that similar partnerships bring to job skills programming. For people in prison or jail, relationships with these organizations can provide both meaningful work experiences during their incarceration and a foothold of civic support (or even employment) in the community after release. Another advantage to placing people who are incarcerated in nonprofit sector work programs is that it allows corrections officials to avoid displacing unemployed workers outside of the correctional facility with lower wage, incarcerated workers. Further, the work itself gives prisoners a chance to benefit the community. Thus, like partnering with private companies that cannot fill labor demand, partnering with nonprofit public agencies and community service organizations can provide people in prison or jail with meaningful work experience without incurring public opposition.¹⁰⁹

Examples of organised work programs along these lines are the South Australian program where women prisoners train guide dogs within the prison.¹¹⁰ In California, more than half of all “wildland” (rural) full-time firefighters are low security male and female prisoners.¹¹¹

The United Nations High Commissioner for Human Rights declares in the *Manual on Human Rights Training for Prison Officials* that:

No distinction should be made between women and men as regards the type of work they are offered, and the same wage for equal work should be paid to men and women.¹¹²

Findings

As can be seen from the above list of jobs, the employment options for women prisoners in the Territory are almost all menial, unskilled, and unlikely to lead to any future career prospects. The exception may be a cleaning career, however it is unclear how much meaningful on-the-job training is involved in positions such as “Pathway cleaner”.

¹⁰⁷ Id at 215, 223

¹⁰⁸ Cameron, M. (2001), “Women Prisoners and Correctional Programs”, *Trends and Issues in Crime and Criminal Justice*, No. 194, Australian Institute of Criminology at 4

¹⁰⁹ Re-Entry Policy Council, *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community*, Re-Entry Policy Council at 226

¹¹⁰ Cameron, M. (2001), “Women Prisoners and Correctional Programs”, *Trends and Issues in Crime and Criminal Justice*, No. 194, Australian Institute of Criminology at 4

¹¹¹ Re-Entry Policy Council, *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community*, Re-Entry Policy Council at 226

¹¹² Office of the United Nations High Commissioner for Human Rights (2005), *Human Rights and Prisons: A Manual on Human Rights Training for Prison Officials*, Professional Training Series No. 11 at 101

There are no full time jobs available to women. Most DCC jobs occur only for 15-20 minutes per day. Even those jobs which are for a full day are for significantly less than the standard eight hour day which occurs in the outside world (DCC Main area prisoners are locked in their cells and J block is unmanned from 3.15pm every day).

In relation to ASCC, NTCS acknowledges that "Women in ASCC have relatively few options regarding employment" and that the Superintendent "is conscious of the need to offer more." While I have been assured that "more opportunities are being sought", I have been given no information about what options are being considered or the relevant timeframes.

Almost all jobs for women in both prisons are in laundry and cleaning, which are stereotypically women's duties.

With two exceptions (the agriculture and Community Support Program positions) NTCS does not meet these standard guidelines in relation to women prisoners' employment across both ASCC and DCC:

4.10 Work should provide opportunities for prisoners to acquire skills that are in demand in the employment market so they have real employment opportunities upon release.

4.11 Prison employment should offer opportunities to achieve national competency accreditation.

4.12 Work opportunities should be free of gender stereo-typing and be designed to reflect the needs of different minority groups within the prisoner population.

4.14 Wherever possible, prisoners should be employed in work that provides a specific benefit to the community.

While the Job Centres are a positive development, I note that they will not result in any new jobs being created in the prisons. Therefore their establishment does not reduce the need for NTCS to provide meaningful work for prisoners during incarceration.

I have not been made aware of any particular research or planning involved in the formulation of current work options for women, for example whether any analysis has been conducted of the skills which may be in demand in prisoners' home towns and communities, or any consultation that has occurred with women prisoners and other stakeholders on this subject.

J block prisoners, in their September 2006 report to the Office of Women's Policy, argue that skills training (through both education and employment) "should be pertinent to inmates' release plans, relating to potential employment and taking into account convictions." They call on prison management to:

Go to communities and see what genuine opportunities are available for indigenous women. Some opportunities may be:

- Ranger/conservation worker*
- Health worker*
- CDEP*
- Shop assistant*
- Carer*
- Interpreter*
- Cleaner*

- Teacher's assistant¹¹³

NTCS has stated in a 1999 paper that the art and music industries offer some of the best chances for employment of Indigenous prisoners after release, particularly in those communities where very few other work opportunities exist.¹¹⁴

I recognise that it would be a difficult task to build up a market-based industry specific to women prisoners given the small numbers, limited facilities and limited resources. The most feasible approach might be to build on what is already in place, for example, opening men's prison industries to female prisoners, extending current education options to incorporate work programs and expanding the Community Support Program for women prisoners.

Prison management could also build on the initiatives of J block prisoners themselves. At their own instigation, women prisoners have already been involved in work for the non-profit sector, such as packing bags for the Arafura Games, crocheting blankets for Dawn House, and designing T-shirts and making banners for Reclaim the Night (annual international march against sexual violence). These activities are not formally regarded as prison employment. With more organisation, formal support from prison management, and formal partnering relationships with community organisations, such one-off activities could be developed into structured sustainable projects of substantial benefit to the community.

I am aware that DCC has already started an arrangement along these lines. The Wildcare project, whereby a small number of male prisoners in the Living Skills Unit were caring for injured native animals, has now been extended to J block. This is a commendable development.

In my view NTCS should decide, as a matter of policy, that a similar range of employment options, including full time work, will be available to female prisoners as for male prisoners on similar classifications. When this was put to the Department in the draft of this report, it advised me that: *The general intent of this recommendation is supported, however, it could not be implemented in full without significant additional funding.* I therefore recommend as follows.

Recommendation:

17. That NTCS decide as a matter of policy that a similar range of employment options, including full time work, will be available to female prisoners as for male prisoners on similar classifications, and that Cabinet be approached to obtain the necessary funding to implement the agreed policy.

In the draft of this report I recommended that NTCS allow and encourage women to become involved in prison industries work alongside men, and put in place the appropriate procedures to facilitate this. The department responded that:

¹¹³ At 10

¹¹⁴ Fitzgerald, C., Manners, C. & Hunter, W., "Vocational Education and Training in Northern Territory Correctional Centres", Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference, Australian Institute of Criminology and Department for Correctional Services SA, Adelaide, 13-15 October 1999 at 4

The general intent of this recommendation is supported. Security requirements will restrict the mixing of males and females in certain areas of the correctional centre.

I acknowledge that security requirements may affect placement of women in the prison industries work however I am concerned that “security requirements” might be used as a reason for not taking action to improve the situation. I have altered my draft recommendation as follows.

Recommendation:

18. That NTCS allow and encourage women, subject to reasonable security requirements, to become involved in prison industries work alongside men, and put in place the appropriate procedures to facilitate this.

In the draft of this report, I recommended that NTCS develop and implement a plan in consultation with women prisoners to bring its employment opportunities into line with the relevant standards. That this plan include:

- a) Undertaking an analysis of the skills in demand in women prisoners’ home towns and communities in consultation with women prisoners, community councils, land councils, Federal and Territory government departments, industry and other stakeholders. The analysis should include consideration of different types of criminal convictions and the limits they place on employment options.
- b) Developing new work opportunities in prison to match this analysis as closely as possible.
- c) Emphasising employment linked to vocational education which can lead to formal accreditation.
- d) Expanding access to the Community Support Program for women prisoners at DCC including on a full time basis, and instituting access in the case of women at ASCC.
- e) Exploring opportunities for meaningful volunteer work on the block by developing partnerships with community service organisations and government departments.
- f) Linking employment to existing education options. For example, enhancing the employment outcomes of the existing art program by adding an additional unit focussed on training in relevant aspects of the art industry and involving work experience, for example, in co-managing prisoner art exhibitions in the community.
- g) Developing the capacity of J block facilities to enable some meal preparation for J block prisoners to occur in J block, offering skilled jobs to women prisoners. In the longer term this should be linked to formal training and accreditation.

The department commented at length “*The general intent of this recommendation is supported, however, it could not be implemented in full without significant additional funding.*”

In 2007 DCC opened the Job Centre to enable eligible prisoners to register with a Job Network Provider to seek employment. At present this opportunity is open to all prisoners who are job ready and have a D level security classification; although NTCS are addressing this significant restriction on eligibility.

Additional resources will be required; particularly to undertake the employment analysis at part (a). A considerable amount of relevant research has already been undertaken by other bodies in this regard. The effect of criminal convictions upon certain employment opportunities in particular would need to be examined.

Delivery will also be subject to upgrades in capital works in terms of programs/education capacity.

I take these comments to mean that some of the actions listed will need funds in order to be implemented. I have therefore included a provision to that effect in the final version of the recommendation, by adding a final part h).

Recommendation:

19. That NTCS develop and implement a plan in consultation with women prisoners to bring its employment opportunities into line with the relevant standards. That this plan include:

- a) Undertaking an analysis of the skills in demand in women prisoners' home towns and communities in consultation with women prisoners, community councils, land councils, Federal and Territory government departments, industry and other stakeholders. The analysis should include consideration of different types of criminal convictions and the limits they place on employment options.**
- b) Developing new work opportunities in prison to match this analysis as closely as possible.**
- c) Emphasising employment linked to vocational education which can lead to formal accreditation.**
- d) Expanding access to the Community Support Program for women prisoners at DCC including on a full time basis, and instituting access in the case of women at ASCC.**
- e) Exploring opportunities for meaningful volunteer work on the block by developing partnerships with community service organisations and government departments.**
- f) Linking employment to existing education options. For example, enhancing the employment outcomes of the existing art program by adding an additional unit focussed on training in relevant aspects of the art industry and involving work experience for example in co-managing prisoner art exhibitions in the community.**
- g) Developing the capacity of J block facilities to enable some meal preparation for J block prisoners to occur in J block, offering**

skilled jobs to women prisoners. In the longer term this should be linked to formal training and accreditation.

h) Making the appropriate applications for funds and capital works with a reasonable time.

Specific obstacles to women's access to programs, education & employment

a Limited facilities at J block for education & programs

Complaint

While male prisoners undertake their courses away from the living environment at the Education Unit, courses for J block prisoners are generally held in the specialised room in J block. The room is small and has no specific facilities or equipment, compared with the specialised carpentry and other workshops in the men's section.

One complainant suggested that the fact that it is so close to the living area leads to constant distractions and limited participation. Participants walk in and out of the room during courses, and mentally ill prisoners have at times walked in and seized art materials from other women while they are using them, leading to security being called and sometimes physical altercations. Also, programs are cancelled and external facilitators turned away each time there is a security incident anywhere in the block such as when a mentally ill prisoner has a heightened episode.

The venue for the Thursday art and craft program was moved to the men's complex in late 2006. The complainants say that this is a positive step. One complainant reports that there are now less cancellations, less distractions and they usually get their full day now, whereas before it was often cut short.

NTCS response

The 28 August 2006 NTCS Report to the Ombudsman acknowledged that:

It is the case that there are limited facilities within which education and programs can be delivered.

Whilst there may be some benefit in providing certain sessions within the block, and thus being able to include remandees and removing the necessity for escorts, the spaces available are not ideal. Limitations relating to the capacity and appropriateness of the facilities within J Block, and across DCC and ASCC, have been identified as a concern for NTCS. This has been an area of ongoing focus, consultation and planning within DCC; and similar restrictions are experienced in terms of accommodating primary and mental health services as well as disability services.

Education and program requirements have been identified within NTCS as a priority for capital works in both ASCC and DCC.

In a November 2006 interview, Superintendent Raby was asked about the timeframe for capital works to improve programs and education facilities in J block. He said that there were no current plans for J block nor any specific funds set aside. He said that it is not seen as high priority at this stage but “would sit among the top five priority areas”. He was not able to suggest any timeframe.

Findings

In my draft report, under this heading I made the finding that:

“Given Mr Raby’s statement, I have no confidence that J block capital works to enhance programs and educational facilities will occur in the short to medium term.”

I recommended that in the interim period before J block capital works expand programs space and facilities, DCC work to maximise access for women to programs and education facilities in the men’s section.

I was pleased however, to be told of recent funding approval, when I visited J Block in October 2007. The department then more formally advised me in its written response to the draft of this report, that:

Funding has recently been approved to expand facilities within J Block. This will provide for a marginal increase in capacity to deliver programs and educational courses to female offenders in the short term at an approximate cost of \$70,000.

My draft recommendation, which is supported by the department in its general intent, is amended to take into account recent advice from the department.

Recommendation:

20. That in the interim period before further J block capital works expand programs space and facilities, DCC work to maximise access for women to programs and education facilities in the men’s section to women.

The department advised me that “*There is scope for female access to the men’s section although this is subject to security requirements.*”

My recommendations regarding J block capital works, including program facilities, can be found in the final chapter of this report, “Issues Arising.”

b Limited out-of-cell hours

Standard out-of-cell hours for the medium security, maximum security and remand area of J block are 8.30am to 3.15pm or 6 hours 45 minutes per day. This means that these women spend 17 hours and 15 minutes of each day locked in their cell.

For the low security part of J block, prisoners are not locked into their cells but they are expected to stay in their rooms from 11pm. Except for patrol checks during the night, the whole block is unmanned by prison staff from 3.15pm until the 8.30am unlock.

These out-of-cell hours are similar for men at DCC (7 hours for secure custody, 17 hours for open custody).

6 hours 45 minutes is significantly below the national 2004/2005 average out-of-cell hours for secure custody of 10 hours.¹¹⁵ The NT average for secure custody in the same period was 9-10 hours per day, due to the ASCC figures.

At ASCC, women have standard out of cell hours of 11 hours per day. This is the same for medium and maximum security men at ASCC, whereas low security men are not locked in at all during the day or night (ie 24 hours out-of-cell).

The short out-of-cell hours for J block and the fact that the block is unmanned overnight means that the hours available for programs, education and employment activities are significantly limited. In addition, states one complainant, the limited time available means that prisoners must choose between programs/education and employment as it is difficult to do both.

Many other jurisdictions are able to offer full time employment during the day followed by education and other courses in the evening.

Recommendation 47 of the Review of Adult Custodial Services called for the expansion of program delivery hours into an evening shift.

The longer out-of-cell hours at ASCC are largely made possible by the fact that prison officers there work a 12 hour shift compared with the 8 hour shift in DCC. NTCS advised in August 2006 that the DCC staff roster system would be reviewed at the end of 2006 with a view to allowing for expanded out-of-cell hours for those in secure custody.¹¹⁶

Superintendent Raby advised in November 2006 that there was no sign of a move to a 12 hour shift on the horizon as prison officers are understandably not in favour of such a restructure. Even with a 12 hour shift, he said, to enable an expansion in out-of-cell hours the prison would require significantly more staff and resources which are not available. He confirms that the issue is still on his agenda but he sees no change occurring in the short or medium term. He states that he has never known a system which locks people in at 3pm and agrees that it is "crazy" and should not happen.

Mr Raby states that increasing out-of-cell hours would be one thing, but running programs on the evening shift would require more resources again because it would mean asking programs staff to work evenings. With the shortage of programs anyway, he commented that low out-of-cell hours were not currently the limiting factor.

This may be the case at present, but it does not allow the groundwork to be laid for better service provision in the future. In any case, out-of-cell hours are still a question of quality of life, as Mr Raby recognises, in addition to being identified as a key performance indicator by the Productivity Commission.

¹¹⁵ Productivity Commission, Report on Government Services 2006

¹¹⁶ 28 August 2006 NTCS submission to Ombudsman at 16

Relevant standards

- **The CPT Standards**, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment, 2nd General Report [CPT/Inf (92) 3]

47. The CPT considers that one should aim at ensuring that prisoners in remand establishments are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature. Of course, regimes in establishments for sentenced prisoners should be even more favourable.

In the draft of this report I recommended that DCC implement a strategy that will enable it to expand out-of-cell hours to the women's block in order to bring it into line with the national average of around ten hours per day by mid 2008.

The department's response reflects the evidence given by Mr Raby to this investigation:

The general intent of this recommendation is supported, however, it could not be implemented in full without significant additional funding.

Despite this response, I believe it is important that the department strive to achieve this goal, and to integrate it in its future planning. I have changed the wording of the draft recommendation as follows:

Recommendation:

21. That DCC develop a strategy that will enable it to expand out-of-cell hours to the women's block in order to bring it into line with the national average of around ten hours per day and that this strategy be integrated in all relevant action and plans in the future, including Cabinet and other submissions for funding, until the strategy is implemented.

Lockdowns

Compounding the standard short out-of-cell hours are the regular unscheduled lockdowns. This is when prisoners are locked into their cells at times during the day when they would otherwise be out of their cell and possibly attending programs, education or employment. Lockdowns are ordered for the purpose of block searches or to manage security incidents, or when there is a drop in the available numbers of custodial staff due to staff absences, general staff shortages, or when officers are occupied with searches, escorts, medical emergencies or security incidents elsewhere in the prison.

At times female prisoners at DCC have been disproportionately targeted for lockdown. This was the subject which the complainants in this current investigation first began to write to the Ombudsman about in 2005. They claimed that around April-May 2005 as a result of staff shortages they were often being locked down for up to 21 hours per day for weeks at a time. They also believed that the women's block was being unfairly selected for lockdown as it was more self-contained. They stated that the level of

lockdowns was seriously disrupting programs, and resulting in cancellations of visits with children and lawyers and the weekly medical clinic.

Their concerns were found to be substantiated. The DCC records indicated that in the first six months of 2005, J block experienced 52.25 hours of unscheduled lockdown. In other words, the women were locked down for an average 17.4 minutes per day on top of standard lockdown times over the six month period. This lockdown rate was 25% above the DCC block average of 41.65 hours over the six months.¹¹⁷

Due to the alleviation of staff shortages, the rate of lockdowns across DCC has greatly decreased since 2005.

Recommendation:

22. That DCC continue to monitor staffing levels to ensure that unscheduled lockdowns are kept to a minimum and do not again reach 2005 levels.

Recommendation 22 is supported by the Department of Justice.

In the draft of this report I set out a recommendation based on my findings on the evidence relating to lockdowns, as follows:

That DCC take appropriate measures to ensure that in future, women prisoners are not disproportionately targeted for lockdown.

The department disagreed with my conclusion that women had been disproportionately targeted for lockdowns. It agreed however with the general intent of the recommendation. To advance this aspect of the matter, it is not necessary to finally determine the issue, given the general agreement from the department that lockdowns should not target J Block disproportionately to the other (male prisoner) blocks. I have therefore amended the recommendation as follows.

Recommendation:

23. That DCC ensure that, in future, women prisoners are not disproportionately targeted for lockdown.

C Policy excluding women from men's courses

Rehabilitation programs delivered to men at DCC by the Prisoner Rehabilitation Team over the last two years which have not been available to women are:

- Alcohol Treatment Program (not the same as the Intro to Alcohol)
- Introduction to Illicit Drug Awareness
- Illicit Drug Treatment Program
- Cognitive Skills Program
- Problem Solving/Victim Awareness Program

¹¹⁷ Email from PSU to Investigating Officer 18 August 2005

- Pre-Release Program
- Indigenous Family Violence Program
- Sexual Offenders Treatment¹¹⁸

Educational courses which appear to have been offered to men and not made available to women over the last two years include:

- Indigenous Tertiary Preparation course
- Certificate I Access to Employment and Further Study
- Certificate I in Work Preparation
- Diploma in Interpreting (in partnership with the Indigenous Interpreter Service and Batchelor Institute of Indigenous Tertiary Education)
- Aboriginal Health Worker course
- Drug and Alcohol Studies
- Construction/Woodwork
- Metals/Engineering
- Automotive
- Drink Driver Education
- Road Safety
- Learners and Provisional Drivers Licence courses
- Deckhand's Course
- Bucket Stoves and Indian Woks
- Crocodile Handling and Farming course¹¹⁹

By "not made available to women" I mean that neither were the courses offered in the women's block or to a women's only group, and nor were women allowed to attend the courses alongside men.

Formal requests to attend a number of these educational courses alongside men have been submitted by the complainants but have been refused on the basis that the courses are not open to women.

On 26 May 2005 the Professional Standards Unit of NTCS advised this office of the following reason for the differences in access:

Unfortunately, we are unable to offer courses such as Automotive and Construction to the female prisoners due to the inability of operational management to provide female custodial staff to be rostered on the LSA walkway for strip searching of female prisoners attending these courses.

DCC Superintendent Raby, when asked by my investigating officer to clarify, said that he was "bemused" by this statement. He said that the reason has nothing to do with female staff, nothing to do with strip-searching, and there is no such thing as "the LSA walkway". The reason is simply the unwritten principle that males and females cannot mix in workshops.

Minister Toyne's 28 September 2005 letter to MLA Carney in response to a female prisoner complaint explains the difference in access in the following terms:

Unfortunately the Education Section is unable to deliver Automotive or Construction to female prisoners at this time. Further, the Deckhand and Interpreter courses are

¹¹⁸ 20/11/06 Email from NTCS Professional Standards Unit to Investigating Officer; Department of Justice Annual Report 2005/2006, p 53; Department of Justice Annual Report 2004/2005 at 46

¹¹⁹ Department of Justice Annual Report 2005/2006 at 53 and Annual Report 2004/2005

unavailable to women prisoners due to insufficient numbers of female prisoners and the fact that women are usually serving shorter sentences which can make it difficult to complete a 30 plus week course. All other educational courses offered to male prisoners are available to women prisoners.

If it is indeed the case that all the programs set out in the Annual Report (see above list) have meaningfully been delivered to male prisoners, then this latter statement, that “all other educational courses offered to male prisoners are available to women” is incorrect.

I recognise that these programs and educational courses have not been made available to all men at all times, and that the cost of delivering programs and education to women is greater than it is for the numerically larger male population. Even so, the sheer scale of the difference in what is offered between male and female prisoners remains startling.

DCC Superintendent Raby does not rule out the possibility of women attending men’s courses but it is also unclear to what extent he intends to pursue this in a concrete way.

Mr Raby was asked at a 15 November 2006 interview if there had been consideration as to whether women prisoners could attend programs alongside men. He stated that there would be supervision and security risks associated with such a course. If women were to join men, security would need to be increased for programs and the resources were simply not available for this. For these reasons, he explained, such an approach was “basically not on the radar”, except for limited cases involving low security prisoners, such as with the Pre-Release Program and the one woman permitted to attend horticulture alongside men.

On 7 December 2006, NTCS Director Jens Tolstrup was asked about the prospect of women attending courses alongside men. He said that he understood that Mr Raby had already instituted this. After the interview he clarified the issue with Mr Raby, who advised by email (8 December) that:

Male and female prisoners attend separate education and program sessions. The only exception is for the pre-release program in the LSU. I have made this program available for the low security women to attend however none have taken up this offer as yet.

Mixing genders in education/programs is on my agenda - apart from the obvious security issues that this could raise, there are some cultural issues that may prevent/discourage aboriginal women from attending the program with men.

Our office again asked Mr Raby to clarify. In a 21 December email he stated:

I did intend to say that it was on my agenda however I was also highlighting some potential issues that mixed programs could raise. I would not like to discount the possibility of mixed gender programs should the opportunity arise.

Relevant standards

- **The CPT Standards**, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment, 10th General Report [CPT/Inf (2000) 13]

25. Women deprived of their liberty should enjoy access to meaningful activities (work, training, education, sport etc) on an equal footing with their male counterparts... Moreover, depending upon the circumstances, denying women equal access to regime activities could be qualified as degrading treatment.

- **Standard Guidelines for Corrections in Australia**

[Prisoners will be] managed fairly and openly without discrimination on the grounds of offence type, race, colour, gender, sexual orientation, marital status, physical or mental impairment, language, religion or other opinion, national or social origin, property, birth or other status, except as necessary in properly meeting the needs of a disadvantaged group.

1.42 Males and females shall in principle be segregated, although they may participate together in organised activities as part of an established programme.

In addition the Human Rights Committee, General Comment No. 28, 68th Session (2000), states at 15 that one of the issues which State Parties to the ICCPR must comment on is “any difference in treatment between male and female persons deprived of liberty, such as access to rehabilitation and education programmes.”

Findings

The allegation that the exclusion of women from men’s courses was discriminatory was put to the Department in my letter of 22 May 2006 (at p8-9). The Department has never directly responded to this allegation or explained the exact reason for this unwritten policy. I believe that the practice of separating males and females in all aspects is so taken for granted that the exclusion of women from all men’s courses (except horticulture in the case of one woman) is not consciously noticed or regarded as a policy at all.

I believe that the difference in offerings is clearly “improperly discriminatory” within the meaning of section 26 of the *Ombudsman (Northern Territory) Act*. I believe that the unwritten policy excluding all women from attending these courses alongside men is also improperly discriminatory.

Clearly there are many rehabilitation programs which it might be inappropriate or irrelevant for women as a group to participate in alongside men. Clearly there are also some women who might not be interested in some educational courses, and some courses which (like the 30 week plus Interpreters course) might not be possible for some women (those on short sentences), and some women who would feel intimidated or uncomfortable attending some mixed courses. However to exclude *all women* from *all courses* listed above does not appear justifiable.

There is only one current exception to the policy. One of the complainants attends Horticulture alongside male prisoners. I am not aware of the exact reasons for this exception. Nor am I aware of any “obvious security issues” as a result of this exception.

It is also the fact that female and male prisoners mix on occasion in employment, such as when women have been involved in the Community Support Program work parties.

The standards require that male and female prisoners be generally kept separate. The reason is to protect women prisoners from sexual harassment or abuse from male prisoners, which remains a very important concern. Yet I cannot agree that

“protecting” women is an adequate justification for wholesale exclusion from courses, especially when the practical result of that “protection” is primarily detrimental to women’s interests, in cutting off access to programs and education.

I am not convinced that the standards should be interpreted in such a way as to have the detrimental impact that appears to be here in evidence. Moreover, the standards allow gender mixing to “participate together in organised activities as part of an established program”.

Appropriate supervision and procedures must be in place to minimise the risks of harm to women prisoners (and, indeed, to protect male prisoners from sexual harassment from women). Prison officers should be well-trained and specially selected for their capacity to be alert to gendered dynamics, and for working with women prisoners of whom a very large proportion have suffered gendered abuse. Most importantly, no woman prisoner should be required or expected to be part of a course alongside men where she does not feel comfortable. A clear avenue of support must be provided to women prisoners to ensure that they feel comfortable and are listened to in voicing concerns that arise.

As long as the women prisoners at both DCC and ASCC are part of the same correctional institution, with no independent policies, budget, staffing and no independent programs or education planning, I cannot see how women can be legitimately excluded from all courses offered to men. This is particularly the case where men’s educational options, unlike women’s, offer trade qualifications and therefore much better employment opportunities on release.

It is not the job of my office to assess compliance with the *Anti-Discrimination Act* but the practice of excluding women from courses (particularly education) solely on the basis of their gender would appear to leave the Department clearly open to claims of direct discrimination under that Act.

Opening men’s courses to women is obviously no final solution to women’s programming as there remains the need to develop a full range of programs and courses specifically designed for and delivered to women. Access to programs run for men is no acceptable alternative.

In the draft of this report I recommended that NTCS develop a directive on the issue of women prisoner’s access to men’s courses. This directive should:

- a) Ensure that women of equivalent security status are able to take part in courses offered to men except where women’s participation is clearly inappropriate to the nature of the program (ie some therapeutic programs).
- b) Outline the appropriate supervision and other procedures to minimise potential risks to women prisoners.
- c) Put in place measures and supports to ensure that the individual woman prisoner understands that she has the right to choose not to participate in a course alongside men or to discontinue a course if she does not feel comfortable, and will not be penalised for doing so.
- d) Specify that access to men’s courses is not considered an alternative to delivering courses specifically designed for and delivered to women.

I went on to recommend that the directive be accompanied by in-service training for prison officers and other relevant staff, and that women prisoners be clearly

advised of, assessed for, and invited to participate in courses alongside men in an ongoing way, and that access to these courses be encouraged and facilitated in a genuine and practical manner.

The department responded that:

The general intent of this recommendation is supported. However security concerns result in some restrictions on mixing men and women; particularly in facilities that do not support security and safety requirements. Mixing of genders is supported where it can be demonstrated that security requirements can be met. In addition, a proportion of prisoners will not accept the mixing of genders due to cultural issues in certain circumstances.

The department also felt that in-servicing was not necessary to bring in these changes: *Prison officers and other relevant staff will be informed of requirements through communication by the Superintendent to staff.*

I have therefore amended the draft recommendations to take into account these comments.

Recommendations:

24. That NTCS develop a directive on the issue of women prisoner's access to men's courses. This directive should outline relevant security and cultural limitations, but have as its basis the premise that mixing of genders for courses is supported, and:

- a) Ensure that women of equivalent security status are able to take part in courses offered to men except where women's participation is clearly inappropriate to the nature of the program (ie some therapeutic programs).**
- b) Outline the appropriate supervision and other procedures to minimise potential risks to women prisoners.**
- c) Put in place measures and supports to ensure that the individual woman prisoner understands that she has the right to choose not to participate in a course alongside men or to discontinue a course if she does not feel comfortable, and will not be penalised for doing so.**
- d) Specify that access to men's courses is not considered an alternative to delivering courses specifically designed for and delivered to women.**

25. That the Superintendent ensure that prison officers and other relevant staff properly understand the meaning and intent of the directive.

26. That women prisoners be clearly advised of, assessed for, and invited to participate in courses alongside men in an ongoing way where appropriate, and that access to these courses be encouraged and facilitated in a genuine and practical manner.

d Discriminatory impact of rule disallowing opposite gender escorts

Complaint

Complainants report that in October 2005, DCC administration began to enforce a new rule disallowing supervision of a prisoner by a prison officer of the opposite sex. The effect has been, according to the complainants, that a number of activities previously undertaken by female prisoners could no longer occur due to a shortage of female prison officers to supervise the activity. The rationale for the new rule was to protect both officers and prisoners from sexual harassment or allegations of sexual harassment.

The complainants observe that this rule has been applied inconsistently. At times it has been extended to cover any situation involving prisoners and prison officers of different genders, whether one-on-one or otherwise. At other times it has not been enforced at all. Despite these inconsistencies, the complainants argue that the existence of the rule has affected female prisoners in a disproportionate way by reducing access to education and employment.

The complainants assert that upon the introduction of the “new” policy, the immediate result was that female prisoners were no longer able to leave the block for the purpose of education or employment. Around four J block prisoners lost their jobs and one was initially shut out of her vocational education course.

In the months following October 2005, some prisoners such as Debbie and Angela were successful in having decisions reviewed and their positions reinstated on an individual basis. This only occurred in a piecemeal fashion and only after the individuals lodged numerous complaints.

One J block prisoner gave her account of the effect of the rule on her education:

Following the introduction of the rule, Debbie was not permitted to continue her Certificate I Horticulture course, which she attended together with male prisoners and a male prison officer. At this time she had completed 75% of the course. She states that she was later awarded her certificate despite not having completed the remainder of the course.

Debbie explains that on 12 December 2005, two months after being removed from her course, Director Tolstrup attended the presentation ceremony and asked her when she intended to do the Horticulture II course. She replied “I can’t because I’ve been banned. I have written to you about this.” She stated that Mr Tolstrup asked “Did I write back?” She explains that Mr Tolstrup had written back only three business days earlier, reiterating the ban on the basis of the new rule.

Debbie later had the opportunity of speaking to Wendy Hunter, NTCS Deputy Director Education and Programs, about her horticulture course. Ms Hunter was not aware of Debbie’s letters to the Director, nor that women prisoners were no longer able to access their courses under the new rule. Debbie on-forwarded her letters and replies to Ms Hunter. Shortly afterwards, she received permission to again attend horticulture.

A second example of the effect of the rule on women's access to education involves the weekly computers session (which included literacy and numeracy) attended by around six J block prisoners at 9-11.30am Tuesdays. Supervising these sessions was the computer tutor, who is male, and a supervising officer, usually also male. The complainant asserts that while this gender mix was not generally treated as a problem, on more than one occasion it was cited as the reason why a session had been cancelled, leading to the prisoners missing their education for that week. (Note that this example occurred prior to the cuts to education detailed above. There is no longer a computer tutor, and J block prisoners no longer attend the weekly computer session.)

It is in the area of employment that the rule appears to have had most impact. The complainants state that four positions were taken away from female prisoners following the new rule – two in the Community Support Program, one in medical and one in cleaning.

Angela explains how she was affected:

On 19 October 2005, Angela was advised that she had lost her job as a result of the rule disallowing mixed gender escorts. She had been working in the Community Support Program, the work party undertaking gardening and other projects around Darwin. She and another female prisoner had been working alongside five male prisoners and a male prison officer.

Both Angela and the other female prisoner lost their jobs. At the time Angela had been working on the CSP for approximately eleven months. Women prisoners had taken part in the CSP for nine years.

On 11 April 2006, six months after Angela lost her CSP job and following a number of complaint letters including to the Anti-Discrimination Commission, she received notification that her position had been reinstated and that she, together with another female prisoner, could again join the CSP. The new conditions were:

- there must be at least two female prisoners on the work party
- female prisoners cannot attend the depot
- female prisoners can only participate in CSP for a maximum of two days per week

The complainant was pleased with this re-instatement, however she had previously worked three to five days. She states that there was no explanation for the new restrictions.

A further consequence of female prisoners being prevented from outside work was that female prisoners perceived that they would no longer be able to achieve a D classification, allowing education and work release and home visits, as this classification required that a prisoner demonstrate current off-site work.

Initial Ombudsman enquiries

As a result of Angela's letter, the policy regarding mixed gender escorts was the subject of limited inquiries by the Anti-Discrimination Commission. The Commission discontinued the matter under section 102 of the *Anti-Discrimination Act*.

Our office was provided with a copy of the Commission's file on the matter.

The Anti-Discrimination Commission largely limited its inquiries to whether the rule had been consistently applied or not. It did not consider whether the impact of the rule constituted discrimination on the basis of sex by reducing women prisoner's access to work and education. In any case, the information before the Commission about the impact on other prisoners was fairly limited. The Commission determined that there was no proof of inconsistency in the application of the rule and thereby resolved to discontinue the complaint.

In a November 2005 letter to the complainant, the Anti-Discrimination Commission reported that it had been advised by NTCS that the rule was twofold:

1. *The current policy and practice is that no one-on-one escorts are to be approved regardless of gender.*
2. *A single female Prison Officer may escort two or more male prisoners outside the prison, however, a single male Prison Officer may not escort two or more female prisoners out of the prison.*

The explanation of the rule provided by Director Tolstrup in correspondence to Angela on 10 November 2005 instead described the rule as disallowing "one-on-one situations between different genders." Therefore, it appears that there were three different formulations of the rule in currency.

NTCS response

The 28 August NTCS submission clarifies that the policy was not "new" at October 2005 but was ongoing. It describes the rule as follows:

Agency policy in this area is consistent with all other states, where the practice of male custodial officers supervising 'one-on-one' female prisoners is not permitted due to the possible victimisation of the prisoner or allegations of improper conduct by the officer.

*This policy extends to any one-on-one supervision by officers of the opposite gender.*¹²⁰

However, NTCS acknowledges that the policy has never been expressed in any proper written form such as a Directive or Superintendent's Instruction. The most closely related Directive is 2.2.8, which states at section 6.1.3 that "If practical, single prisoner escorts should be conducted by an officer of the same gender as the prisoner."

¹²⁰ At 27

NTCS did not dispute the accounts of Angela and Debbie described above. These examples clearly describe situations which were not one-on-one, but where the female prisoner was working or studying alongside a number of male prisoners and, in Angela's case, another female prisoner also.

The NTCS submission states that Angela was removed from her job after it came to the attention of the Superintendent that she had been escorted alone with a male officer for a work project.

The submission acknowledges, however, that:

It has not helped that the policy was not further developed and articulated in any detail. This would certainly contribute to a more widespread and better understanding of the policy and perhaps avoid a situation, as described in the complaint, whereby prisoners, prison officers... and the NTCS Director all appear to have varying levels of understanding and/or awareness of the policy.¹²¹

The submission advised that the new DCC Superintendent had undertaken to review and more fully detail this policy and that "this task is in process".

When our office interviewed Superintendent Raby on 15 November, this had not yet occurred but was said to be happening within the next month. He advised that his preference would be for an amendment to the existing Directive which takes a common-sense risk management approach rather than banning outright all one-on-one opposite gender supervision. He suggests that the Directive could include guidelines about when such supervision may not be appropriate, and how officers can avoid putting themselves at risk of allegations.

Relevant standards

- **Standard Minimum Rules for the Treatment of Prisoners**
 53. (1) In an institution for both men and women, the part of the institution set aside for women shall be under the authority of a responsible woman officer who shall have the custody of the keys of all that part of the institution.
 - (2) No male member of the staff shall enter the part of the institution set aside for women unless accompanied by a woman officer.
 - (3) Women prisoners shall be attended and supervised only by women officers. This does not, however, preclude male members of the staff, particularly doctors and teachers, from carrying out their professional duties in institutions or parts of institutions set aside for women.
- **Standard Guidelines for Corrections in Australia**
 - 1.42 Males and females shall in principle be segregated, although they may participate together in organised activities as part of an established programme.

¹²¹ 28 August NTCS submission to Ombudsman at 28

Findings

A policy aimed at preventing situations where sexual harassment of female prisoners could occur is certainly worthwhile. It is also worthwhile enough to be properly formulated and written down.

However the way in which the policy came to be enforced around October 2005 can only be described as “botched”. The consequences for individual women prisoners and their access to work and education were significant. My understanding is that the policy impacted on women prisoners exclusively.

NTCS did not dispute that over a short period four female prisoners lost their jobs and one female prisoner was shut out of her horticulture course as a result of the policy and all its mistaken formulations.

It does not appear that the rule’s effect on women prisoners’ access to education and employment was thoroughly considered, or that key programs staff (including the NTCS Deputy Director Education and Programs) were even aware of the rule before a number of prisoner complaints. Nor does it appear that alternative strategies had been implemented to compensate for these effects. For example, there was no deliberate strategy employed to roster more female staff in relevant positions or provide more education or employment opportunities within J block.

Even after the prisoner complaints, there was little attempt made to set matters straight by putting the policy in writing to prevent further confusion. Nor have I been made aware of any memo or training to prison officers since the complaints were made to avoid further misunderstandings about the policy.

That concern about an officer escorting a female prisoner alone for a work project (which Angela claims occurred once only) led to women prisoners being shut out of the whole Community Support Program for a six month period is highly unjust and discriminatory. That women were only allowed back on the Program after Angela’s concerted complaints is also inadequate and unreasonable.

I am aware that Angela was initially offered another job which did not involve leaving the prison. She declined this offer as she did not believe the job to be as worthwhile. She also declined it on principle as she did not want to see women prisoners, herself included, shut out of the Community Support Program indefinitely.

The whole debacle demonstrates a lack of communication and organisation between levels of authority at the prison and in the Department, and a failure to consider or alleviate the effect on individual women prisoners or women as a group. Moreover, I believe that it is emblematic of a system failure to value women prisoners’ access to work and education in any coordinated manner.

Recommendation:

27. That Superintendent Raby’s undertaking to review and formally articulate the policy regarding opposite gender escorts be supported and actioned within six months of the release of this report.

Recommendation 27 is supported by the Department of Justice.

Recommendation:

28. That the new policy be clearly explained to prison officers and other relevant staff by way of in-service training to ensure that it is correctly implemented in future.

That the new policy specify the principle that women's access to programs, education and employment should not be limited as a result of the policy. That is, where a situation arises whereby a male prison officer is required to escort a female prisoner in a one-on-one setting, appropriate operational measures should be put in place to ensure that the program, education or employment can go ahead.

That 'Angela' and the other female prisoner who lost their CSP jobs in October 2005 receive a written apology for the way the situation was handled and the six month delay in rectifying women's access to the work program.

In its response to the draft of this report, the Department of Justice advised that it supported the first paragraph of Recommendation 28 above, but it did not provide me with a response to the recommendations contained in the second and third paragraphs of Recommendation 28.

e Lack of access to prison leave

J block prisoners, in their September 2006 *Women Behind Bars* report, call for greater consideration to be given to “work release availability upon suitable classification, with the view of leaving the prison with suitable employment to help with reintegration into the community.”

In prisons interstate, prisoners generally have greater access to work, education and family leave in the period approaching their release date, and in a more structured manner.

In the Territory, prisoners are required to reach a D (“Open”) classification in order to be allowed off prison grounds unsupervised. Under NTCS Directive 2.7.1, a prisoner with a D rating can apply for “Leave of Absence – Unsupervised” or “Leave of Absence – Work Release”. This could allow the person, for example, to attend TAFE classes or have outside employment during the day, and return to the prison in the evening.

In the 15 November interview, DCC Superintendent Raby agreed that graduated release is available in most jurisdictions, but is not generally available in the Territory. He stated that it is quite rare for prisoners to reach a D classification, and particularly rare for women prisoners given the low numbers of women.

The *Prisons (Correctional Services) Act* does not appear to require such a restrictive approach. Section 63 provides that:

The Director may, on such terms and conditions as he or she thinks fit, grant leave of absence to a prisoner from a prison or police prison for any reason he or she thinks fit, including –

- (a) the education and training of the prisoner;*
- (b) the employment of the prisoner;*
- (c) compassionate reasons;*
- (d) the health of the prisoner;*
- (e) the recreation of the prisoner;*
- (f) participation in community projects by the prisoner;*
- (g) the integration into the community of the prisoner; or*
- (h) such other reasons as he or she thinks fit.*

If women prisoners had more chance of achieving a D classification, they would be able to access a much greater range of programs, education and employment than those available to them in the prisons. Women prisoners could participate in support programs already running in the community, for example Alcoholics Anonymous, rather than waiting on prison management to institute a specific program in the women's block. NTCS could develop structured work release programs for women by developing relationships with specific employers or organisations (which could include "participation in community projects" as well as normal paid employment). Aboriginal Elders and organisations could become involved in taking women prisoners for cultural learning/healing trips, such as occurs in NSW very successfully.¹²²

I recognise that there are other important considerations to bear in mind if prison leave is granted more easily, such as community safety, community expectations and risk to victims. These should be weighed against the potentially significant benefits in reducing recidivism.

While prison leave is equally of benefit to male prisoners, I believe that there are grounds for considering specific models (involving specific classification arrangements) for women prisoners, owing to their generally lower security status and the shortage of programs, education and employment available to them in the prisons.

I am aware that NTCS and other officers within the Department of Justice have been researching alternative models of gradual release both nationally and internationally with a view to developing models appropriate to the Territory context. This work is still in a developmental stage.¹²³ I commend this initiative.

Recommendation:

29. That NTCS continue in its project to develop and implement a suitable model for gradual release for NT prisoners.

This recommendation is supported by the Department of Justice, which added that "A pre-release policy for both male and female offenders is currently being developed."

In the draft of this report, I had recommended that NTCS review the classification system for women prisoners and develop specific measures to facilitate women prisoners moving to D classifications, or develop a specific classification process for women, in order to facilitate their access to programs, education and work in the community.

¹²² Of 40 women who had been through the Mercy Camps program as at 6 June 2000, only one had re-offended: NSW Select Committee on the Increase in Prisoner Population (2000), *Interim Report: Issues Relating to Women* at 97

¹²³ 28 August 2006 NTCS submission to Ombudsman at 23

In response, the department advised that the recommendation was only supported in part. It stated that:

A female specific classification system is not supported. The classification system for both men and women will be reviewed. It is recognised that women have specific issues in terms of classification and this will be addressed within the review and embedded in any new classification.

I therefore make the following recommendation:

Recommendation:

30. That NTCS review the classification system and in doing so, address the specific classification issues for women prisoners raised in this report, in order to facilitate women prisoners' access to programs, education and work in the community.

f Lack of case management

Women prisoners' access to programs, education and employment could be enhanced by better co-ordination and communication between program areas, custodial staff and individual prisoners.

The Territory is one of the only jurisdictions in Australia and the western world which does not have in place a system of individual case management for prisoners. While some aspects of case management are in evidence, such as individual assessment and sentence plans, an organised case management approach is not yet a reality.

NTCS response

Case management is "supported in principle by NTCS".¹²⁴

The most significant development towards a case management approach is the current effort to introduce an Integrated Offender Management System across NTCS. This is essentially an electronic record-keeping system which allows the streamlining of prisoner files so that all information on an individual prisoner from custodial, programs and other staff can be located in one (virtual) place. The system is also likely to involve the import of standardised prisoner assessment tools. IOMS will allow better case planning and better matching of prisoners to available programs and education.

IOMS models are in use in a number of jurisdictions around Australia. NTCS is currently in commercial negotiations with other states for the purchase of a suitable model for the NT, most likely the Queensland model, which will then need to be adapted to the specific requirements of NTCS.

¹²⁴ Id at 12

The August 2006 NTCS submission states that IOMS was due to be on-line in 2007. The NTCS Director stated in the 7 December interview that it will be on-line by June 2008.

In the 15 November 2006 interview, DCC Superintendent Raby and Manager Prisoner Services Bill Munro explained two other initiatives at DCC to move towards case management. The first of these is the new classification assessment process, which involves a member of the programs team sitting in on prisoner classification meetings and referring the prisoner to relevant programs. The second development is the creation of two new staff positions at the prison as a result of the CAYA Review of Adult Custodial Services: a Case Management officer and Reintegration officer. The Case Management Officer is the first dedicated case management position in the prison. As at November 2006, a person had been sent from the Department to fill the position, but the actual job description and precise role was still being developed.

Relevant standards

- ***Standard Guidelines for Corrections in Australia***

- 3.1 Each Administering Department should administer a system of individual case management of prisoners that enables the assessment, planning, development, coordination, monitoring and evaluation of options and services to meet the individual needs and risks of persons as they move between community corrections and prisons.
- 3.2 Where possible, case management systems should be consistent across all sections of the Administering Department, so that a relatively seamless approach to the management of people occurs across community corrections and prisons.
- 3.3 Appropriate case management records should be established.
- 3.4 All sentenced prisoners other than those serving a very short term, should have a sentence plan (or case plan) developed as soon as practical after receipt into custody.
- 3.5 Case plans, including classification and placement plans of prisoners, should be regularly reviewed allowing for the prisoner as well as staff to provide updated information and should contain measurable and achievable short term and long term goals.

Case study: Case management in NSW

The NSW Department of Corrective Services defines Case Management as:

a collaborative, multi-disciplinary process which assesses, plans, implements, coordinates, monitors and evaluates options and services to meet an individual's needs.

In 2000 it stated that:

Case Management is the most significant correctional activity implemented by the Department in the last 10 years and is the process driving major correctional reform. Through Case Management barriers between custodial and non-custodial staff are gradually breaking down as custodial staff take up a more significant role in the management of offenders rather than only the secure containment of offenders.

The system in place at 2000 was as follows. An initial screening is conducted on reception to develop a profile of an inmate's social, education, alcohol and other physical and mental health background and status to initiate case management planning. Then:

The initial case plan, developed by the Case Management Team, will determine the inmate's security classification and placement and will make recommendations regarding the type of treatment, education and work interventions required. Further, when an inmate is transferred to his/her correctional centre of classification, the case plan is further developed by the Case Management Team and the inmate is assigned a case officer. The case officer is a custodial officer who is responsible for the case management of a number of prisoners. It is the role of the case officer to monitor the inmate's progress on the case plan and to encourage the inmate to participate in programs, work and counselling, if appropriate. The case plan is reviewed every 6 months by the Case Management Team (Submission 55, p. 37).¹²⁵

Findings

The CAYA Review recommended:

That the Service assess the need level of its inmates, and provide the additional professional staff, as part of the transition to the Living Unit/Unit Management model, roughly on the ratio of one case management officer per 35 to 50 inmates. (Recommendation 43)

The Review Implementation Plan summarises this recommendation as "Hire additional case management staff". The action to date is listed as "recruitment" and the status is "Completed."

There is now one dedicated case management officer at DCC. The ratio of inmates to case management staff is therefore 9 - 12 times the recommended ratio. I cannot understand how the implementation of Recommendation 43 is therefore regarded as "completed".

It appears that NTCS is attempting to implement case management without case managers. I do not regard this as a genuine attempt at individual case management.

The full introduction of IOMS will represent significant progress on the way towards a case management approach, but it is not in itself "case management", as has been suggested on a number of occasions. It will however improve co-ordination and information-sharing between different areas of the prison, and systematise the collection of individual prisoner information.

I was advised that IOMS will be on-line by 2007 or at least by June 2008. I note that the 2000/2001 Annual Report also stated at p28 that:

A major priority for the next year is the full implementation of the Integrated Offender Management System throughout the Agency.

I remain hopeful that NTCS will meet its current timeframe for the introduction of IOMS. More action is needed, however, to develop a full case management model for the Territory.

¹²⁵ NSW Select Committee on the Increase in Prisoner Population (2000), *Interim Report: Issues Relating to Women* at 65-66

Recommendation:

31. That NTCS develop and implement a comprehensive individual case management model for the Territory over the next five years, including the development of policy and procedures, staff and training, and appropriate facilities. That the model fully recognises the specific situation of women prisoners, their generally greater need for welfare services and their shorter sentences.

The Department of Justice supports this recommendation.

I make the following recommendation, which has been amended slightly from the draft, to include a recommendation that the department make a Cabinet submission for funds for the additional case managers. Although the draft recommendation was supported, the department's advice to me was that:

Commitment has already been made to implementing the CAYA recommendations as competing priorities, including other CAYA recommendations, allow.

Significant additional resources are required.

Recommendation:

32. That NTCS make application to Cabinet or other appropriate source of funds within a reasonable time, to implement Recommendation 43 of the CAYA Review of Adult Custodial Services by providing case management staff on the ratio of one case management officer per 35 to 50 inmates.

Conclusion

The June 2005 paper by social work student Carla Silva "Identifying and Addressing the Needs of Female Prisoners at Darwin Correctional Centre" highlighted the following areas of concern:

- family and children contact;
- treatment programs (gender specific needs, highlighting alcohol use);
- Aboriginal women's business (and need for a female Aboriginal worker, Aboriginal female Elder visits);
- employment related programs (support post release);
- prisoner induction and pre-release program (lack of access to program and lack of understanding of how to access services);
- mental health issues (stress on prisoners and prison officers);
- advocacy (lack of opportunity for input, volunteer work, information, consistent contact, non-NTCS advocacy links e.g. Sisters inside);
- living skills (budgeting, cleaning, cooking);

- facilities and infrastructure (limited programs area, visit area needs, at risk/isolation/observation needs, Living Unit model)

The 28 August NTCS report to the Ombudsman asserted that “The majority of these issues have been acknowledged and responded to since the release of this [Ms Silva’s] report.”¹²⁶

The concerns raised by the complainants throughout the course of this investigation largely mirror the list above. It is my view that limited progress has been made since June 2005 to address these issues. In some respects, such as in the area of education, the situation has become worse.

Moving from a primary focus on security to a primary focus on rehabilitation was the main thrust of the CAYA Review of Adult Custodial Services, including the alignment of correctional operations with the NTCS Mission Statement.

The 2003/2004 Department of Justice Annual Report stated that “The recommendations were endorsed by Cabinet in March 2004 with funding of \$26.5 million provided to implement the recommendations over 4 years.”¹²⁷ The NT Government committed to the implementation of all 71 recommendations.

Four years into the four year implementation period, and it is apparent that the NT Government’s commitment has faded. Throughout the investigation I have noticed among senior Departmental staff and DCC management a great deal of enthusiasm for change, and in equal measure a frustration with the lack of resources to bring about that change. Senior staff informed me that the funds available for the implementation of the CAYA Review have been “cut, and cut, and cut over the last couple of years”.

My understanding is that in the first year of CAYA, specific monies were set aside for its implementation. After this first year, the CAYA funds were rolled into the general NTCS operational budget rather than being separately administered. At the same time, the rapidly growing prisoner population has meant that demands on the operational budget have ballooned, meaning that funds for CAYA implementation have been progressively shrinking.

Director Tolstrup explained in our 7 December interview that:

CAYA funding is part of the general funding of Corrections. But we still have these goals which we will implement and fulfil as best we can so some can be implemented better than others. That is it in a nutshell.

Even of those recommendations which are listed in the Implementation Plan as “completed” (31 out of 71 recommendations according to the Department’s 2005-2006 Annual Report¹²⁸), a number do not stand up to scrutiny and have only received partial attention. One example of this, Recommendation 43 relating to case management staff, is explained above.

In my opinion the full implementation of the CAYA Review now appears remote. This presents a great lost opportunity for the Territory.

The NT’s imprisonment rate is the highest in Australia at three and a half times the national average (551 per 100,000 adults over 2005-06, compared with 156

¹²⁶ At 3
¹²⁷ At 45
¹²⁸ At 52

nationally).¹²⁹ This represents one of the highest imprisonment rates in the world, far higher than the 58% of countries which have rates below 150 per 100,000.¹³⁰

The Territory's recidivism rates, including for women, are also the highest in Australia. 68% of NT prisoners have served a sentence in an adult prison before, compared to the national figure of 57%.¹³¹

Although the crime rate has continued to drop in recent years, incarceration levels have continued to rise. The proportion of Indigenous prisoners also continues to climb. Almost a third (29%) of NT prisoners, overwhelmingly Indigenous people, are there for driving offences.¹³²

Bill Somerville stated in a 14 November 2006 interview that he has:

always believed that if Corrections were to spend the money running programs for two people, they would get it back tenfold in terms of reduced recidivism... They are going to have to bite the bullet... Any money spent on effective rehabilitation or reintegration will be well justified. Otherwise they are going to have to build a new gaol. Simple as that... It's not rocket science. There are so many people in our prison system who would jump at an opportunity and do it well. In real terms we haven't got many crims in our gaol.

The NT Legal Aid Commission's 2006 paper "Managing Prisoner Growth in the NT" sets out fifteen recommendations aimed at reducing recidivism in order to stem the rapidly growing NT prisoner population. I highly commend this report and support those recommendations, which go beyond the ambit of this current investigation.

The provision of programs, education and employment for prisoners is proven to be one of the most important strategies in reducing recidivism:

*In general, participants in prison-based educational, vocational and work-related programs are more successful – that is, they commit fewer crimes and are employed more often and for longer periods of time after release – than are non participants.*¹³³

In addition, programs, education and employment offered to an individual prisoner add up to more than the sum of their parts in terms of their rehabilitation effect. Options that are "multi-modal" in nature are:

*in general, more likely to be effective than those that are not. Thus, if an inmate has vocational needs as well as substance abuse and life skills needs, the efficacy of any one of these interventions is enhanced if each of the prisoner's needs is addressed. Moreover, program effectiveness is enhanced even more if treatment and services are well integrated.*¹³⁴

But reducing recidivism should not be the only public policy goal:

*Correctional policy needs to look beyond recidivism rates to recognising the various obstacles preventing female offenders from living balanced and fulfilling lives...and equip them with the necessary life skills to live such lives.*¹³⁵

¹²⁹ NT Correctional Services Annual Statistics 2005-2006 at 2

¹³⁰ Northern Territory Legal Aid Commission (2006), "Options for Managing Prisoner Growth in the NT" (unpublished paper) at 4

¹³¹ Australian Bureau of Statistics, *Prisoners in Australia 2006*, Cat no 4517.0 at 8

¹³² Northern Territory Legal Aid Commission (2006), "Options for Managing Prisoner Growth in the NT" (unpublished paper) at 1, 5, 7

¹³³ Lawrence, Mears, Dubin and Travis (2002), "The Practice and Promise of Prison Programming", Research Report, The Urban Institute, Washington DC at 8

¹³⁴ Id at 10

¹³⁵ Sorbello, Eccleston, Ward & Jones (2002), p204

This is pertinent to female offenders who have diverse needs often ignored within male-dominated corrections, including: sexual/physical abuse; dependent children; self-esteem; vocational and life skills deficits; and drug abuse. Therefore rehabilitation of women must encompass a holistic, gender-specific approach offering concrete possibilities for living worthwhile lives based on individual abilities, circumstances, interests and opportunities, to ultimately culminate in lasting lifestyle changes and reduced recidivism rates. This does not entail ignoring community needs for security and safety; it simply reminds us that all human lives should reflect the best possible outcomes rather than the least worst possibilities.¹³⁶

In the draft of this report, I recommended that in light of this investigation, the Department of Justice review the fifteen recommendations of the NT Legal Aid Commission's 2006 paper *Managing Prisoner Growth in the NT* and furnish a report to the Ombudsman within six months setting out its response to the recommendations.

The department's response was as follows:

Noted. This agency is acutely aware of the issues raised in the report and recommendations of the NT Legal Aid Commission paper published in 2006. However, these issues are extremely complicated, would take up significant DOJ resources and DOJ believes it would not serve any real purpose to respond to the Report in isolation. That document, along with this report, once finalised, as well as expert consultants' views, internal reviews and consideration of experience and information from interstate and international counterparts, will assist and inform the Department and Government in the process of planning and prioritising projects, goals and funding support in the future. That said, the Department will liaise on an ongoing basis with the Ombudsman (and others) in relation to future plans and reforms, including, but not limited to, the analysis and recommendations of the NT Legal Aid Commission.

My recommendation in this regard is therefore:

Recommendation:

33. That the Department of Justice take the fifteen recommendations of the NT Legal Aid Commission's 2006 paper *Managing Prisoner Growth in the NT* into account when planning and prioritising projects, goals and funding support in the future.

Recommendation:

34. That the Department of Justice Annual Report in future specify in its standard Custodial Services Performance Reporting the precise figure for female prisoners' "Participation in prison programs" in addition to the existing figure covering all prisoners.

The Department of Justice supports Recommendation 34, and comments:

¹³⁶ Ibid

The general intent of this recommendation is supported. NTCS recognises a burgeoning requirement to report on programs and education and to report in more detail on women prisoners. Although this enhanced reporting will require additional resources this will be provided in part by the IOMS and Data-Warehouse implementation and in part from existing resources available for our continuous improvement programs.

Recommendation:

35. That the Department of Justice Annual Report contain a standing section specific to female prisoners which includes:

- a) which treatment intervention programs were delivered to female prisoners over the last financial year.**
- b) which educational courses were delivered to female prisoners over the last financial year**
- c) what types of employment were held by female prisoners over the last financial year.**

The Department of Justice supports the general intent of this recommendation and advises that *“This information could be included in the annual NTCS Statistical Summary”*.

pre & post release

In a long sentence, the goal is to stay sane and you do what is necessary to achieve it. This process can be called institutionalisation.

You become desensitised, but that means you become good at tucking away the different parts of yourself, particularly feelings. The many techniques that you devise to survive in such a controlled yet emotionally deprived environment certainly don't contribute to the development of an integrated personality.

...

Initially, visits are a lifeline to the outside world to all that was once precious and you try to cling on to those relationships. As time passes, you become more ingrained in the microcosm that prison is, you become less interested in the outside world. It can be like going shopping with no money. Why go looking at items you can't buy? In the same way, why see and hear about people from a world that you can't be a part of.

While experiencing the difficulties, pain and frustration at being in jail, at times overcrowding and generally punitive and or insensitive custodial officers, you build hopes and fears about life after prison that include (among other things) freedom to do what you want, when you want without having to fill out a form: getting kids back, housing, getting possessions back, having people glad to see you, having a good time to make up for all that bad time that you've put up with.

Survival mechanisms you used in jail during your sentence would still operate when you get out and indeed interfere with your ability to get on with your life.

It's necessary to discuss your jail experience, to at least get it off your chest, but it's unlikely that anyone wanted to know. Family and friends will believe that the worst is behind you and that perhaps you have caused them enough grief inconvenience and so on. If you're trying to re-establish your relationships, you will encounter along with the love and joy, bitterness, anger and resentment.

The best of ex-inmates intentions tend to wither when confronted by a post-release world which is largely uninterested and disbelieving. You have the stigma of being an ex-prisoner to complete your sense of isolation. Being released is no reward when you have been branded for life and have nothing or no one to get out to.

When leaving jail, it's a huge challenge to try and reintegrate into the broader community and our own lives. We have roles to reclaim; that of mother, wife, partner, of daughter,

sister and friend. Jail impacts hard and usually negatively on family – long-termers especially need to renegotiate the relationships that were abruptly curtailed when imprisoned. Even if family members have been regular visitors, imprisonment effectively removes a woman from her place amongst them.

Resuming that place and role can require delicate negotiations and for women who have spent time desensitising themselves to pain and fear, and sometimes love, the process can be long and complicated. Even practical steps to resuming outside life can be fraught with difficulty; everything is mined with problems when you have a prison record, finding accommodation, finding work, accessing social security, banking, mountainous obstacles to your best intentions to lead a blameless life, for many women, the seemingly insurmountable difficulties can make the path to reoffending or drug use look very attractive indeed.

A transition program, at its best, would aim to stop women going back to jail because they resorted to the easy path.¹³⁷

Complaint

One of the greatest concerns expressed by complainants is the lack of any pre-release program for women prisoners. Not only does no organised program exist, they assert that individual assistance for women prisoners approaching their release date is minimal. They report that prisoners are commonly let out the front gate with no prior planning, no housing or support, and nowhere to go.

The complainants describe an informal peer support network among women prisoners that provides a degree of emotional and practical support for prisoners approaching release. For example, they state that it is often other prisoners who write to Territory Housing, Centrelink and such agencies to make basic arrangements for a prisoner post-release. As most prisoners' literacy and English skills are limited, these pre-release arrangements can fall upon a small number of better educated prisoners to write these letters and make the relevant telephone calls. As prisoners are entitled to only two free letters posted a week, much of this occurs out of their own pockets, even where the letters are for the purpose of basic pre-release arrangements for other prisoners.

Angela described pre-release support currently available as follows:

It doesn't exist. If someone is getting out and they need assistance with accommodation, it's usually other prisoners who help with that. I've helped one lady. There is a toll free number for the Reintegration after Prison Program run by Bill Somerville, an ex-prisoner. He deals with the men and does the pre-release program with the men. He has been to J block once since the time I've been here, and that was when I contacted him and asked him to come in. If the girls need any other assistance they generally fill out a yellow form for the welfare officer to come over, but that can take 6-8 weeks for the welfare officer to come over because there's only one welfare officer for the whole prison. Generally they can't help because they're too busy. So basically there's no pre-release and no ongoing assistance. A lot of girls just get their Centrelink cheques and are shown out the gate.

There's nothing at all about accommodation, employment, support services or family.

¹³⁷ J block prisoners (2006), *Women Behind Bars: Passage to a Brighter Future*, unpublished paper prepared for the Office of Women's Policy (NT) at 5-6

Generally before you leave here you have an exiting medical done on you. If you're currently on medication they'll give you a week's or up to a month's supply of the medication, and that's it. It's up to the individual if they need further treatment to make their way to wherever they have to go to get their treatment.

There's no support with re-bonding with kids, getting your kids from welfare, or child support.

With transport – if the girls are not from Darwin area, like if they're from Alice Springs, they'll have a bus trip to Alice paid for them. They get a taxi from the gaol to the bus depot. A lot of the girls have never been to Darwin before and are really scared because they have no idea where they're going, which bus to get on, etc. It's pretty daunting for them. There should be some support for them, or at least someone to discuss with them what is going to happen. A lot of them don't know what time they'll be released, or what bus they need to get on, but they have to make arrangements with family to pick them up from Katherine or Alice to travel to communities. Just simple things like that.

Ex-prisoner and former NT criminal lawyer Bill Somerville, who runs the non-government organisation Offenders Aid and Rehabilitation Services NT (OARS NT), added his observations to those provided by the complainants. He describes the following scenario for both male and female prisoners:

There are cases of people who walk out with half a dole cheque, a bag of clothes, and the TV under their arm which they spent two to three years saving for. They have no idea of where to go and no one to pick them up. They'll walk out to the bus stop. The bus won't pick them up because of course it won't take a Centrelink cheque. There's a group of vultures who live nearby who know that at about 10 or 11 am there'll usually be a person in plastic sandals sitting at the bus stop with dole cheque in his pocket. They take the person and help them cash the cheque, spend the cheque, and the person will be back in prison that same night. Because there was no assistance.

NTCS response

The 28 August 2006 NTCS submission to this investigation describes the pre-release assistance currently available to both male and female prisoners as follows:

- **Transport home**
Repatriation forms are completed when a prisoner first enters prison, with follow-up closer to the release date. It is the task of the Welfare Worker to make individual transport arrangements. Transport is by the cheapest route possible, usually by bus.
- **Accommodation**
The Welfare Worker or Indigenous Support worker can arrange for referrals to Territory Housing or short-term providers such as OARS NT and Salvation Army.
- **Identification documents**
The Welfare Worker can assist prisoners in getting necessary identification documents such as a birth certificate. Larrakia Nation is able to provide a Larrakia Card.

- **Medical Referrals**
Discharge Plans are prepared by the doctor for every prisoner prior to release. Providing the prisoner has given permission, the Discharge Plans are provided to the community health centre or clinic nearest to the discharge destination.
- **Medical through-care**
Prisoners on medication are provided with a week's supply of medication on release. The primary health care provider will ensure that any health appointments made for prisoners post-release are clearly explained to the prisoner and they are provided with the necessary information.
- **Financial Support**
Centrelink staff visit Darwin Correctional Centre weekly. An appointment is automatically scheduled with each prisoner around a fortnight prior to release to sign them up for benefits.
- **Employment**
The Job Centre, when fully operational, is anticipated to assist in matching exiting prisoners with potential employers. (This initiative is described more fully under the Employment section of this report.)
- **Parenting and family relationships**
The Welfare Worker or Indigenous Support Worker can assist with liaising with Family and Children's Services and making contact with family, not only at pre-release time but throughout a person's sentence.

Re-bonding with children, facilitating visits and managing family relationships had been the focus of the popular "Good Beginnings" Program, a Commonwealth Government funded pilot for both male and female prisoners. The pilot ended in 2004 and has not been run since.

NTCS reported in August 2006 that it had approached government and non government organisations to identify specialised parenting support for female prisoners at Darwin Correctional Centre, either through a parenting program or, at a minimum, a pre-release information session. Neither is yet running. As at our 15 November 2006 interview with DCC Superintendent Mr Kevin Raby and Manager Prisoner Services Mr Bill Munro, there were no specific plans in place for these programs in 2007.

- **Linking to other services**
The Welfare Worker is able to refer prisoners to appropriate services such as the Council for Aboriginal Alcohol Program Services, including arranging for the agency to visit a prisoner pre-release.
- **Pre-Release Program**
The NTCS submission states that DCC Superintendent Raby had recently taken the decision to allow women prisoners approaching release to attend the Pre-Release Program currently delivered to men. This issue is discussed further below.

Relevant standards

INTERNATIONAL INSTRUMENTS

- ***Basic Principles for the Treatment of Prisoners***

10. With the participation and help of the community and social institutions, and with due regard to the interests of victims, favourable conditions shall be created for the reintegration of the ex-prisoner into society under the best possible conditions.

- ***Standard Minimum Rules for the Treatment of Prisoners***

80. From the beginning of a prisoner's sentence consideration shall be given to his future after release and he shall be encouraged and assisted to maintain or establish such relations with persons or agencies outside the institution as may promote the best interests of his family and his own social rehabilitation.

81. (1) Services and agencies, governmental or otherwise, which assist released prisoners to re-establish themselves in society shall ensure, so far as is possible and necessary, that released prisoners be provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season, and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.

(2) The approved representatives of such agencies shall have all necessary access to the institution and to prisoners and shall be taken into consultation as to the future of a prisoner from the beginning of his sentence.

(3) It is desirable that the activities of such agencies shall be centralised or co-ordinated as far as possible in order to secure the best use of their efforts.

- ***European Prison Rules:***

70(2) Treatment programmes should include provision for prison leave, which should also be granted to the greatest extent possible on medical, educational, occupational, family and other social grounds.

89(2) Steps must be taken to ensure that on release, prisoners are provided, as necessary, with appropriate documents and identification papers, and assisted in finding suitable homes and work to go to. They should also be provided with immediate means of subsistence, be suitably and adequately clothed having regard to the climate and season, and have sufficient means to reach their destination.

NATIONAL STANDARDS

- ***Standard Guidelines for Corrections in Australia***

3.14 Prisoners, particularly longer-term prisoners should be provided with programmes and services that will assist them to make a successful transition from custody to community life.

3.15 Such programmes and services should address such matters as housing, employment and community support and should be developed in conjunction with community corrections where appropriate.

3.16 Where appropriate, pre release programmes should include work release, day leave, weekend leave, education and family leave.

3.17 After care services should be provided that ensure that prisoners are provided with appropriate documents. Prisoners should be provided with suitable clothes for their release and have sufficient funds or means to reach their destination and to sustain themselves in the immediate period following release.

3.18 After care programme staff should have access to prisoners during their sentence.

5.16 Community and volunteer groups participation in programme delivery and pre-release planning for prisoners should be structured and co-ordinated to emphasise to prisoners their continuing role in the community.

Relevant literature

In *A Human Rights Approach to Prison Management*, Andrew Coyle describes the obligations on prison management with regards to pre-release support for prisoners:

Almost all prisoners will eventually be released back to civil society. It is important, especially for those who are serving relatively short sentences, that preparation for this release should begin right at the beginning of the time in prison. This is in their own interest and in that of civil society, since a person who has a place to stay, the opportunity of earning a living and a social support structure will have greater incentives to live successfully outside.

In many jurisdictions the majority of prisoners are serving short sentences and will return to the community quite quickly. There is sometimes a temptation for prison authorities to overlook the rehabilitation of such prisoners since they will only be in prison for a short time. If this happens, there is a real danger that prisoners serving short sentences will quickly return to a life of crime and will return to prison again and again. The need for support in the community has to be given a high priority...

The prison authorities cannot prepare prisoners for release without the help of other agencies based in civil society. Governmental and non-governmental organisations which work with former prisoners after release should be encouraged to come into prison to build relationships with prisoners before they are released and to begin to plan their reintegration into society.

Nearly all prisoners will benefit from help to prepare them for life after release. For some this might involve helping them to improve their confidence and belief in themselves. For others, it might involve assistance in finding jobs, accommodation when they leave prison or providing them with sufficient money to enable them to travel to their home area. The longer a person has spent in custody the more important such programmes will be.¹³⁸

Coyle argues that pre-release services are especially crucial for women prisoners:

Particular consideration should be given to the needs of women who are about to be released... The prison authorities should work closely with community support agencies and non-governmental organisations to help former women prisoners to settle back into their communities. Training which gives them a skill to become self-supporting is particularly valuable for women in prison.

...

¹³⁸ Coyle, A (2002), *A Human Rights Approach to Prison Management: Handbook for Prison Staff*, International Centre for Prison Studies, London at 93-94

Women prisoners face special problems on release from prison. The stigma which faces many prisoners on release is likely to be experienced even more acutely by women. One example is the difficulty which some women face in obtaining permission from the authorities for their children to be returned to them, since they may be regarded as "unfit mothers".¹³⁹

This is echoed by Sorbello, Eccleston, Ward & Jones (2002):

Increasingly, unemployment, vocational goals, life skills, and knowledge of access to community support agencies are crucial pre and post-release obstacles hindering the acquisition of human goods for women offenders more so than men. (p201)

Bloom, Owen & Covington (2003) add that:

Like men, women who are returning to their communities from correctional facilities must comply with conditions of supervised release, achieve financial stability, access health care, locate housing, and try to reunite with their families. These tasks are often complicated by gender. The majority of women in the correctional system are mothers, and a major consideration for these women is reunification with their children. This adds what Brown, Melchior, and Huba refer to as an additional "level of burden" for these women, as their requirements for safe housing, economic support, medical services, and other needs include the ability to take care of their children.

Important points concerning these women include the following:

- *A majority of incarcerated mothers expect to take responsibility for their children once they are released and rarely receive any financial or emotional support from their children's fathers.*
- *Families who have taken care of the children of imprisoned women often expect the released woman to take custody of her children immediately following release.*
- *Reunification with children is an important but often elusive goal of released mothers. If a child has been placed in foster care or state custody while the mother has been incarcerated, it is especially difficult for the released mother to demonstrate to state agencies that she is able to take care of and provide for her child adequately.*
- *Many women released from prison have lost touch with their families and thus face greater adjustment problems in reintegrating into the community.¹⁴⁰*

Family relationships were the main area of concern reported by women prisoners in the 2002 WA Department of Justice study. The majority of the women surveyed (58%) expressed concerns about their impending release and return to the community. The main concerns reported were:

- Rebuilding family unit / friendships 20%
- Unconfident about coping skills for re-entry 18%
- Drugs 13%
- Accommodation 10%
- Finances and employment 8%
- Attitude of community 5%

¹³⁹ Office of the United Nations High Commissioner for Human Rights (2005), *Human Rights and Prisons: A Manual on Human Rights Training for Prison Officials*, Professional Training Series No. 11 at 155

¹⁴⁰ Bloom, B., Owen, B. & Covington, S (2003), *Gender-Responsive Strategies: Research, Practice and Guiding Principles for Women Offenders*, National Institute of Corrections, US Department of Justice at 16

- Returning to offending 4%
- Being on / completing parole 4%¹⁴¹

Not only does structured pre and post release support have a crucial role to play in intervening in a cycle of recidivism, a lack of pre and post release support for women can in some cases have tragic results. Between 1987 and 1997, for example, 93 women in Victoria were identified as dying shortly after release from prison. This Victorian study found that a number of those deaths could have been prevented.¹⁴²

Penny Armytage, Victorian Commissioner of Correctional Services, has further noted that:

*Traditionally it was not seen as the role for correctional services to take responsibility for offenders post release and in the past our attempts to reintegrate women have been minimal. We spend on average \$55,000 a year to keep someone in prison and only about \$300 a year on post release. However this attitude is gradually changing as it becomes clear that structured pre and post release support has a crucial role to play in intervening in a cycle of recidivism which results in almost two thirds of offenders re-offending and returning to the system.*¹⁴³

In that state, one strategy adopted by correctional services is a supported day release program:

*A day release program exists to enable long term prisoners prior to their release to go on escorted leave to arrange accommodation, employment and various formalities, such as setting up bank accounts, getting a driving licence, in preparation for a return to the community. Part of the pre release process involves contact with Centrelink to ensure welfare payments can be made on release. At Beechworth Prison it is reported that arrangements are made to ensure the prisoner has employment to go to on release and is given a bus and train ticket to get to Melbourne where most come from (and where the employment usually is).*¹⁴⁴

WHAT SHOULD PRE & POST RELEASE SERVICES FOR WOMEN BE LIKE?

Bloom, Owen and Covington conclude that:

There is a need for wraparound services—that is, a holistic and culturally sensitive plan for each woman that draws on a coordinated range of services within her community (see “Implementing Guiding Principle 6”). Types of organizations that should work as partners in assisting women who are re-entering the community include the following:

- *Mental health systems.*
- *Alcohol and other drug programs.*
- *Programs for survivors of family and sexual violence.*
- *Family service agencies.*
- *Emergency shelter, food, and financial assistance programs.*

¹⁴¹ Western Australian Department of Justice (2002), *Profile of Women in Prison – Executive Summary* at 23

¹⁴² Davies, S. and Cook, S., “Dying Outside: Women, imprisonment and post-release mortality”, Paper presented at the Women in Corrections: Staff and Clients Conference, Australian Institute of Criminology and Department for Correctional Services SA, Adelaide, 31 October – 1 November 2000

¹⁴³ P Armytage, quoted in Aboriginal and Torres Strait Islander Social Justice Commissioner (2003), *Social Justice Report 2002*, Human Rights and Equal Opportunity Commission, Chapter 5

¹⁴⁴ Ombudsman Victoria & Office of Police Integrity Victoria (2006), *Conditions for Persons in Custody*, Victorian Government Printer at 95

- Educational organisations.
- Vocational and employment services.
- Health care.
- The child welfare system, child care, and other children's services.
- Transportation.
- Self-help groups.
- Consumer-advocacy groups.
- Organizations that provide leisure and recreation options.
- Faith-based organizations.
- Community service clubs.¹⁴⁵

In relation to Indigenous women in particular, the Aboriginal and Torres Strait Islander Social Justice Commissioner (of the Human Rights and Equal Opportunity Commission) states that the types of issues that pre and post release programs should address are:

- housing
- dealing with violence
- children and families
- kinship obligations
- financial issues, employment, education and training
- access to health services (including drug and alcohol, mental health).¹⁴⁶

The Commissioner reports that "case management for Indigenous women pre-release is of particular importance." He quotes Winsome Matthews of the Aboriginal Women's Legal Service:

During the time the woman is in prison, they need help to do some 'future planning'. They need future planning so they can aspire to something. They need something to distract them from the depression and from going back to crime or the circumstances which caused the problem.

It is very important to look at the connections between the incidence of sexual assault and custody. It is essential to set up sexual assault, violence and safety initiatives in gaols.

Case management inside prison is very important at the pre release stage. It is important to take a holistic view and look to the individual woman's circumstances. She needs help with legal issues of family and kids, housing, employment, training, health and it needs to be linked to post release services and programs.

It is important to take a managed approach to the woman's aspirations. It is important to be based in culturally and spiritually framed concepts that reduce dependence on the criminal justice system.¹⁴⁷

¹⁴⁵ Bloom, Owen & Covington (2003) at 82

¹⁴⁶ Aboriginal and Torres Strait Islander Social Justice Commissioner (2003), *Social Justice Report 2002*, Human Rights and Equal Opportunity Commission at Ch 5

¹⁴⁷ Ibid

In 2004 the Commissioner re-visited the subject of women prisoners. His Social Justice Report 2004 published the results of extensive nationwide consultation regarding the needs of Indigenous women exiting prison, available services and models of best practice. He called for a holistic approach which seeks not only to address offending behaviours but also focuses on “healing the distress and grief” experienced by many Indigenous women and their communities. He found that, at a basic level:

*Of great benefit to a woman about to be released... would be the development of a relationship with a person from a community organisation prior to her release. This person could be then responsible for assisting the woman to prepare for her release and then continue that support post-release, including referral to appropriate services. This could be a way of reducing the duplication of services; the number of support people involved in a woman's life; and improve the delivery of support programs provided to a woman from the pre-release to the post-release phase.*¹⁴⁸

POST-RELEASE HOUSING

The Social Justice Report 2002 notes that:

Housing has been identified as the most important basic need of women leaving gaols. Some women may be able to access public housing, but this needs to be in place before their release date. Others may not be eligible due to previous problems with the department. These women need support with at least temporary accommodation until they are established and can attempt to access to private housing market. Transition accommodation is perhaps the most important service for women, especially if they have children. Ultimately,

“finding somewhere to live is one of the major problems faced by ex-offenders. Without an address, it is difficult to claim benefits, almost impossible to get a job and harder to avoid resorting to crime. The links between homelessness and offending suggest that a decent and secure housing plays a vital part in the resettlement process and in reducing the likelihood of people committing crime.”¹⁴⁹

A recent report on homeless Indigenous women in Brisbane noted that:

Indigenous women who are discharged from correctional facilities without support, appropriate transitional accommodation or money also often find their way to inner city parks and public spaces. Many would return home but do not have enough money, and so go to the parks looking for a loan or for company... These women are vulnerable to a range of factors including re-arrest for street/public order offences.¹⁵⁰

Ogilvie notes the importance of stable housing for women prisoners generally:

stable accommodation can have significant consequences in other areas of the prisoners' life. For example, satisfactory accommodation arrangements are crucial with respect to women regaining access to children who have been placed in 'care' situations of one type or another. This can mean that in the absence of any alternative, some women may feel compelled to return to violent partners post release (Cook and Davies,

¹⁴⁸ Aboriginal and Torres Strait Islander Social Justice Commissioner (2005), *Social Justice Report 2004*, Human Rights and Equal Opportunity Commission at 24

¹⁴⁹ National Association for the Care and Resettlement of Offenders (UK), quoted in Aboriginal and Torres Strait Islander Social Justice Commissioner (2003), *Social Justice Report 2002*, Human Rights and Equal Opportunity Commission at Ch 5

¹⁵⁰ Coleman (2000), quoted in Aboriginal and Torres Strait Islander Social Justice Commissioner (2003), *Social Justice Report 2002*, Human Rights and Equal Opportunity Commission at Ch 5

1999). Quite apart from the extent to which these sorts of issues can be implicated in criminality - we also need to recognise the extent to which they are associated with poor health and premature death.¹⁵¹

Similarly, Ward (2001) has stated:

*the link between reduced re-offending and stable post-release housing, employment and social connections is so well established that these three areas of practical assistance should be a primary focus of transitional support services that seek to impact on recidivism... [Such] rates are still the most common form of outcome measure applied to transitional support services.*¹⁵²

Baldry discusses the difficulties experienced by many ex-prisoners in accessing housing:

*In a very perverse way, prison is a form of secure, affordable housing for many prisoners who have had insecure, unsuitable or unaffordable housing prior to their incarceration. If prison provides this, what of the housing needs and experiences of such prisoners upon release? In Australia, as in many countries, most prisoners are housed one day and released the next. They have to try and find accommodation, employment and rebuild a social life. For some, family friends, the parole service, or other agencies may have already helped organise this transition. But the experience of prison (an institutionalising one) and earlier life experiences, often of poverty and disadvantage, drug and alcohol abuse, physical or sexual abuse and social alienation do not prepare many ex-prisoners to negotiate these social necessities successfully.*¹⁵³

Pre-Release Program

ACCESS TO THE MEN'S PROGRAM

Male prisoners in the low security Living Skills Unit at Darwin Correctional Centre are able to attend a comprehensive Pre-Release Program. This program was started in 2002 by Mr Somerville through the organisation now known as OARS NT. The Pre-Release Program is targeted at prisoners within twelve weeks of release. It involves an introductory session followed by a series of modules (around fifteen sessions) conducted by external presenters from Territory Housing, Centrelink, Relationships Australia, Larrakia Nation, Mission Australia and Anglicare among other agencies. The services provided by each organisation are outlined, and issues such as housing, budgeting, employment and reconnecting with family are discussed.

The Pre-Release Program is only available to prisoners in the Living Skills Unit, where most male prisoners at Darwin Correctional Centre will be housed prior to their release. It is not available to those male prisoners who may be released from medium or maximum security or remand. There is no similar program run at Alice Springs Correctional Centre at all.

¹⁵¹ Ogilvie, E. (2001), "Post-Release: The current predicament and the potential strategies", Criminology Research Council at 4

¹⁵² Quoted in Aboriginal and Torres Strait Islander Social Justice Commissioner (2005), *Social Justice Report 2004*, Human Rights and Equal Opportunity Commission at 34

¹⁵³ Baldry (2003), quoted in Aboriginal and Torres Strait Islander Social Justice Commissioner (2005), *Social Justice Report 2004*, Human Rights and Equal Opportunity Commission at 39

Except for one day in February 2005, the Pre-Release Program has never been offered to women prisoners at Darwin Correctional Centre. The reason provided is the insufficient numbers of women prisoners to justify running the program in the women's block.

In February 2005, in response to Mr Somerville's request, a decision was made by the then DCC Superintendent Mr Philip Brown to allow women to attend the Pre-Release Program alongside men. Mr Somerville described what occurred:

In the first session we did they [prison officers] brought two women into mainstream, walked them down into Education section in handcuffs, plonked them in a room full of thirty blokes, and then stood outside looking through the glass to make sure nothing happened. One of the women I knew, and I said to her "You really should come to some of these other sessions because they'll give you some help with housing and other things." She said "I'll never come here again. It's just too intimidating." And of course it is. This was the only day we had women in the session. It never happened again... As far I know the idea was then wiped. I'm fairly positive that women have never even been given the option again. Certainly not since the program moved to the Living Skills Unit.

As stated above, the 28 August 2006 submission by NTCS advised that a decision had again been made by new Superintendent Mr Kevin Raby to allow women on low security to attend the men's Pre-Release Program. In an interview on 15 November Mr Raby and Manager Prisoner Services Bill Munro explained that no women had taken up this offer to date. They speculated about possible reasons for their reluctance, such as women feeling intimidated, cultural reasons or women not willing to walk the distance to the Living Skills Unit. The investigating officer asked whether any measures had been put in place since February 2005 which might make it less intimidating or more accessible for women to attend. Mr Raby said that they cannot make the men less intimidating, they can only make the option available and encourage the women to attend. If they chose not to attend, he continued, there is not a lot that staff can do.

In fact it appears that women prisoners were never informed of Mr Raby's decision. The investigation officer interviewed two low security women prisoners in November and one former prisoner in December. None had heard about the decision to allow low security women prisoners to attend the men's Pre-Release Program. The former prisoner was released in November along with at least three other women prisoners that same month. She states that none of them heard about the decision or were offered access to the Pre-Release Program prior to their release. She also believes that a number of prisoners would have been interested in attending the program had it been offered to them.

When Mr Raby was asked how the August 2006 decision to allow women to join the men's PRP was conveyed to women prisoners, he said that he believed they were informed at the time when Bill Somerville conducted a one-off pre-release session in J block on 26 September, and that pamphlets were placed around the block.

However, when asked by the investigating officer, Mr Somerville said he was also not aware of the decision to allow women into the Pre-Release Program. Therefore it does not appear that the decision has been clearly conveyed in any effective way at all.

Recommendation:

36. That women prisoners be immediately informed of the August 2006 decision to allow them to attend the men's Pre-Release Program, and that in the absence of any other pre-release program, their attendance at the men's program prior to their release be encouraged and facilitated.

This recommendation is supported by the Department of Justice.

Inviting women to attend the men's Pre-Release Program should be regarded as a short term and partial solution only. There is likely to be a significant number of women who will, quite reasonably, feel too intimidated to attend or to meaningfully participate alongside up to thirty men. It is also likely that many will, for cultural reasons, not wish to discuss certain matters together with men. In some cases the men might be members of their own family or community.

Secondly, the men's program has been developed for men and is not likely to properly address the pre-release needs of many women.

ACCESS TO A MODIFIED PROGRAM

In June 2005 a placement student within the Prisoner Rehabilitation Team at Darwin Correctional Centre conducted surveys and consultations to identify the needs of women prisoners in Darwin. As a result of the study:

It was identified that the female prisoners at DCC experience pre-release stress that inclusion in a pre-release program would assist in alleviating. The majority of the current PRT's well-developed pre-release program sessions conducted at DCC is appropriate for female prisoner's inclusion, however consultation with female prisoners is needed to tailor the program to accommodate their particular needs.

While at different times DCC has attempted to develop a modified Pre-Release Program adapted to women's needs, such a program has yet to be delivered to women prisoners in any structured way.

Mr Somerville states that he has repeatedly offered to run pre-release sessions for women at no cost to the prison but this has only once been taken up. He believes that prison staff simply see it as too much work to organise, given the small numbers of women.

On 26 September 2006, Mr Somerville ran a basic one-off pre-release session at the women's block. At this session he briefly outlined the services offered by his organisation and the freecall number to contact him. He also brought in a list of all the other people who run modules of the pre-release program and suggested that he could arrange for a presenter to do a one-on-one visit with an individual prisoner if the prisoner requested it.

Following the September 2006 session, Mr Somerville was advised by prison management that they would contact him to do another one-off session when they believed that there were more women prisoners who required help. At the time of interview on 14 November 2006, he had yet to be contacted and did not know whether he might be asked to return in one month or one year.

While the one-off session was an important first step, Mr Somerville considers this situation as very unsatisfactory for women prisoners. He believes that the women should at least receive equal access to the program run for men. More appropriately, he believes that a specific program should be developed to suit the women's needs. He points out that he is not necessarily the right person to be presenting the pre-release program to women as there are a number of issues which he does not believe the women would feel comfortable raising with him and with which he is not competent. While many pre and post-release matters are common to both women and men, he states that the women deserve a specific service when it comes to their specific needs. In his experience, the main differences are in the area of family matters. For example:

- Women prisoners are generally responsible for children
- Women prisoners are more likely than male prisoners to have had their children removed by Family and Children's Services
- Women prisoners may be in fear of returning to a situation of domestic violence on their release.

In 2005 a short-term member of the Prisoner Rehabilitation Team at Darwin Correctional Centre conducted preliminary research aimed at developing a modified and shortened pre-release program for female prisoners to address what he described in his report as "needs at a local level, which are long overdue and desperately need addressing". He identified the priorities for such a program to be housing, employment, relationships and money matters, and proposed four one-hour sessions covering each of these issues. The staff member began to contact possible service providers to present the sessions.

I am not aware of what exactly occurred following this report. NTCS advised in its August 2006 submission that "some of the interpretations have not been endorsed at a higher level" however it described the research as a "useful exercise".

In mid 2006 Tricia Ross of Anglicare, who runs the "Money Matters" module of the men's Pre-Release Program, was contacted by prison programs staff to gauge her interest in presenting part of the proposed four-session pre-release program for women at Darwin Correctional Centre. Ms Ross advised our office that she refused to be part of such a program until it was at least comparable to that offered to men. She regarded the content and the proposed four-session format as "watered-down", "incomplete", "inappropriate", "insulting" and "discriminatory". She also pointed out that her organisation was being asked to deliver the session without any payment.

NTCS advised in its August 2006 submission that a number of external providers "were reluctant, or indeed refused, to present sessions to the relatively low numbers of women scheduled for release". DCC Manager Prisoner Services Mr Munro explained in a 15 November 2006 interview that Anglicare, Centacare and Batchelor Institute of Indigenous Tertiary Education had declined, while OARS NT, Territory Housing, Larrakia Nation and the NT AIDS and Hepatitis Council had expressed interest. However he said that rather than developing a Pre-Release Program for women, the prison was now trying to organise for these agencies to run individual sessions for women nearing release.

I am aware that Larrakia Nation ran a one-off session in the women's block at some point during 2006, but I am not aware of whether these other agencies have visited.

Mr Munro also advised our office during the 15 November interview that Mick Purcell of the Prisoner Rehabilitation Team, who coordinates the men's Pre-Release Program, has been conducting an individual overview session for each female prisoner prior to their release which outlined the main areas covered in the Pre-Release Program. Mr Munro explained that this has occurred for some time, due to the recognition that women have not been able to access the Pre-Release Program.

When I asked two long term female prisoners about this, and a third prisoner who was released in November 2006, they stated that they had never heard of such sessions occurring. The recently released prisoner stated that neither she nor three other women released around the same time as her in November had any such sessions.

When prompted by the investigating officer, Superintendent Mr Raby later clarified (in December 2006) that he believed Mick Purcell's sessions concluded in July 2006. Even so, there appears to be a significant difference of perception between the prisoners interviewed (who state that they have never heard of these sessions occurring at any point) and prison management on this matter. I am unable to reconcile the two versions or to discern the extent to which such sessions were actually offered.

Mr Raby also stated that even without access to the Pre-Release Program, female prisoners are still able to request individual visits from the relevant agencies such as Territory Housing.

Prisoner visits are regulated under NTCS Directive 2.15.4. This Directive (at 5.5.1) entitles sentenced prisoners to a maximum of one visit per week. The visit can be for one hour (maximum and medium security) or two hours (minimum security).

Mr Raby acknowledged that a visit from an agency such as Territory Housing is counted as a normal visit such that a prisoner's entitlement to domestic visits is affected. That is, a female prisoner would need to forego a family visit for that week in order to access an agency which a low security male prisoner is able to access via the Pre-Release Program. This is patently unjust and unreasonable, and amounts to women being penalised for their lack of access to a Pre-Release Program.

Recommendation:

37. That until women prisoners at DCC receive access to a comparable Pre-Release Program to that currently offered to men, Directive 2.15.4 be immediately amended in order to avoid the anomaly that a female prisoner's entitlements to visits are affected by a professional visit from an agency providing pre-release information.

I am advised by the Department of Justice that the amendment to Directive 2.15.4 has now been made.

NTCS has advised our office of a number of pre-release services which are available to women prisoners at DCC even without access to the Pre-Release Program. However access to many of the pre-release related services outlined by NTCS above requires prisoner knowledge of their availability, coupled with a personal capacity and assertiveness to specifically request assistance. Outside the prison walls, knowledge is also power. By excluding women prisoners from the Pre-Release Program the prison is also effectively reducing their access to other services on offer.

For example, Ms Ross of Anglicare, who presents the Money Matters module of the men's Pre-Release Program, also provides one-on-one financial counselling services to prisoners. She is only able to offer this service if she receives a specific request from the individual prisoner. Ms Ross regularly visits male prisoners for these sessions, however she has never once received a request from a female prisoner. She believes that the reason is that women are not made aware of her service. This would appear to be the case at least for those female prisoners who were spoken to in the course of this investigation, who said that they had not heard of Ms Ross' service. Most of her male clients, states Ms Ross, are made aware of her service through their or their peers' involvement in the Pre-Release Program.

Reintegration After Prison Project

Mr Somerville, through OARS NT, offers a number of other services to exiting prisoners beyond his involvement in the Pre-Release Program. On request (via a freecall number), Mr Somerville meets prisoners for one-on-one visits to help them plan for their release. After release his organisation can offer a number of services including:

- Pick-up from prison gates
- Accommodation
- Employment
- Training
- Assistance accessing Centrelink etc
- Practical and emotional support
- Referral to other services

OARS NT operates an office, carpentry workshop, art gallery and work for the dole project. This space also functions as something of a drop-in space or support hub whereby recently released prisoners can drop by, use the art area, meet others and access assistance. In addition, OARS NT runs two halfway houses – one in Darwin (housing five people) and one farm on the outskirts of Darwin (housing up to thirty people). The farm is geared towards training leading to employment, involving horticulture courses, market gardening, literacy and numeracy.

It is an extraordinary feat that all this is achieved by OARS NT on a core annual budget of \$50 000 and with one employee (Mr Somerville himself), plus a small number of volunteers and work for the dole participants. OARS South Australia, by way of comparison, has thirty four employees, forty volunteers and a \$4.5 million budget.

The main way in which prisoners learn of the existence of RAPP is through the Pre-Release Program. Mr Somerville regularly makes one-on-one visits to male prisoners seeking individual help. In the women's block he largely relies on a number of better educated longer-term prisoners who have been actively assisting other prisoners to prepare for their release by contacting Mr Somerville and other agencies. These resourceful women will sometimes ring the RAPP freecall line and say "There's a lady here in real trouble. If I get her to ring you will you come and see her?" Mr Somerville has assisted approximately eleven women prisoners over the last three years on these individual requests.

This informal peer support compensates in some way for the gaps in formal service provision, but it is also valuable in and of itself. Mr Somerville argues that this peer

support should be supported and facilitated by the prison. He also states that in his experience it is other prisoners and ex-prisoners who will be the best placed and the most effective supports for a prisoner in their transition to living on the outside:

The system probably wouldn't fancy the idea but I think there has to be a lot of encouragement of the positive peer influence that's happening at the moment, because it's far stronger among the women than the men. Especially at the moment where you have in the women's section the two extremes – well-educated, intelligent and compassionate women in for crimes such as fraud, and at the other end, women in desperate need.

However, Mr Somerville argues that women prisoners also need “specific, gender-appropriate assistance”:

The best thing that could be provided for women is secure, safe accommodation with some external assistance in dealing with issues, which would be the role of a women's worker. And adequate information being provided pre-release as to what is available. This needs to be close to release but it's also got to be fairly regular.

Probation & parole

NTCS states that for those prisoners whose sentence includes some form of supervision following release, pre-release assistance is provided initially by the DCC-based Community Corrections Officer and latterly by the designated Probation and Parole Officer that will be case managing the prisoner on their return to their home region. PP Officers, following section 5.2 of the Community Corrections Policy Manual, must “visit” (telephone contact also constitutes a visit) pre-parolees on a regular schedule leading up to their release to develop a comprehensive case plan including pre and post-release arrangements.¹⁵⁴

A recent NTCS review of operations has found that a number of Community Corrections clients (male and female) had not in fact been visited in accordance with the Manual. NTCS regards this situation as unacceptable and a monitoring system has now been put in place.¹⁵⁵

It is Mr Somerville's view that PP officers offer little in the way of practical support to relevant exiting prisoners.

In any case, in the Territory around three quarters of women prisoners are released without further supervision. Of those who are released to supervision, almost all are released on a supervised bond and only a very small number – around 2% - are released to parole.¹⁵⁶

This is far less than the NSW figure for Aboriginal women, where 66% of those surveyed would be released to parole, and another 14% would possibly be released to parole.¹⁵⁷

¹⁵⁴ August 2006 NTCS submission to Ombudsman at 17

¹⁵⁵ Ibid

¹⁵⁶ Estimates prepared by Peter Warner, NTCS, 5 January 2007

¹⁵⁷ Lawrie, R. (2003), *Speak out speak strong : researching the needs of Aboriginal Women in Custody*, Aboriginal Justice Advisory Council at 73

Post-release housing

While both male and female prisoners are entitled to repatriation, generally a taxi ride or bus fare, this assumes that the exiting prisoner has a home to go to. Many do not.

OARS NT, through its halfway house and farm, offers the only offender-specific housing in the Territory. At present neither site is able to accommodate women. Mr Somerville has plans to accommodate women and children on the farm and has set aside space specifically for this purpose but is yet to secure funds to build the facilities.

The only other services in the Darwin area which can offer short-term housing on release are Salvation Army, St Vincent de Paul and New Start Towards Independence, however the capacity of each of these services is very limited. Mr Somerville states that interstate experience has shown that offender-specific housing is the most effective and provides the most support for recently released prisoners.

Territory Housing has no specific provision for people exiting prison. Prisoners who apply for public housing are placed on the waiting list together with all other applicants. The wait in the Darwin area is approximately two years or around six months for emergency housing.

Low security men have access to the Pre-Release Program module on housing presented by Territory Housing, which women do not. Territory Housing will however attend the prison to conduct an individual interview with male or female prisoners if specifically requested by a prisoner. Unlike with Centrelink, there is no arrangement whereby this interview is organised automatically for prisoners approaching release who require public housing assistance.

Mr Somerville commonly receives referrals from lawyers of remand prisoners wishing to apply for bail. He states that 30% of prisoners on remand are only there as they lack a fixed address. Where the prisoner is male, RAPP is able to provide that address by offering accommodation in the halfway house or farm. RAPP cannot assist female prisoners in this way as it has no accommodation for females. It is not known how many female remandees are denied bail due to their lack of housing.

Mr Somerville explains that female prisoners, especially if they are Indigenous, often face specific housing problems upon release. He believes that approximately 90% of Indigenous women would have been incarcerated for offences relating to violence between spouses. Many women do not wish to return to this same home but may have no other option.

Mr Somerville is currently in negotiation with the Commonwealth Government, Territory Housing and Yilli Rreung Housing Aboriginal Corporation about the possibility of making available forty two-bedroom units (Territory Housing stock) for recently released prisoners and their families and other homeless people. OARS NT intends to provide client management services and facilitate the provision of programs in life skills, budgeting and drug and alcohol rehabilitation for residents.

Recommendation:

38. That the Department of Justice prepare a submission to the NT Government that it actively support and facilitate the development of post-release housing options for women prisoners and their children such as halfway housing, bail hostels and accommodation on the OARS NT farm.

The Department of Justice observed, in relation to this issue, that “*the allocation and prioritisation of additional funding is a matter for Government.*”

Recommendation:

39. That the Department of Justice liaise with Territory Housing regarding changes to Territory Housing policy which would allow prisoners on short sentences to hold onto their housing during their incarceration.

This recommendation is supported by the Department of Justice.

Interstate models of pre & post release support

J block prisoners argue in their September 2006 *Women Behind Bars* report that:

*We believe that the establishment of a Women’s Support Service is vital in the pre and post release phases of our incarceration. This support service needs to encompass programs already highlighted in this paper, plus education about accommodation, income, parole, social opportunities and counselling. These activities would be run with the ultimate hope of being able to establish a ‘halfway house’ that would offer a start for those that don’t have a suitable family and friends infrastructure for a 6-9 month period of time post release.*¹⁵⁸

They suggest that Ruah Women’s Support Service (WA) and Flat Out Inc. (Vic) could provide a model for the establishment of such a service in the Territory.

Three successful interstate models are described below.

Yulawirri Nurai (NSW)

Yulawirri Nurai is an Indigenous Corporation providing support and assistance to Aboriginal people in NSW with their accommodation, employment, educational, legal and training needs before, during and after their release from prison. Yulawirri Nurai’s women’s post release program is funded by NSW Department of Corrective Services Community Grants program. An Aboriginal Women’s Post Release and Case Management Officer, plus other staff, aim to develop relationships with women during their incarceration and support women with their accommodation, health, custody issues, employment and education after release.¹⁵⁹

¹⁵⁸ J block prisoners (2006), *Women Behind Bars: Passage to a Brighter Future*, unpublished paper prepared for the Office of Women’s Policy (NT) at 12

¹⁵⁹ Aboriginal and Torres Strait Islander Social Justice Commissioner (2005), *Social Justice Report 2004*, Human Rights and Equal Opportunity Commission at 31

Ruah Women's Support Service (WA)

The WA Department of Justice contracts eight community-based service providers around the state to provide the "Community Re-entry Coordination Service." One of those providers, Ruah Women's Support Service, works specifically with women exiting Bandyup and Boronia prisons in Perth. Marnja Jarndu Women's Refuge is funded to provide services to exiting women prisoners in the Kimberley Region via a Memorandum of Understanding with the Broome-based re-entry provider, Men's Outreach Service. The Aboriginal and Torres Strait Islander Social Justice Commissioner commends WA's community re-entry service approach as the "most comprehensive response" to prisoners' pre and post release needs around Australia.¹⁶⁰

Ruah Women's Support Service offers three different programs to support women prisoners pre and post release:

- ***Ruah Young Women's Program (YWP)***

This is an intensive pre and post release support program for women under 30 years old. The service offers counselling and support, information or advocacy to assist young women to better deal with:

- Life issues;
- Abuse and trauma;
- Domestic violence;
- Relationships; and
- Drug and alcohol use.

In addition the service offers practical support to assist young women to attend vital appointments such as parole, medical, income support and other needs identified by the women.

- ***Ruah Women in Transitional Housing (WITH)***

The Department of Justice in partnership with the Department of Housing and Works have allocated nine houses in the metropolitan area to women about to be released from prison who have no other housing options. Ruah Women's Support Service offers support to these women within a month prior to their release dates and up to six months post release. Assessments are done in the prison by DoJ.

The service offers practical support to assist women and assists women to better deal with:

- Daily living activities;
- Transport to and from essential appointments in the first few weeks after release;
- Abuse and trauma;
- Domestic violence, relationships and family issues;
- Drug and alcohol use;
- Court support; and/or
- Education and training needs.

- ***Ruah Co-ordinated Re-entry Programs (CCRP)***

The CCRP consists of three programs and all of them are available to women for the six months post release from Bandyup and Boronia Prisons:

¹⁶⁰ Aboriginal and Torres Strait Islander Social Justice Commissioner (2005), *Social Justice Report 2004*, Human Rights and Equal Opportunity Commission at 28

- *Ruah Remand Support* assists women who are newly on remand with their concerns about being in prison and to access services and support.
- *Ruah Re-entry Support Program* provides three month pre-release and six month post-release support with referrals to specialist services, access to education and training, accommodation advice, advocacy and information.
- *Ruah Pre-release Groups* provides six weeks of group meetings within three months of release. The focus of the groups is to assist women to address practical issues, develop skills and coping strategies prior to release.¹⁶¹

Sisters Inside (Queensland)

Sisters Inside Inc, a Brisbane-based community organisation, is funded to provide pre and post-release support programs to women prisoners and releasees. It receives funding from a variety of sources including Queensland Department of Communities, Queensland Health, Department of Corrective Services, Commonwealth Department of Family and Community Services and through the National Drug Strategy (Commonwealth) to run a range of counselling and support programs. Programs which specifically relate to women exiting prison include:

- *Women's Transition Program*: This program works with women about to be released back into the community and supports the women, their children and families through this process. This pilot project aims to reduce deaths and recidivism. It provides support programs for the women, their children and families through this transition period. Family and Community Services (Federal) and Department of Corrective Services fund this program.
- *Release Kit – Indigenous and Non Indigenous Kit*. A resource kit for women leaving prison which provides information about services, including accommodation, transport, finances, custody issues and health. The Release Kits are distributed to all women regularly to ensure each woman has a copy.
- *Personal Support Program (PSP)*: PSP assists women released from prison to achieve their economic and social goals. The program will achieve this through counselling, personal support, guidance, referral and advocacy services.
- *Building On Women's Strength's Program (BOWS)*: This is a program for women who are being released from prison who are primary care givers and their children. BOWS workers provide early intervention services for mothers in prison and their children, focusing on pre and post-release support for reunification, and intensive support for women and their children in rebuilding their lives after the trauma of prison.¹⁶²

Other Sisters Inside services include:

- Sexual assault counselling – including a dedicated indigenous sexual assault counsellor.
- Support for homeless young people, or those at risk of homelessness, whose mother is in prison.

¹⁶¹ See <http://www.ruah.com.au/26women.htm>

¹⁶² Aboriginal and Torres Strait Islander Social Justice Commissioner (2005), *Social Justice Report 2004*, Human Rights and Equal Opportunity Commission at 31-32

- “Work Pathways” opportunities for women to undertake accredited training after they have been released from prison.¹⁶³

Findings

In light of the relevant standards and literature, the interstate models described above, and the Pre-Release program currently available to male prisoners at DCC, it is my view that the level of pre and post release support available to women prisoners in the Territory is unreasonable, unjust and improperly discriminatory within the meaning of s26(1)(b) of the *Ombudsman (Northern Territory) Act*.

Having reviewed the research on best practice in this area, I agree with the complainants that there is a need for a pre and post release service similar to the interstate models above.

Rather than the development of a Pre-Release Program for women along similar lines as the men’s program at DCC, I propose a more individualised case management approach. Due to the small numbers of women prisoners, such an approach is both possible and appropriate. The focus of such an approach would be the development of a one-on-one relationship with women during their incarceration and a continuity of service through to and after release.

In the draft of this report I recommended that the NT Government fund a community-based women’s re-entry service, and I set out various features, based on the evidence given to this investigation.

The department’s response was that, whilst noting the recommendation, “*the allocation and prioritisation of additional funding is a matter for government.*”

The establishment of a women’s re-entry service is strongly supported by the evidence in this investigation. I have therefore altered my recommendation to require action from NTCS to initiate matters.

Recommendations:

40. That NTCS make application to the NT Cabinet or any other appropriate funding source, to fund a community-based women’s re-entry service, including the employment of a full time case management officer based in Darwin, to provide support, information, referral and advocacy for women prisoners. Consideration should be given to employing a female ex-prisoner for this position. The service should be operational within 18 months of the release of this report.

¹⁶³ Sisters Inside Inc. & Aboriginal Family Violence Prevention and Legal Service (2005), *Building on Women’s Strength: Developing community-based service models for women in prison and released from prison in Victoria* at 9

I suggest that the service be hosted by OARS NT, Dawn House or other relevant organisation. Its functions would include:

- a) Working with women during incarceration to develop an individualised post-release plan linking the prisoner to appropriate services, including accommodation.**
- b) Providing a contact point for prisoners, prison officers and other staff for concerns relating to pre and post release issues of women prisoners.**
- c) Arranging for visits to the prison by Territory Housing, the Anglicare Financial Counsellor and other agencies as appropriate to the needs of the particular women approaching release from time to time.**
- d) Linking with families, Elders and communities to which women prisoners will be returning.**
- e) Assisting prisoners to deal with issues relating to children and custody.**
- f) Developing resources such as the Release Kit produced by Sisters Inside.**
- g) Working closely with OARS NT to involve women in the services it provides, such as the carpentry workshop, art workshop and art gallery, and/or developing other services specific to women.**
- h) Working with OARS NT, the NT Government and other relevant organisations to develop suitable housing options for women prisoners post release.**
- i) Advocating for the needs of women prisoners pre and post release.**

41. That in addition to the service referred to in Recommendation 40, women continue to receive full access to the men's Pre-Release Program should they wish to attend.

Recommendation 41 is supported by the Department of Justice.

I am mindful of the fact that both men and women at ASCC do not have access to either a Pre-Release program or the Reintegration After Prison Project. It is also the case that many prisoners at DCC (especially women) will be returning to Central Australian towns and communities on their release. I am therefore of the opinion that an Alice Springs-based support service is also needed, which can assist both men and women. It seems to me that it should be in the nature of the service offered by OARS NT, and assist both male and female prisoners. The exact functions of the position should be developed in consultation with OARS NT, ASCC, Prisoners' Aid, Prisoners' Fellowship, and other stakeholders.

Recommendation:

42. That the Department of justice be responsible for developing an options paper on how to obtain a full time community based re-entry support officer based in Alice Springs, to service both male and female prisoners.

mental health & wellbeing

This section relates to complaints against both the Department of Justice and the Department of Health and Community Services. It addresses the following broad issues of complaint:

- That current management of or support for women prisoners with mental illness, acquired brain injury or cognitive disabilities is inadequate or inappropriate to their needs
- That current practices in relation to women prisoners with mental illness, acquired brain injury or cognitive disabilities unreasonably impact on the wellbeing of remaining prisoners
- That access to counselling for all women prisoners is inadequate

As a result of the concerted efforts of a number of key staff within both departments, there has been a considerable amount of progress made since this investigation began in laying the groundwork for improved mental health and disability services for prisoners. Examples are the better training of prison officers, the better cooperation between departments, new disability staff and the proposal for a dedicated facility. Many areas of concern remain, however.

The terms describing various mental conditions in this section are intended in a layperson's rather than any precise diagnostic sense. While I am aware that there is a significant difference between, for example, intellectual disability and mental illness, the grouping of both in this same section reflects the way these conditions are interpreted by fellow prisoners, as well as the potential overlap in behaviours present.

Prevalence of mental health problems among women prisoners

It is well established that the prevalence of mental health problems among prisoners is significantly higher than in the community. Furthermore, women prisoners are known to have higher rates of mental illness, personality disorders (especially

Borderline Personality Disorder), anxiety disorders, depression and poor self-esteem compared with male prisoners.¹⁶⁴

Northern Territory-specific research regarding both women in prison and mental health issues in prison is sparse. Research specific to women prisoners' mental health in the Territory is rarer still.

The 2003 *Review of the NT Department of Health and Community Services* found that "in the absence of any psychiatric survey, it is impossible to quantify the mental health needs of prisoners in the Northern Territory." (p114)

In the course of this investigation the Department of Health and Community Services (DHCS) was asked about prevalence information relating to mental health and disability in the NT prisoner population. It reported that:

*There is currently no accurate prevalence data available in the Northern Territory...The only information currently available is referral and service activity data collected by DHCS within the Community Care Information System and aggregated statistical information collected by the prison's former primary health care provider over a 10-year period.*¹⁶⁵

Using this data, we can see that there were 240 adult referrals to Forensic Mental Health from the primary health care provider (DCC and ASCC) over the 2004/2005 financial year. 15 of these referrals were for women. 132 of the referrals resulted in ongoing specialist intervention, including 7 women. Of the 132, the main diagnostic categories were "Neurotic, stress-related and somatoform disorders" (25), followed closely by "schizophrenia, schizotypal and delusional disorders" (23) and "mental and behavioural disorders due to psychoactive substance misuse"(22). All of the last category involved Indigenous people.¹⁶⁶

Over the 2004/2005 financial year there were 1918 distinct people received into Territory prisons, 105 of them women.¹⁶⁷ This would indicate that roughly 7% of prisoners (male and female), and 5% of women prisoners received ongoing specialist intervention from Forensic Mental Health over 2004/2005.

In relation to DCC specifically, referral data shows that over the last two years, female prisoners have been referred to FMH at a higher rate than male prisoners. (10-11% of receptions referred to FMH compared to 5-6% for men).¹⁶⁸ By contrast, there were no referrals at all for women at ASCC over 2004/2005.¹⁶⁹

As with all the referral data above, however, the actual numbers of female prisoners are small, and therefore caution should be exercised in construing any patterns.

The NT Government's 2005 submission to the Senate Select Committee on Mental Health noted that:

¹⁶⁴ See for example Sorbello, L., Eccleston, L., Ward, T. & Jones, R. (2002), "Treatment Needs of Female Offenders: A Review", *Australian Psychologist*, vol 37, no. 3, pp198-205 at 200; Byrne, M. & Howells, K. (2002), "The Psychological Needs of Women Prisoners: Implications for Rehabilitation and Management", *Psychiatry, Psychology and Law*, Vol 9, No. 1, pp34-43 at 35

¹⁶⁵ 18 August 2006 DHCS report to the Ombudsman at 4

¹⁶⁶ 18 August 2006 DHCS report to the Ombudsman, Att. B at 15-18

¹⁶⁷ NTCS Statistical Summary 2004/2005 at 19

¹⁶⁸ 18 August 2006 DHCS report to the Ombudsman at 3

¹⁶⁹ 18 August 2006 DHCS report to the Ombudsman, Att. B at 17

Forensic Mental Health Services activity data (December 2004) indicates that up to five prisoners in the Darwin Correctional Centre (DCC) and up to four prisoners in the Alice Springs Correctional Centre (ASCC) have intensive mental health needs. An additional 21 prisoners in DCC and 18 prisoners in ASCC have moderate mental health needs. Twelve prisoners from the DCC prison population have previously required admission to a psychiatric inpatient facility.¹⁷⁰

The average daily number of NT prisoners over 2004-2005 was 770. Based on the above quote, roughly 1% of prisoners at December 2004 were regarded as having intensive mental health needs, and about 5% were regarded as having moderate mental health needs.

In relation to ASCC specifically, only 3-4 prisoners per year are transferred to the Joan Ridley Unit (the NT's secure mental health ward at the Royal Darwin Hospital). This represents 0.3 – 0.4% of the 941 distinct people (male and female) received at ASCC over 2005/2006.¹⁷¹

Better information on prevalence is available from interstate surveys. This office recognises that the Northern Territory prison population differs in many respects from other jurisdictions, nevertheless, this literature is important in establishing the context for the current complaints.

The most comprehensive Australian survey of prisoners' mental health to date is the 2003 *Mental Illness among NSW Prisoners* study by Butler and Allnutt. Key findings of this study included:

- The twelve-month prevalence of 'any psychiatric disorder' identified in the NSW inmate population was 74% (compared to 22% in the general community) (p2)
- Almost half (48%) of reception and over one third (38%) of sentenced inmates had suffered a mental disorder (defined as a psychosis, affective disorder or anxiety disorder) in the previous twelve months. Of these, the most common type was anxiety disorders, of which post-traumatic stress disorder was the most common. (p2-3)
- Female prisoners had a higher prevalence of psychiatric disorder than male prisoners (p2)
- Approximately 90% of female reception prisoners and 79% of female sentenced prisoners had experienced a mental disorder in the twelve months before their incarceration, compared with 78% and 61% respectively for male prisoners. (p14)

The *NSW Select Committee on the Increase in Prisoner Population* reported in 2000 that 73% of women incarcerated in NSW had previously been admitted to psychiatric or mental health units. 23% are on psychiatric medication.¹⁷²

In a 2002 WA Department of Justice survey of women prisoners:

¹⁷⁰ NT Government Submission to the Senate Select Committee on Mental Health (2005) at 22

¹⁷¹ NTCS Annual Statistics 2004/2005 at 21

¹⁷² NSW Select Committee on the Increase in Prisoner Population (2000), *Interim Report: Issues Relating to Women* at 16

- 51% of women prisoners surveyed reported a previous mental health diagnosis prior to imprisonment. The most common mental health issues reported were unipolar depression and anxiety
- The non-Aboriginal women surveyed reported a higher incidence (57%) of diagnosed mental health issues than the Aboriginal women (41%)
- 15% of the women reported that they had been previously admitted to a mental health unit/institution.¹⁷³

A study conducted on the mental health needs of women prisoners in Victoria found that:

- 66% of women in prison had a mental disorder (excluding a drug and alcohol disorder) compared with 16.5% of women in the community. These were mostly anxiety disorders, depressive disorders and personality disorders.¹⁷⁴

In many cases, mental health problems are related to past experiences of abuse:

*[C]lose to 90% of women in Australian prisons are survivors of sexual, physical or emotional abuse in either childhood or adulthood and the majority have suffered multiple forms of abuse. This abuse has been proven to correlate to extremely high rates of drug dependency and mental health problems amongst these women.*¹⁷⁵

My investigating officer asked the NT Director Mental Health Services, Bronwyn Hendry, about the apparent discrepancy between the number of people in NT prisons receiving mental health services (from the activity data reported above) or considered to have intensive mental health needs (from the December 2004 figures quoted in the NT Government Submission to the Senate Select Committee on Mental Health above), and what the interstate research indicates about the very high rates of prevalence of mental disorders among prisoners, especially women.

The Director posited that the rate of mental illness among NT prisoners might be lower than in other jurisdictions:

*In my personal opinion, because of our high Indigenous population, and high rate of incarceration within that group, you would perhaps not expect the same degree of some of the mental disorders that you would find in other places which have predominantly non-Indigenous population. You would not expect to find as many people with personality disorders in the Indigenous community. Just because of the circumstances of their incarceration and the factors which contribute to that which are a whole range of social, economic and educational factors which don't necessarily impact on the prisoner population to the same extent.*¹⁷⁶

The surveys quoted above, however, cover a lot more than personality disorders.

Wendy Hunter, Director Strategic Initiatives and Executive Support, NTCS, suggested that the rate of mental illness among NT prisoners might be lower than in other jurisdictions because:

¹⁷³ WA Department of Justice (2002), *Profile of Women in Prison – Executive Summary* at 17

¹⁷⁴ Tye (2002), quoted in Mental Health Legal Centre (2005), *Submission to the Senate Select Committee on Mental Health* at 24

¹⁷⁵ Johnson, H. (2004) *Drugs and crime : a study of incarcerated female offenders*, Australian Institute of Criminology, Canberra at 27

¹⁷⁶ 14 November 2006 interview

*When you look in terms of criminogenic needs of the Indigenous population, in my personal opinion, it is based on social and environmental factors rather than psychological profile.*¹⁷⁷

I interpret this to mean that people end up in prison in the Territory due more to general social disadvantage than mental health problems.

It is the case, however, that the prevalence of mental disorder in the general non-Aboriginal Territory population is higher than the national average. Accurate prevalence rates for Aboriginal Territorians are not currently available however it is generally accepted that the incidence of mental health problems is higher in Aboriginal communities.¹⁷⁸

Considering that Indigenous people make up 81% of NT adult prisoners,¹⁷⁹ we might deduce that the level of mental health problems within the Territory prison population is likely to be higher than the national average, contrary to Ms Hendy's assertion. On the other hand when we consider that the Territory incarcerates its people at three and a half times the national rate (or two times in the case of women),¹⁸⁰ we could infer that those who *do* get incarcerated are perhaps a less marginal part of our community than they may be in other states.

More precise data on the prevalence of mental health problems among NT prisoners will be available at the completion of a "Health Gains" study currently underway at the behest of DHCS and the Department of Justice. The study is assessing the health needs of NT prisoners, including mental health needs. Wendy Hunter (NTCS) explains that "it is probably the first comprehensive study of prisoner health care needs in the NT and looks at records over the last five years."¹⁸¹

Prevalence of mental disability among women prisoners

In addition to mental illness, the Territory has a high proportion of prisoners with acquired brain injury due to substance misuse (generally alcohol and petrol sniffing) and head injury. These people are overwhelmingly Indigenous.¹⁸² This is in addition to those with intellectual or other cognitive disabilities.

DHCS states that current data on disability among prisoners is "patchy and unreliable."¹⁸³ It suggests, however, that "an examination of non-accepted referrals to mental health services might provide a crude estimate of disability-related presentations."¹⁸⁴ Presumably the relevant figures (male and female) here are the 108 referrals to Forensic Mental Health over 2004/2005 *not* resulting in ongoing specialist intervention, plus the 23 referrals resulting in the "Mental illness excluded" diagnosis. Other reasons, however, for the non-acceptance of referrals include those prisoners presenting solely with substance abuse issues, anger-management issues and family-related issues.¹⁸⁵

¹⁷⁷ Ibid

¹⁷⁸ NT Government Submission to the Senate Select Committee on Mental Health (2005) at 5-6

¹⁷⁹ NT Correctional Services Annual Statistics 2005/2006 at 2

¹⁸⁰ Id at 2-4

¹⁸¹ 14 November interview with Bronwyn Hendry (DHCS) & Wendy Hunter (NTCS)

¹⁸² NT Government Submission to the Senate Select Committee on Mental Health (2005) at 23

¹⁸³ 18 August 2006 DHCS report to the Ombudsman, Att. B at 21

¹⁸⁴ Id at 20

¹⁸⁵ Id at 17-20

Actual prevalence data regarding cognitive disability and brain injury among women prisoners in Australia is difficult to find.

The prevalence of intellectual disability in the general population is estimated at 2-3%.¹⁸⁶ Across both the male & female prisoner population, NSW Department of Corrective Services reports that approximately 13% have an intellectual disability.¹⁸⁷ One study involving women ex-prisoners in NSW found that nearly 30% had an intellectual disability.¹⁸⁸

As with mental health, the current Health Gains study is expected to improve understanding of the level of disability needs in NT prisons.

Over-representation of people with mental illness in prison

The Senate Select Committee on Mental Health's *First Report* (2006) discussed a number of contributing factors for the comparatively high rate of mental illness among Australian prisoners, including:

- General disadvantage, including poverty, homelessness and unemployment
- Deinstitutionalisation
- Substance abuse
- Lack of treatment services
- Lack of sentencing alternatives (including lack of diversionary programs, forensic facilities, and the unsuitability of many mentally ill offenders for community work or home detention)
- Effects of incarceration¹⁸⁹

Effects of incarceration on mental health

The NT Government recognises that prison is “an environment already known to exacerbate symptoms of mental health.”¹⁹⁰

Butler and Allnut explain in their 2003 *Mental Illness among NSW Prisoners* study:

Incarceration results in the loss of many personal freedoms taken for granted in the community, including social supports, inter-personal relationships, employment, social status and social role. These losses are commonly correlated with depressive disorder.

According to the World Health Organisation (2005):

There are factors in many prisons that have negative effects on mental health, including: overcrowding, various forms of violence, enforced solitude or conversely, lack of privacy, lack of meaningful activity, isolation from social networks, insecurity about future

¹⁸⁶ Anti-Discrimination Commission Queensland, *Women in Prison Report* (2006) at 33

¹⁸⁷ NSW Select Committee into the Increase in Prisoner Population – Interim Report (2000) at 16

¹⁸⁸ Anti-Discrimination Commission Queensland, *Women in Prison Report* (2006) at 33

¹⁸⁹ 13.26 – 13.44

¹⁹⁰ NT Government Submission to the Senate Select Committee on Mental Health (2005) at 23

prospects (work, relationships etc) and inadequate health services, especially mental health services, in prisons...

In some countries, people with severe mental disorders are inappropriately locked up in prisons simply because of the lack of mental health services. People with substance abuse disorders or people who, at least in part due to a mental disorder, have committed minor offences are often sent to prison rather than treated for their disorder. These disorders therefore continue to go unnoticed, undiagnosed and untreated.

The Combined Community Legal Centres' Group observes that:

The correctional culture of prisons is generally inimical to the needs of people with a mental illness. In this highly regulated environment, the imposition of inflexible routines and the strict enforcement of minor rules may increase the distress of people with a mental illness. The response of prisons to people who have difficulty adjusting to the prison environment is often to place them in isolation, a punitive approach which neglects the needs of prisoners with a mental illness.¹⁹¹

Furthermore, state Byrne and Howells (2002), "[i]n the absence of adequate psychiatric care, there is evidence that women's psychiatric needs do not dissipate during their incarceration, and may indeed worsen."¹⁹²

Pollack (2005) suggests that incarceration adds an extra dimension for many female prisoners:

Research with incarcerated women consistently illustrates that women in prison have experienced extraordinarily high levels of childhood abuse and violence against women. Common effects of childhood sexual trauma in particular are self-injurious behaviour (such as cutting oneself), depression, and suicidal feelings. Furthermore, the powerlessness experienced as a child is replicated by the power dynamics of the prison environment, thus increasing the potential to reactivate former coping mechanisms...

Behaviours commonly exhibited by many women in prison, such as angry outbursts, substance abuse, self-injury and dissociation may be regarded as normal self-protective measures cultivated in response to traumatic events. These self-protective strategies are often reactivated within the prison when events and/or relationships replicate abusive dynamics or when women have flashbacks or memories of past abuse.¹⁹³

In light of the background of many women who enter prison, Pollack cautions against a tendency to over-pathologise the behaviour of many female prisoners in terms of psychiatric labels.

Structure of forensic mental health & disability services in the NT

Primary health services in each prison are delivered by a private primary health provider contracted by the Department of Justice. The current primary health provider is International SOS, who took over from Corrections Medical Service on 1 July 2006. The primary health provider runs an on-site clinic in business hours at both prisons, and looks after the day-to-day medical needs of prisoners.

¹⁹¹ Submission to the Senate Select Committee on Mental Health (2005) at 17

¹⁹² Byrne, M. & Howells, K. (2002), "The Psychological Needs of Women Prisoners: Implications for Rehabilitation and Management", *Psychiatry, Psychology and Law*, Vol 9, No. 1, pp34-43 at 35

¹⁹³ Pollack, S. (2005), "Taming the Shrew: Regulating Prisoners Through Women-Centred Mental Health Programming", *Critical Criminology*, Volume 13, pp 71-87 at 79, 81

Mental health services in the Territory come under the Department of Health and Community Services and are split into the Top End Mental Health Service and the Central Australian Mental Health Service. Both of these have Forensic Mental Health (FMH) teams. The FMH teams are multidisciplinary and provide psychiatric, psychological and case management services to inmates with diagnosed mental health disorders. They are also involved with clients in other areas of the criminal justice system, for example conducting court assessments and case managing clients on community sentences. The FMH teams are based at the Royal Darwin Hospital and Alice Springs Hospital but visit the prisons regularly. There are currently moves to set up an office at each prison to allow an on-site FMH presence in business hours.

Prisoners requiring admission to a specialist mental health facility are transported to the Joan Ridley Unit (JRU), a locked part of Cowdy Ward at the Royal Darwin Hospital. The NT Government's submission to the Senate Select Committee on Mental Health explains:

*The only secure mental health unit in the NT is the 10 bed Joan Ridley Unit (JRU), located at Royal Darwin Hospital. The primary role of JRU is to cater for the admission of acutely ill patients from the prison system and from the general population. As this is an acute facility, admissions are usually brief and patients are discharged from JRU as soon as their symptoms have stabilised sufficiently for them to be managed elsewhere.... JRU does not have the capacity to provide extended care or rehabilitation services to prisoners.*¹⁹⁴

As Alice Springs Hospital has no secure ward, ASCC prisoners requiring specialist admission must also be transported to Darwin.

No long term forensic mental health facility exists in the Territory. Therefore, persons found by the court to be unfit to plead or not guilty of a charge due to mental impairment are commonly subject to a custodial supervision order at a correctional facility. Perhaps as a consequence, such a defence is rarely pleaded and the number of individuals held under such an order is very small (three male prisoners as at August 2006¹⁹⁵).

The much greater number of people with mental health problems in prison are there under normal criminal justice processes (either on remand or having been found guilty of an offence warranting imprisonment). Again, due to the lack of any long term facility, there is no opportunity for those prisoners to be transferred out of prison on a long term basis if they require specialist mental health care.

Specialist disability services for prisoners are the responsibility of the Aged and Disability Teams of the Department of Health and Community Services. These teams have previously had very little involvement with prisoners but this is now changing. This is explained further below.

There are no specialised units for the mentally ill, those with disabilities, or any other special needs groups within NT prisons. Prisoners with mental illness, acquired brain injury or intellectual disability are generally housed either in the medium or maximum security areas of the prisons.¹⁹⁶

¹⁹⁴ NT Government Submission to the Senate Select Committee on Mental Health (2005) at 23

¹⁹⁵ 28 August 2006 NTCS submission to the Ombudsman at 48

¹⁹⁶ NT Government Submission to the Senate Select Committee on Mental Health (2005) at 23

Pathway for an individual prisoner

Peter Mals, psychologist and Team Leader of Top End FMH, explained in a 15 June 2006 interview the general processes of FMH and how they would relate to an individual prisoner at DCC.

Prisoners are primarily referred to FMH at initial intake into the prison. One or two days after admission the prisoner will receive a medical assessment by the prison medical service. The medical service will notify FMH if there is any indication of mental health issues by way of a referral faxed to FMH. The prison medical service will also give a rating as to urgency at this time, for example if the person may be at risk of self harm.

If the prisoner is assessed as at risk or otherwise urgent, FMH will try to come in to see the prisoner within 24 hours. The aim is to see the prisoner by the next working day. Generally this occurs, however if the referral is on a Friday, FMH may not come until the Monday.

If the prison medical service does not assess as urgent, FMH will generally see the prisoner after a week.

All members of the Top End FMH team are designated mental health or medical practitioners under the *Mental Health and Related Services Act* and able to conduct assessments under the Act. This assessment involves a decision as to whether the person has a mental health problem or not, and if so, whether it is acute enough to warrant admission at a psychiatric facility. The relevant tests are set out under the *Mental Health and Related Services Act*.

If, on initial assessment, FMH decided that the prisoner did not meet the criteria for mental health services, then he/she would often be referred on to the DCC Prisoner Rehabilitation Team who can provide some welfare/crisis support for prisoners in addition to delivering rehabilitation programs.

If for example FMH assessed the prisoner as having Acquired Brain Injury rather than a mental illness, FMH will commonly make a referral to Aged & Disability Services. Mr Mals explains that "Aged and Disability have only just recently become involved with prisoners. In the past there hasn't been a lot of input from Aged & Disability, but in the last two or three years they've been a bit more receptive."

If the prisoner is assessed as having a mental health issue but one which may be managed within the prison, the person will stay in prison but remains an FMH client. FMH will then make recommendations to the prison medical service regarding the prisoner's medication and possibly also to the prison regarding limited aspects of the prisoner's management. It is up to the prison medical service to actually administer the medication.

FMH will continue to visit their clients at DCC to monitor their health and re-assess their medication. Depending on the level of acuity, these visits will generally occur at intervals of between a week and a month. FMH will keep its own client file containing progress notes on the prisoner, and will also input this information into the medical service's individual prisoner file.

Alternatively, FMH may determine at the initial assessment (or at any other point) that the mental health problem is sufficiently acute as to warrant removal to a psychiatric

facility. At the facility a second, more thorough, assessment will take place before the person is formally admitted.

The decision to transfer a prisoner to a psychiatric facility occurs by way of recommendation to the Director NTCS. The Director has the final decision.

Whenever a prisoner is admitted a number of prison officers must accompany the prisoner and remain with them in the ward for the entire admission. The number of officers required depends both on the state of the prisoner being admitted and on the number of prisoners in JRU at the time. Usually a prisoner comes with two prison officers, but if there are two prisoners at JRU then only three officers might be required rather than two per prisoner.

JRU's patients are not exclusively prisoners but also include other patients whose accommodation in a locked ward is deemed appropriate. Mr Mals explains that at any one time usually around one to two of the eight beds will be occupied by prisoners, both male and female. Admission times are short, he explains:

JRU is really only set up for short term treatment for the acutely unwell. They are brought in for a short admission until their symptoms stabilise and then they go back to the prison because there's a high demand for beds. Usually two weeks or three weeks would be tops... If there are clear clinical grounds for keeping a person in JRU longer then they would stay but usually it doesn't take that long to get their symptoms under control. When I say 'under control', I don't mean that the symptoms are completely gone but they have been brought down to a level where the person can be managed outside the hospital.

Mental health & disability services

Complaint

Complainants state that there are regularly around two to four women in J block with severe mental illness or disability. Amanda describes the following behaviours:

They have the mental capacity of a 5 or 6 year old. Some don't speak well, they might have deafness as well. They destroy rooms, attack people. They have hallucinations, believing that people are trying to kill them or poison their food, they attack officers, try to burn their rooms down, they strip off naked and run around the place, they have to be medicated to control them. One minute they are talking to you and the next minute they're talking to someone next to you who doesn't exist.

Kim stated in July 2005 that at that time only six of the fourteen female prisoners held in the maximum security area, she believed, were of "sound mind", the others suffering from "a variety of mental deficiencies including schizophrenia, brain damage and violent and aggressive behaviour".

The complainants believe that current management of or support for women prisoners with mental illness, acquired brain injury or cognitive disabilities, whether mild or serious, is inadequate or inappropriate to their needs.

They claim that these women receive little or no treatment or specialised support in Darwin Correctional Centre beyond medication. They state that psychiatric specialists rarely enter the block. If they are called in, they would generally not arrive until the following day after an incident and would usually spend no more than fifteen minutes with the prisoner. Prison or health services do little to meaningfully identify, assess and address a person's needs. While prisoners are commonly transferred to the specialist Joan Ridley Unit at Royal Darwin Hospital (JRU), they generally only remain there for a maximum of fourteen days, whereupon the prisoner returns to J block.

Amanda claims that "personality and function blocking drugs are being used to control, subdue and restrain mentally impaired female prisoners (liquid lobotomy)," in addition to an over-use of "severe behaviour management regimes." There is "inappropriate language, treatment and restraint against mentally impaired individuals" and a frequent use of "relocation to B and C blocks [in the men's complex] for misdemeanour offences."¹⁹⁷

One complainant makes the following comment:

I don't think [these women] should be here on the block at all. It's not fair on other women and it's not fair on them because they aren't getting their needs met. If they can't house them somewhere else, then they need to be looking at their needs and addressing them, and having people come in to help them, and having officers properly trained.

The complainants further allege that prisoners with serious mental illness or disability have little or no access to programs and education due to their frequent solitary confinement and the failure to develop programs attuned to their needs. As a result these women have no productive way of alleviating their boredom, a factor which can exacerbate their challenging behaviours.

Gina stated in an 8 December 2006 interview that during her eight month sentence in 2006, there were two women in J block with profound mental health issues – C and R. Both are Aboriginal. Gina believed that the prison had handled these people "atrociously". She blames the wider system which puts these women in prison rather than the prison officers themselves, who, she believes, were doing the best they could within the situation, the facilities, and the training available to them, and in light of their duty of care to other women & officers (which necessitated R being locked up when she became violent).

She states that for most of her eight months she did not see any mental health treatment happening for these women. But in the last month she noted a new concerted program whereby FMH and prison welfare staff would visit them daily and an extra officer would be stationed inside the maximum/medium security area at all times (ie on the inside of the fence). This meant that R and C did not need to be always locked into the cell 4 cage. She commented that the program appeared to be working and both prisoners were doing a lot better.

Gina believes that the key to improving treatment for these people, besides making a special facility available, was better training.

Specific allegations regarding solitary confinement are dealt with later in this chapter.

¹⁹⁷ 21 February 2007 letter to Ombudsman's Office

IMPACT ON OTHER PRISONERS' WELLBEING

Complainants report that their own lives are significantly affected by living alongside prisoners with significant mental illness, acquired brain injury or cognitive disabilities in the close confines of J block, especially in the current context of high prisoner numbers. They say that these effects include:

- **Stress, depression and friction between prisoners**
- **Major disruption of sleep patterns**

The women with mental illness or disability, state the complainants, will often scream or destroy property (pulling the bunk around, smashing the TV) throughout the night, setting off each other in a chain reaction, and preventing the whole block from sleep. Prisoners sometimes worry through the night about whether one of these women might not be alive the next day. Amanda claims that around July 2005 almost all J block prisoners were on valium just to help them sleep. (As noted earlier in this report, J block is unstaffed each night from 3.30pm through to 8.30am the next morning.)
- **Reduced cell space**

Due to the necessity for women suffering from mental illness and brain disorders to have their own cell, this means that other prisoners are likely to be required to share cells.
- **Fear of assault**

Prisoners in the remand/maximum/medium security ("main") area often feel that their safety is under threat, for example when using the prisoner telephone in the courtyard of the main section.

The complainants report numerous incidents including attacks on inmates and prison officers as well as frequent threats. Amanda claims that prisoners have been followed into their rooms, dragged out by their hair and punched for no reason. She asserts that one prisoner, R, attacked officers twice within three weeks during her stay in J block around April 2005. Another officer was attacked around 25 February 2006.

In addition to their concern for the welfare of officers, the complainants explain that the extra stress on officers puts these officers "on edge" in their dealings with prisoners generally.

As a result of those attacks on officers, Amanda states that a new security fence was installed across the front of the remand/maximum/medium security courtyard, separating it from the rest of the block. She claims that the effect of this fence is that prisoners are put at greater risk of assault. This is because when prisoners such as R are having an "episode", a number of prisoners are locked in this small area with her. In the event that prison officers need to enter the area to protect other prisoners, she states that there may be a delay as the gate is difficult to open and often "sticks". In addition, she states, only three out of four prison officers on the block (the fourth officer is an extra position due to R's presence) carry keys which can open the gate.

- **Disruption to programs and education**

One complainant describes the period in 2005 when for three to four months there were three women with significant mental illness or cognitive disabilities in J block. During this period, she states, every Thursday art session was a

“disaster”. The three women would walk in and out of the room causing trouble and interfering with or stealing other prisoners’ art equipment. The art teacher often needed to call on prison officers to intervene.

Another complainant claims that visitors from external support agencies are often turned away at the gate or asked to leave when mentally ill prisoners are in heightened states. For example on one day at the beginning of March 2006, a number of women from the church had come into J block. When prisoner R had an episode, the church women had to be escorted out the back door and leave the prison. The regular Buddhist visitor was not permitted to enter the block that day because staff feared for visitors’ safety.

In addition to the complainant’s allegations, I note the following comments by the Prison Officers Association, reported in the ABC News (Online) on 3 March 2006:

NT JAILS NOT EQUIPPED TO DEAL WITH MENTALLY ILL: OFFICERS

Prison officers say an increasing number of mentally ill people are ending up in Northern Territory jails which are not equipped to deal with them.

Peter McConnell from the Prison Officers Association says petrol sniffing and drug abuse in communities are resulting in more people with brain damage being sent to jail.

He says officers often have no option but to put mentally ill prisoners in isolation cells.

"Because of some of their behaviour they can't interact with other prisoners, or they're irrational, or violent sometimes and unfortunately they do end up being put in loss of privileges cells or for people who are at risk cells," he said. "These aren't really appropriate for people who need actual care."

Mr McConnell says officers are not given the training to cope with them. "Absolutely none whatsoever, there just isn't any," he said.

The Justice Department says a training program is being drawn up and will be rolled out over the next six to nine months. It says about 2 per cent of the Territory's prison population suffers from a mental illness, but Mr McConnell puts the figure at between 10 and 20 per cent.

"There's no facilities, no places for people to go every day where they can be looked after appropriately every day," he said. "We must remember that just because somebody with a mental illness is seen by a professional person maybe one hour a week doesn't mean they're getting proper care. All they're doing is maybe keeping a lid on the behaviour."

DHCS / NTCS response

Mental health and disability needs of prisoners have been the subject of high level engagement between the Department of Justice and Department of Health and Community Services in recent years with a view to developing more cooperation and better in-reach services to prisons. Additional recurrent funding has been made available and some specific new initiatives are either in place or in the pipeline.

The principal driver has been the Mental Health and Disability In-Reach Services Steering Committee formed in September 2005 by representatives of both departments.

In addition to this committee, a short-term (six month) Mental Health and Disability In-Reach Services Advisory Group was established in December 2005 comprising custodial officers and prison programs staff to provide operational advice about service needs. Also in September 2005, the departments formed a second steering committee looking into general primary health care services in prisons (the Corrections Health Steering Committee).

The new recurrent funding for DHCS for in-reach services began in July 2005 and is primarily for additional positions, both disability support positions and for mental health clinical and Aboriginal mental health workers. There has also been money allocated to education of custodial officers and secondary non-direct service delivery areas which will improve the overall services within the prison.¹⁹⁸

RECEPTION HEALTH ASSESSMENT

The prison medical service is required to undertake a health assessment of all new prisoners within 24 hours of reception. If the initial assessment has been conducted by a Registered Nurse, the Medical Practitioner must follow this up with his/her own full examination within 72 hours of reception. The initial health assessment involves identifying, assessing and managing urgent physical health needs and documenting relevant medical background. In relation to mental health, the initial reception screening is limited to an assessment for 'at risk of self harm/suicide.' The prisoner medical service can, however, refer prisoners to FMH at this stage if previous medical records of a prisoner (if they have been imprisoned in the NT before) show a history of mental health or disability needs. The 28 August 2006 NTCS submission to the Ombudsman states that:

*The Steering Committee has recognised the need for developing reception screening tools for identifying and assessing people with mental illness and disabilities as a gap in the current reception screening process.*¹⁹⁹

At a 14 November interview with Bronwyn Hendry, Director Mental Health Services (DHCS) and Wendy Hunter, Director Strategic Initiatives and Executive Support (NTCS), both explained that the Steering Committee was waiting on the outcome of two relevant interstate trials (related to health screening for Indigenous people) before working on developing a suitable mental health/disability screening tool for NT prisoners.

Ms Hunter stated that within 12 months (ie by November 2007), they would be "well on the way" towards implementing a screening tool in both prisons. To begin with, implementation will be on a trial basis.

The investigating officer asked whether the current primary health contractors in the prisons have any specialised knowledge in mental health, intellectual disability or acquired brain injury. Ms Hunter explained that it is not a requirement of the contract that they do so, although it is assumed that General Practitioners and nursing staff have the level of knowledge to address the primary health care component of mental health and disability.

¹⁹⁸ 14 November interview with Bronwyn Hendry (DHCS) & Wendy Hunter (NTCS)

¹⁹⁹ At 32

QUALITY OF MENTAL HEALTH CARE

DHCS provided an outline of FMH services in its 18 August 2006 submission to the Ombudsman:

Services delivered by mental health and disability services are not structured in a gender specific way and a similar range of services is available irrespective of gender. Nevertheless, the Top End Mental Health Service (TEMHS) and Central Australian Mental Health Service (CAMHS) Forensic Teams are multidisciplinary teams comprising both male and female clinical staff and are sensitive to gender difference. Every effort is made to provide a gender appropriate response.

In relation to service-provision more generally the TEMHS and CAMHS are specialist services and as such the target population are the seriously mentally ill which include people with psychotic disorders, serious eating disorders, affective disorders and severe neuroses, with associated significant impairment in social and occupational functioning or at risk because of a crisis in their life.

The service provides access for people with co-morbid conditions (e.g. substance misuse, intellectual disability, acquired brain injury or physical illness) who require urgent, periodic or ongoing specialist mental health assessment/services. The service will also work with other agencies to ensure the person's mental health issues are addressed...

Forensic mental health teams provide a consultation and liaison service to primary health care providers at the Darwin and Alice Springs correctional centres. These teams also provide some adjunctive services in the prison setting, for example supportive counselling, psycho education; and Cognitive Behaviour Therapy where indicated. The forensic team in each region is responsible for the quality and timeliness of its assessments and treatment recommendations, however the primary health care providers in the correctional facilities contracted by the DoJ are ultimately responsible for the medical care of prisoners, including the implementation of those recommendations...

For people found not guilty due to mental impairment and subject to custodial supervisions orders, the Forensic Teams provide input into programs directed at their long-term rehabilitation and integration into the community...

It should also be noted that many individuals within the prison with mental health issues are managed by the primary health service and do not require referral for specialist intervention.²⁰⁰

Ms Hendry states that "The average length of stay in JRU is 7 days, over the whole population – it is only for acute stabilisation."

The investigating officer asked to what extent genuine treatment can occur once the person is then returned to the prison environment. Ms Hendry explained that:

There is capacity to give non pharmacological treatment, but it is limited. It has to be prioritised but it does happen... Not everyone gets access to CBT [Cognitive Behavioural Therapy] or whatever other psychological therapies might be appropriate but unfortunately not everyone in the community does either.

Ms Hunter added that "to the extent that it can be in out of cell hours and environmental limitations, it [prison] is not an ideal therapeutic environment."

FMH staff have commented to this office that they will rarely attempt to make recommendations to the prison about a prisoner's care or management beyond

²⁰⁰ 18 August 2006 DHCS submission to Ombudsman at 2-3

medication, as they have very little faith that these recommendations would be followed in any coordinated way.

DCC Superintendent Raby was asked to respond to this allegation in his 15 November interview. He acknowledged that it may have been a problem in the past but said that the relationship between the prison and FMH has improved and greater cooperation is now occurring in the case management of individual prisoners. He referred to prisoner C's comprehensive management plan developed jointly between the prison and FMH on 6 November as an example.

DISABILITY SERVICES

DHCS stated at 18 August 2006 that:

Currently, the disability team does not have any [male or female] prisoners as clients of the service nor does it provide direct client support to prisoners with intellectual disability or acquired brain injury within the prison system.

The disability team has in the past assisted in the development of post release programs for prisoners in this category. The creation of the new disability in reach support officer positions will enable referrals to be made to specialists for prisoners with cognitive disability, acquired brain injury or behavioural disturbance. This will include female prisoners.²⁰¹

The new disability support worker positions consist of one full-time officer for each prison. The new DCC worker started at the beginning of 2007, while the ASCC position had yet to be filled as at 24 January 2007. Michael Woodhouse, Acting Assistant Secretary of Community Services (DHCS), describes the role of the new workers as follows:

The new in reach disability support officers are employed to provide consultation and advice on disability for those prisoners with the most serious disability. While there is no restriction on the disability types that can be seen by these officers, it is expected that most clients of this service will have a severe or profound disability, most either intellectual disability or as result of an acquired brain injury. We would expect that many clients will have challenging behaviours and that we should be able to develop strategies for the better management of these behaviours in conjunction with corrections officers and mental health colleagues.

There are few accurate estimates of the number of people with disabilities in prison. We would expect that there is a relatively high proportion and that there would be a wide range of severity among this group. This service will work primarily with those people with the greatest disability especially those with challenging behaviours.

Access to this service may occur through Corrections Officers, health providers in the prison system or referrals from outside the Corrections system such as in the event of a client known to the disability service system being imprisoned. There will be an attempt to link prisoner to service that may require after release from prison...

They are full time positions focused on this work and will spend their direct client contact hours in the prisons.²⁰²

Mr Woodhouse stated that there were no specific service plans or policies in place for female prisoners.

²⁰¹ 18 August 2006 DHCS submission to Ombudsman at 8

²⁰² 24 January 2007 email to Investigating Officer Renee lees

Relevant standards

GENERAL

- ***International Convention on Civil and Political Rights***

Article 10: All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

- ***ICCPR Article 10 General Comment No 21, UN Human Rights Committee, 44th Session (1992)***

3. Persons deprived of their liberty must not be “subjected to any hardship or constraint other than that resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed under the same conditions as that for free persons. Persons deprived of their liberty enjoy all the rights set forth in the Covenant, subject to the restrictions that are unavoidable in a closed environment.

- ***Standard Guidelines for Corrections in Australia***

1.27 Prison should provide for the personal safety of staff and prisoners by ensuring a prison environment that protects the physical, psychological and emotional well-being of individuals.

1.40 Prisoners should be appropriately managed according to their individual needs in regard to: health, any intellectual disability; cultural or linguistic issues.

THE PROVISION OF HEALTH CARE

International instruments

- ***Basic Principles for the Treatment of Prisoners***

9. Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation.

- ***Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment***

24. A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge.

- ***Principles of Medical Ethics Relevant to the Role of Health Personnel, particularly Physicians, in the Protection of Prisoners and Detainees against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment***

1. Health personnel, particularly physicians, charged with the medical care of prisoners and detainees have a duty to provide them with protection of their physical and mental health and treatment of disease of the same quality and standard as is afforded to those who are not imprisoned or detained.

- **Standard Minimum Rules for the Treatment of Prisoners**

22. (1) At every institution there shall be available the services of at least one qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.

(2) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.

62. The medical services of the institution shall seek to detect and shall treat any physical or mental illnesses or defects which may hamper a prisoner's rehabilitation. All necessary medical, surgical and psychiatric services shall be provided to that end.

- **The CPT Standards**, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment, 3rd General Report [CPT/Inf (93) 12]

41. In comparison with the general population, there is a high incidence of psychiatric symptoms among prisoners. Consequently, a doctor qualified in psychiatry should be attached to the health care service of each prison, and some of the nurses employed there should have had training in this field.

The provision of medical and nursing staff, as well as the layout of prisons, should be such as to enable regular pharmacological, psychotherapeutic and occupational therapy programmes to be carried out.

42. The CPT wishes to stress the role to be played by prison management in the early detection of prisoners suffering from a psychiatric ailment (eg. depression, reactive state, etc.), with a view to enabling appropriate adjustments to be made to their environment. This activity can be encouraged by the provision of appropriate health training for certain members of the custodial staff.

44. A mentally disturbed and violent patient should be treated through close supervision and nursing support, combined, if considered appropriate, with sedatives. Resort to instruments of physical restraint shall only very rarely be justified and must always be either expressly ordered by a medical doctor or immediately brought to the attention of such a doctor with a view to seeking his approval. Instruments of physical restraint should be removed at the earliest possible opportunity. They should never be applied, or their application prolonged, as a punishment.

In the event of resort being had to instruments of physical restraint, an entry should be made in both the patient's file and an appropriate register, with an indication of the times at which the measure began and ended, as well as of the circumstances of the case and the reasons for resorting to such means...

III) PRISONERS WITH PERSONALITY DISORDERS

68. Among the patients of a prison health care service there is always a certain proportion of unbalanced, marginal individuals who have a history of family traumas, long-standing drug addiction, conflicts with authority or other social misfortunes. They may be violent, suicidal or characterised by unacceptable sexual behaviour, and are for most of the time incapable of controlling or caring for themselves.

69. The needs of these prisoners are not truly medical, but the prison doctor can promote the development of socio-therapeutic programmes for them, in prison units which are organised along community lines and carefully supervised.

Such units can reduce the prisoners' humiliation, self-contempt and hatred, give them a sense of responsibility and prepare them for reintegration. Another direct advantage of programmes of this type is that they involve the active participation and commitment of the prison staff.

National standards

- ***Standard Guidelines for Corrections in Australia***

Mental health services

2.20 Prisoners should have access to a professional counselling service provided by appropriately qualified persons and available at least during normal working days.

2.26 Every prisoner is to have access to evidence-based health services provided by a competent, registered health professional who will provide a standard of health services comparable to the general community. Notwithstanding the limitations of the local-community health service, prisoners are to have 24 hour access to health services. This service may be on an on-call or stand-by basis.

2.27 Every prisoner is to have access to the services of specialist medical practitioners as well as psychiatric, dental, optical and radiological diagnostic services. Referral to such services should take account of community standards of health care.

2.36 Prisoners who are suffering from a severe psychiatric illness should be managed by an appropriate tertiary or specialist health care facility.

2.37 Prisoners who are suffering from mental illness or an intellectual disability should be provided with appropriate management and support services.

- ***Royal Commission into Aboriginal Deaths in Custody 1991***

Recommendation 150: That the health care available to persons in correctional institutions should be of an equivalent standard to that available in the general public. Services provided to inmates of correctional institutions should include medical, dental, mental health, drug and alcohol services provided either within the correctional institution or made available by ready access to community facilities and services. Health services provided within correctional institutions should be adequately resourced and be staffed by appropriately qualified and competent personnel. Such services should be both accessible and appropriate to Aboriginal prisoners. Correctional institutions should provide 24 hour a day access to medical practitioners and nursing staff who are either available on the premises, or on call.

- ***National Statement of Principles for Forensic Mental Health 2002***

The relevant target group for the Principles is defined as including not only those found unfit to plead or not guilty by reason of mental impairment, but also “prisoners with mental illness requiring secure inpatient hospital treatment” and “prisoners with mental illness requiring specialist mental health assessment and/or treatment in prison.” (p4)

Principle 1: Equivalence to the non-offender

Prisoners and detainees have the same rights to availability, access and quality of mental health care as the general population. Where health facilities are provided within a correctional facility, there should be appropriate equipment and trained staff, or arrangements made for such services to be available, at a standard comparable to regional and community standards.

Services should ensure equality in service delivery regardless of an individual's age, gender, culture, sexual orientation, socio-economic status, religious beliefs, previous conditions, forensic status, and physical or other disability. This Principle of Equivalence applies to both primary and specialist mental health care.

Principle 3: Responsibilities – Health/justice systems

...Custodial practices should promote positive mental health and minimise negative impacts on the mental health of those in custody. Correctional services are responsible for providing an environment conducive to mental health within the constraints of needing to maintain a secure and safe environment. Mentally ill persons in custody need to be involved, to the full extent of their capabilities and without discrimination, in the educational, occupational and rehabilitation activities available within prison...

Principle 4: Access and Early Intervention

... All persons entering a custodial environment should be assessed with regard to their mental health needs and referral arranged accordingly.

... All custodial facilities should have capacity to assess and treat mental illness within the primary care setting, and to refer to specialist mental health services, both outpatient within the custodial setting and inpatient in a secure mental health hospital, as clinically indicated. The range of treatments and interventions available and the qualifications and experience of mental health staff, should be at least congruent with that available in the general community. There should be access to acute interventions and to psychosocial rehabilitation and pre-release planning, in order to minimise the acute effects of illness and longer-term disability.

It is recognised that persons within the criminal justice system and juvenile justice system have a higher prevalence of mental illness and mental disorder than the general population. Strategies aimed at early intervention and prevention through education, development of social skills and improved coping mechanisms should be available to those within the justice system. This range of services should be available to all those in custody including minority groups such as women and juveniles. Prisoners from Aboriginal and Torres Strait Islander backgrounds, or other culturally and linguistically diverse backgrounds, should have access to appropriate cultural support, including access to accredited interpreters and the translation of written documents. Factors in the environment that are known to be detrimental to mental health and wellbeing such as isolation, uncertainty, and inconsistency in management should be minimised wherever possible...

Principle 6: Integration and Linkages

... Similar linkages are required between mental health and general health care services, and social services such as housing and income support, which are necessary to maximise the positive clinical outcomes for forensic mental health clients. Effective inter-agency pre-release planning is vital to successful reintegration into the community following release.

Principle 7: Ethical Issues

The right of all clients to respect for individual human worth, dignity and privacy is not waived by any circumstance, regardless of an individual's history of offending or their status as a forensic mental health client or a prisoner. The capacity or right to consent is not forfeited as a result of a history of offending or status as a prisoner....

Principle 9: Individualised Care

...Individualised care implies facilitated access, comprehensive assessment, unimpeded treatment, regular review, and recognition of the humanity of the person - including the involvement of significant others in treatment, support and care.

Historically there are population groups for whom it has been difficult to provide such individualised care within the forensic mental health system, and for whom special efforts are needed to ensure such care. These groups include: Aboriginal and Torres Strait Islander peoples; culturally and linguistically diverse populations; children and adolescents; those with intellectual impairment; and women.

- **AMA Position Statement – Health Care of Prisoners and Detainees**

2.1 Every correctional facility health care service in Australian states and territories should be a part of the general health system and independent of Departments of Corrective Services or their equivalent.

2.3 Prisoners and detainees should retain their entitlement to the Medicare system (including retaining their Medicare card). In the process of privatisation and in the ongoing management of privatised prison health care services, economic decisions should not take precedence over the quality of health care. It is the Government's responsibility to establish and monitor publicly accountable standards.

13.1 Medical practitioners with suitable qualifications and experience in psychiatry should be represented at the policy-making and decision-making level in the administrative structures of all health authorities which administer correctional facility health care services.

13.2 Prisoners and detainees should have ready access to psychiatric services within the corrective facility medical service.

13.3 Medical practitioners with relevant experience in psychiatry should be involved in the day-to-day management of prisoners and detainees suffering from psychiatric disorders.

13.4 Prisoners and detainees with a severe psychiatric illness should be moved to an appropriate psychiatric facility.

15.1 Intellectually and physically disabled persons should be provided with relevant services and facilities.

Relevant literature

In light of the above information about the impacts of incarceration on mental health, Coyle (2002) in *A Human Rights Approach to Prison Management: Handbook for Prison Staff* summarises the international obligation on correctional services as follows:

By its nature the condition of imprisonment can have a damaging effect on both the physical and mental wellbeing of prisoners. Prison administrations have a responsibility, therefore, not simply to provide medical care but also to establish conditions which promote the well-being of both prisoners and prison staff. Prisoners should not leave prison in worse condition than when they entered. This applies to all aspects of prison life, but especially to healthcare...

The conditions of imprisonment will have a serious impact on the mental well-being of prisoners. Prison administrations should seek to reduce the extent of that impact and should also establish procedures to monitor its effect on individual prisoners. Steps should be taken to identify those prisoners who might be at risk of self-harm or suicide. Staff should be properly trained in recognising the indicators of potential self-harm. Where prisoners are diagnosed as mentally ill, they should not be held in prison but should be transferred to a suitably equipped psychiatric facility...

*The treatment provided as a result of consultation and diagnosis should be that which is in the best interests of the individual prisoner. Decisions should not be based on the relative cost or convenience to the prison administration.*²⁰³

²⁰³ Coyle, A (2002), *A Human Rights Approach to Prison Management: Handbook for Prison Staff*, International Centre for Prison Studies, London at 49, 55, 56

A government's lack of resources is no excuse for a failure to meet base-level standards for prisons. In the context of Article 10(1) of the ICCPR, the UN Human Rights Committee has stated:

*Treating all persons deprived of their liberty with humanity and with respect for their dignity is a fundamental and universally applicable rule. Consequently, the application of this rule, as a minimum, cannot be dependent on the material resources available in the State party.*²⁰⁴

WHAT TYPES OF SERVICES SHOULD BE PROVIDED?

The Mental Health Coordinating Council states that:

*Prison mental health programs should extend beyond assessment on admission, ambulatory and inpatient services, brief rehabilitation and other ancillary services, to provide a continuum of care from arrest, appropriate referral to prison, psychiatric or community care, rehabilitation, release planning, and ongoing support on release through community forensic services.*²⁰⁵

Ogloff (2002) declares that the minimum standards of mental health care in prisons must include the following:

- *A systematic program for screening and evaluating inmates to identify those who require treatment.*
- *Treatment must entail more than segregation and close supervision of the inmate/patients.*
- *Treatment requires participation by trained mental health professionals, who must be employed/contracted in sufficient numbers, to identify and treat in an individualised manner those inmates suffering from serious mental disorders.*
- *Accurate, complete, and confidential records of the mental health treatment process must be maintained.*
- *Information concerning the care and management of mentally ill inmates must be made available to corrections staff on a need-to-know basis.*
- *Prescription and administration of psychiatric medications in dangerous amounts, by dangerous methods, or without appropriate supervision and periodic evaluations, is an unacceptable method of treatment.*
- *Whenever necessary, psychiatric care must be provided in a psychiatric unit or hospital.*
- *A basic program for the identification, treatment, and supervision of inmates with suicidal tendencies is a necessary component of any mental health program.*
- *Attention must be paid to planning for and providing mentally ill inmates with appropriate aftercare community-based treatment.*²⁰⁶

²⁰⁴ Human Rights Committee, General Comment No.21: Replaces General Comment No. 9 concerning Article 10: 10/04/92, CCPR General Comment No.21 at [9]

²⁰⁵ Henderson, S. (2003), *Mental Illness and the Criminal Justice System*, Mental Health Coordinating Council

²⁰⁶ Ogloff, J. (2002) "Identifying and Accommodating the Needs of Mentally Ill People in Gaols and Prisons", *Psychiatry, Psychology and Law*, Vol 9, No. 1 at 9-10

Mental health care should not only be the responsibility of medical and forensic mental health specialists. Prison officers and other staff also have a role to play, particularly in the identification of prisoners who may have mental health needs:

In addition to implementing a comprehensive screening and evaluation program, it is important for gaols to involve all personnel working with inmates in the process of identifying inmates who may display symptoms of mental illness and who may require intervention. Many inmates develop mental health problems after being incarcerated or have problems that become more severe during incarceration. Unfortunately, if there is no system or process for monitoring the mental health of inmates, some with mental illnesses may fall between the cracks left open by limiting mental health assessments to the time of admission and following crisis episodes.²⁰⁷

Prison mental health care is also a whole-of-society responsibility. It should be integrated with, and not closed off from, broader mental health strategies:

One cannot emphasise enough how very much gaol mental health programs must be considered as being community-based, and how much they need to be linked to community mental health services.²⁰⁸

In its most basic form, this entails actively linking individual prisoners with community mental health services prior to their release. If community mental health care is not adequately available, the effect is likely to be re-offending. Therefore a united strategy must involve the provision of mental health services both inside and outside prison. The Combined Community Legal Centres' Group comments that:

It must be recognised that while services for people with a mental illness in custody must be enhanced, the improvement of access to timely and appropriate support services [in the community] is a crucial element in reducing the prevalence of people with a mental illness in the criminal justice system. The development of services for people with a mental illness in custody must form part of a broader program of enhancing support services for those with a mental illness.²⁰⁹

MENTAL HEALTH SERVICES FOR WOMEN

The Correctional Service of Canada explains that special consideration must go into the development of services for women:

Mental health services for women offenders must be developed and implemented in recognition of gender differences. These differences can be found in the etiology and classification of mental health problems, the prevalence of specific categories of mental disorders, and with regard for the context in which these problems developed.

Many women offenders are from marginalized backgrounds and situations that may include poverty, discrimination, abuse, and chemical dependency. Programs and services must be holistic insofar as they need to address the social context of women's lives and target those areas that have contributed to their criminal behaviour. Therefore, gender appropriate mental health services must respond to the experiences and related mental health needs of incarcerated women.²¹⁰

Canada's 2002 *Mental Health Strategy for Women Offenders* sets out a number of key principles to underlie mental health programs and services for women prisoners:

²⁰⁷ Id at 28

²⁰⁸ Id at 28-29

²⁰⁹ Submission to the Senate Select Committee on Mental Health (2005) at 17

²¹⁰ Correctional Service Canada (2002), *The 2002 Mental Health Strategy for Women Offenders* at 7

1. **Wellness** - including:

- holistic program delivery, that is, program delivery that recognizes body, mind, spirit, and emotions and their interconnections in a family and community-oriented context
- the avoidance of labels (including psychiatric diagnoses) insofar as these may function to reduce women to only their mental health issues
- reinforcement of the skills necessary for personal development and independent living in the community
- the necessity of involving mental health professionals as well as others including Aboriginal service providers, community resources, families, etc. in treatment plans

2. **Access (consistent with CCRA section 86)** - reasonable access to appropriate essential and non-essential professional mental health services including:

- early identification of mental health problems and treatment needs
- timely interventions that minimize symptom escalation and prevent acute crisis situations
- interventions tailored to acknowledge the complexities of the cases of women who have several mental health and other diagnoses/ issues that require simultaneous intervention
- services provided in keeping with community standards...

3. **Women-Centered** - the continuum of mental health services must be offered in a gender-specific and gender-appropriate manner such that:

- only personnel sensitive to women and women's issues are involved
- treatment programs and services are designed to meet the specific needs of women offenders while acknowledging personal autonomy, connection to others, and positive mutually respectful relationships

4. **Client Participation (a principle of fundamental justice)** - women offenders must be involved in their assessment and mental health treatment such that:

- they play as active a role as possible in their treatment planning and in decision-making

5. **Least Restrictive Measures (consistent with CCRA - Principle d)** such that:

- treatment is based on the least restrictive/intensive form of intervention possible
- women are housed in the least restrictive environment possible with the lowest level of security required to ensure public safety²¹¹

The Strategy has a number of elements or stages of care:

- **Assessment services**

²¹¹ At 8-9

- **Intensive care in a secure mental health facility outside the prison**
Primarily this is the women's Intensive Healing Program at the Churchill Unit of the Regional Psychiatric Centre, which focuses on the acquisition of new skills and coping strategies through a personalised treatment agreement developed with each patient.
- **Structured Living Environments**
These are purpose-built duplexes in each women's prison which include a living space, program space and two therapeutic quiet spaces. Women are placed in the SLE on a voluntary basis and after being assessed as suitable. A multidisciplinary team at the SLE provide intensive support, supervision and programming on a 24 hour basis, including Dialectical Behaviour Therapy and Psychosocial Rehabilitation (focusing on living skills). Women in the SLE also have access to the rest of the programs and activities around the prison.
- **Intermediate Care**
This is designed to allow inmates with significant mental health problems to live in the general prison population by providing treatment services through one-on-one counselling, skills training, relapse prevention and group therapy (eg survivors of abuse, eating disorders, self destructive behaviour, anger and stress management programs).
- **Ambulatory Care**
This is designed to provide therapy and short term interventions to women experiencing significant psychological stress related to specific ongoing issues or situational phenomenon (eg death in the family). Services include crisis resolution, psycho-educational services and group treatment programs (eg survivors of abuse, eating disorders, self destructive behaviour, anger and stress management, substance abuse, self-esteem, parenting skills, conflict resolution and Elders therapeutic circle meetings).
- **Psychotherapy/counselling services**
Individual confidential counselling
- **Aboriginal Components/Elder Services**
Contact and access to Elders for Aboriginal women prisoners is ensured. Elders should also be a part of the mental health interdisciplinary team in every prison.
- **Other components**
These include programs for substance abuse, Living Skills, survivors of abuse and trauma, education and literacy, suicide/self-harm prevention and organised peer support.
- **Community services**
This involves linking prisoners with mental health needs to mental health agencies, supported housing, employment, social assistance, education, substance abuse services and Aboriginal community services to assist with their reintegration after release.²¹²

The Strategy also emphasises the role of general programs and activities in the prison as "extremely important" to women's mental health, including employment, physical

²¹² At 15-23

exercise, hobbies, intellectual and spiritual activities, contact with family and friends, and support for maintaining relationships with children.²¹³

This is echoed by Ogloff (2002):

A growing body of research has demonstrated that a combination of social skills and vocational training with mentally disordered individuals can result in profound improvements in several outcome areas including symptoms, social adjustment, public safety, and happiness²¹⁴

THE LIMITS OF THE PRISON ENVIRONMENT

The authorities recognise that the provision of mental health care in a prison environment can involve conflicting objectives between health and security imperatives.

Butler and Allnut observe that mental health providers within the NSW correctional environment are “obligated to conform with the correctional ethos”. They comment that:

This is fertile ground for conflicting priorities between clinical needs (the health priority) and security (the custodial priority). The correctional approach to the management of difficult behaviour can be the antithesis of the mental health approach.²¹⁵

Professor Paul Mullen, Clinical Director of the Victorian Institute of Forensic Mental Health, stated to the recent Senate Select Committee on Mental Health:

There is always a problem with providing mental health care within the context of a prison. The culture of prisons inevitably is a culture of observation and control. The culture of therapy for mental disorder is a culture - or should be - of communication and enablement of people to begin to stretch their capacities and begin to move... So whenever you are trying to provide mental health care to severely distressed and disabled people within a prison, you are running up against a clash of cultures, the result of which can lead to abuse. The only solution is not to try to treat severely mentally ill people and acutely suicidal people in prison. They should not be there. But that does mean a radical rethinking of priorities.²¹⁶

Similarly, in relation to prisoners with cognitive disability, Simpson and Sotiri (2004) assert:

Whilst there is a need for programs inside prison which are useful for Indigenous people with cognitive disabilities, it is difficult to separate any benefits such projects might have from the negative effects of incarceration, including reduction of living skills and self-esteem, and increased feelings of alienation and identification with an offending culture. Whilst there is certainly a need to focus on the assessment and program needs of this group, there are still philosophical and pragmatic difficulties with these operating in a prison context. Prison programs are by their nature fragmented. They operate around the demands of the prison environment which might include things such as attending three musters a day and long periods locked in cells. Despite the best intentions of the

²¹³ At 14

²¹⁴ Ogloff (2002) at 17

²¹⁵ Butler, T. & Allnut, S. (2003), *Mental Illness among New South Wales' Prisoners*, NSW Corrections Health Service at 50

²¹⁶ Quoted in Sisters Inside Inc. & Aboriginal Family Violence Prevention and Legal Service (2005), *Building on Women's Strength: Developing community-based service models for women in prison and released from prison in Victoria* at 16

*administrators of prison programs, the security considerations at the heart of imprisonment present a frequent impediment to the delivery of good programs.*²¹⁷

The importance of these statements is not to promote the idea that “nothing works” in terms of prison services but to highlight that the emphasis of public policy should be on the diversion of people with mental illness or cognitive disability away from the criminal justice system. Once in prison, however, governments are under a duty to provide the necessary care and support services to these prisoners.

THE STATE OF FORENSIC MENTAL HEALTH SERVICES IN AUSTRALIA

The Human Rights and Equal Opportunity Commission’s historic Burdekin Report²¹⁸ put the issue of the human rights of mentally ill prisoners on the national agenda. It found that across Australia:

- Mentally ill people detained by the criminal justice system were frequently denied treatment
- In some cases, they were instead subject to brutality or an increase in harshness or length of detention
- Procedures for detecting and treating mental illness in the criminal justice system were found to be inadequate in each and every Australian jurisdiction
- Arrangements for follow-up of prisoners with a mental illness after release from prison were seriously inadequate.²¹⁹

In 2006 the Senate Select Committee on Mental Health found that many problems in this area remained. In particular, it found that “[t]here is a pressing need to improve treatment of women prisoners, with the conditions in which they are currently held appearing seriously inconsistent with desirable clinical practice.”²²⁰

The Victorian Institute of Forensic Mental Health described the following picture:

*Ignored, mismanaged, released unprepared, rapidly re-offending and returning to prison. This is all too often the story of the mentally ill offender, repeated and repeated.*²²¹

Professor Puplick adds:

*In fairness I should mention that while in prison many of these same people will probably be better fed and housed and have better access to health services than at almost any other time in their lives – itself a shocking indictment of our general level of services for the mentally ill in the community.*²²²

The Senate Select Committee made a number of recommendations of relevance to this investigation:

²¹⁷ Simpson, J. & Sotiri, M. (2004), *Criminal Justice and Indigenous People with Cognitive Disabilities: A discussion paper*, Aboriginal and Torres Strait Islander Services, Australian Government at 28

²¹⁸ Human Rights and Equal Opportunity Commission (1993), *Human Rights and Mental Illness – Report of the National Inquiry into the Human Rights of People with Mental Illness*, Canberra

²¹⁹ Human Rights and Equal Opportunity Commission, “The Human Rights of Mentally Ill People: the HREOC inquiry and after”, Paper presented by Dr Sev Ozdowski at the Mental Health, Criminal Justice and Corrections Conference, Marrickville, 19 October 2001 at 2-3

²²⁰ Senate Select Committee on Mental Health (2006), First Report, *A National Approach to Mental Health – From Crisis to Community* at 13.83

²²¹ Forensicare / Victorian Institute of Forensic Mental Health (2005), *Submission to the Senate Select Committee on Mental Health* at 19

²²² Senate Select Committee on Mental Health (2006), First Report, at 13.99

Recommendation 57: *That there be a significant expansion of mental health courts and diversion programs, focussed on keeping people with mental illness out of prison and supporting them with health, housing and employment services that will reduce offending behaviour and assist with recovery.*

Recommendation 59: *That state and territory governments aim as far as possible for the treatment of all people with mental illness in the justice system to take place in forensic facilities that are physically and operationally separate from prisons, and incorporate this aim into infrastructure planning, and that the Thomas Embling Hospital in Victoria be used as a model for such facilities.*

Recommendation 61: *That governments establish protocols for mental health assessments for prisoners on entry into the criminal justice system.*

Recommendation 63: *That the states establish separate dedicated forensic mental health facilities for women with a number of beds that reflects the prevalence of women with mental illness in prisons.*

Recommendation 64: *That HREOC be tasked to undertake a national review of the treatment of women with mental health problems within the criminal justice and prison systems.*

Recommendation 65: *That state and territory governments, taking into account best practice models, substantially increase the provision of step-down supported accommodation programs to facilitate reintegration into the community following release from incarceration and forensic facilities²²³*

In relation to the division of mental health services for prisoners between the hospital and the prison system, the Senate Select Committee stated:

Although it is generally agreed by health authorities that prisoners requiring inpatient mental health care should be transferred from prison to an appropriate mental health facility located beyond the geographical boundaries of the prison and run independently from correction services, this will not occur in the absence of sufficient appropriate facilities. Moreover, relatively few prisoners with a mental illness are so seriously ill that they require inpatient treatment, but they still require treatment, and that treatment, if provided, will generally be in gaol. The availability and adequacy of treatment for mentally ill people within Australia's prisons are therefore important matters.²²⁴

Recent reviews of NT services

The 2003 *Review of the NT Department of Health and Community Services* found that mental health and alcohol and drug services in the NT were “despite the production (and subsequent non-implementation) of a series of reports and studies over the past decade, under-resourced, fragmented and poorly supported.” It noted particular shortcomings in relation to the provision of mental health services in Central Australia, including for prisoners. Nevertheless, it found that the NT had been active in adopting and addressing the National Mental Health Strategy and Plans.²²⁵

The CAYA Review of Adult Custodial Services made a number of recommendations relevant to the issue of mental illness, including:

- Enhancing general staff training and development (Recommendations 12-15 and 18-20)

²²³ Senate Select Committee on Mental Health (2006), Final Report, at 3.48 – 3.56

²²⁴ Senate Select Committee on Mental Health (2006), First Report, at 13.96

²²⁵ Banskott Health Consulting Pty Ltd (2003), *Report of the Review of the Northern Territory Department of Health and Community Services* at 112, 114

- Moving towards a Living Unit model of unit management (Recommendations 31-32)
- Establishing secure mental health units within DCC and ASCC (Recommendations 39-42)
- Assessing inmate needs and providing additional case management staff and psychologists (Recommendation 43)

In 2005, the Territory's forensic mental health services were the subject of a specific review undertaken by the Victorian Institute of Forensic Mental Health (Forensicare). The review was incomplete and has not been formally endorsed by DHCS, however a number of its recommendations are currently under consideration. The report makes a number of pointed criticisms of FMH in the Territory along some similar lines as the complainants:

- *Of greater concern is that the role of case management for at least some of the team appears to be limited to ensuring that medication (usually injectable) is provided. There is no clearly articulated focus on rehabilitation, reintegration into society, recovery or reduction of risk of endangerment to self and others.*
- *Prison based medical and correctional services are not satisfied with the service provided. The main complaints were that the team is inadequately responsive to acute problems, and too narrow in its focus...targeted towards those prisoners with established mental illness.*
- *There appears to be no systematic mental health screening process for new receptions to the prison. Partly as a result of this, prison-based staff felt that mental health provision to inmates is not well targeted.*
- *Unfortunately, it was clear to us that even senior DHCS management were of the view that brain-damage related problems are exclusively the responsibility of disability services, and hence not within the remit of mental health workers... In practice therefore a number of prisoners who pose a potentially high risk to themselves and even to others, may 'fall through the cracks' and may be refused a service from the mental health team... Professor Mullen's Review in 1985 explicitly suggested that prison based mental health services focus on **behaviours** rather than **diagnoses**.*
- *there is a paucity of rehabilitation services which could readily be accessed by prisoners with major mental illness...*²²⁶

Bronwyn Hendry, Director Mental Health Services, acknowledges that rehabilitation prospects are fairly limited in prison.²²⁷ DHCS reject a number of these other findings. It points out that the Review was deficient in a number of respects, including its limited consultation, its inaccurate information, its entirely Darwin focus, and its failure to consider the particular service environment in the NT.²²⁸

The recommendations of that review which are relevant to this Investigation are:

- Recommendation 1: That a Policy and Procedure Committee be established to oversee the review of existing policies and the development of new policies

²²⁶ Forensicare (2005), *Review of Top End Forensic Mental Health Service of the Northern Territory* at 12, 15, 16 and 17.

²²⁷ 14 November 2006 interview

²²⁸ 26 October 2006 letter from Director Mental Health Services to Investigating Officer

to guide staff practice. Policies should be written in a style that is reflective of the FMHS philosophy, goals and mission.

- Recommendation 5: That a formal system for regular, structured case reviews be developed by FMHS, with a focus on both rehabilitation and risk issues.
- Recommendation 8: That consideration be given to a reconfiguration of the team structure. Consideration should be given to allocating one full time clinician to the prison. He/she should be located on-site but attend weekly meetings with FMHS and be an integral part of the team, including for purposes of management and professional development...
- Recommendation 9: That prison-based medical services, in consultation with FMHS, develop a brief, but valid, screening system for major mental health problems in all newly received prisoners.
- Recommendation 13: That DHCS Mental Health and Disability Divisions work together on the issue of providing optimum services to prisoners with brain damage problems. This may require innovative approaches such as dual training for workers and possibly even dual funded positions.
- Recommendation 14: That consideration be given to developing specific prison based offence reduction programs for those offenders who suffer from a major mental disorder.
- Recommendation 16: That the effectiveness of the multidisciplinary team be strengthened and maximised by ensuring that there is an adequate mix of training and experience, including in Indigenous mental health.

DHCS reports that these recommendations are currently being actioned. In particular, a new Aboriginal cultural consultant position was being recruited to Darwin, new disability staff were being recruited and greater integration occurring between mental health and disability services. Top End FMH policies and procedures were being reviewed, a screening tool was being developed and Top End FMH were moving to a rotating on-site FMH presence at the prison, as currently occurs in ASCC. No specific action was foreshadowed in response to Recommendation 14, however DHCS suggests that this issue will be considered at a later stage by the DHCS/NTCS Steering Committee.²²⁹

Findings

I welcome the efforts of DHCS and NTCS to improve cooperation and services to prisoners with mental illness and disabilities. I note in particular the belated entrance of the DHCS disability team into the area of prisoner services.

Put together, these new initiatives (the screening tool, new training, new staff and new arrangements designed to increase cooperation such as the on-site FMH presence at DCC) will represent a substantial step forward in service provision.

At present there is no quantitative or qualitative data which would reliably indicate the level of mental health and disability needs among NT prisoners or the actual types of needs present. It is difficult, therefore, to objectively measure the adequacy of service

²²⁹ 18 August 2006 DHCS submission to the Ombudsman, Att A at 10-12

provision. Once the new screening tool has been operational for six to twelve months, more reliable data is likely to be available regarding prevalence and service needs.

It may be that, as the Director Mental Health Services has asserted, the mental health needs of NT prisoners are significantly less than interstate. On the other hand, the NT may well discover that upon proper screening, we are not so different after all.

In my view, it would be safe to assume that the **majority** of NT women prisoners, like their counterparts interstate and internationally, have identifiable mental health needs. It is apparent that the current service delivery framework focuses primarily on those with profound mental illness and does not greatly engage in broad mental health promotion and support for the majority of the population.

Canada's 2002 *Mental Health Strategy for Women Offenders* provides an interesting comparison. While it arises from a much larger jurisdiction with many more service delivery options, I believe its key relevance is the perspective it offers. The strategy accepts as its starting point the high prevalence of mental health needs among women prisoners. Rather than simply resting with diagnostic categories, however, it proceeds on the principle of the holistic nature of mental health. Instead of being something which an individual either has or does not have, mental health is viewed as a spectrum of needs, requiring a spectrum of responses, but from which every prisoner would benefit.

The new initiatives announced above will, when operational, fill some of the most glaring service gaps in mental health and disability care in NT prisons. I urge NTCS and DHCS to build on these initiatives over the next five years to develop a broader and more holistic approach to mental health and disability care for prisoners in the NT, including a specific strategy for women prisoners at DCC and ASCC, with reference to the Canadian strategy.

Pre & post release

The complainants assert that a small number of women prisoners with mental health problems or acquired brain injury are released from prison only to return again and again. At times they return within days or weeks. They argue that more support should be provided to these women to break the cycle.

In response, FMH states that it case manages its clients through to and post release including arranging accommodation where required and liaising with community mental health services or health clinics in the town or community where the prisoner will return to. DHCS states that its Disability Team assists with the reintegration of prisoners with intellectual disability or acquired brain injury.

Bill Somerville of OARS NT questions the level of this support. His service deals with these prisoners "all the time". He states that beyond medication, they receive no extra help with pre and post release arrangements than any other prisoners receive, which is very little. He provides two examples involving male prisoners:²³⁰

²³⁰ 14 November 2006 interview

I got a phone call from the welfare officer at the prison saying 'There's a bloke being released on Sunday from maximum security. He's been on protection because he's been on medication. He's got a mental disability. He's got a caseworker who arranged for him to stay at Salvation Army in town. He doesn't know how to get there. The caseworker doesn't work weekends. We don't know what to do. Can you pick him up?' So I go and pick him up. This guy walks out so loaded up with medication I can hardly talk to him. We go to Salvation Army, but they say they can't take anyone until 4pm. Suddenly I've got this bloke on my hands. We go to the OARS office. After a while the medication starts wearing off. I ask him if he has any more medication. He says 'I don't know.' We look through his bag and find something and I ask him if this is what he's taking and when. He says 'I don't know.'

Well I don't know either and that's not my job. We finally get him to Salvation Army but really, who's going to look after him there?

He describes a second example, current at the time of interview (14 November 2006):

The Public Guardian phones me. He says 'We've got a bloke being released on the weekend. He wants to go to the long grass but we don't think that's a good idea because gangs bash him up. He's got a mental disability so we're handling his finances. We don't know where to send him... Can you help?' So there we go again. I pick this bloke up. The Disability Team have said they will help. Well it's been a month now and I haven't even heard from them. I've got a bloke there on the farm who really needs help, and I'm not qualified.

Relevant standards

- **Standard Minimum Rules for the Treatment of Prisoners**

83. It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social-psychiatric after-care.

- **Standard Guidelines for Corrections in Australia**

2.39 Where a prisoner enters or is released from prison is under medical or psychiatric treatment, where appropriate, the prison health service should make arrangements with an appropriate agency for the continuation of such treatment after release.

- **National Statement of Principles for Forensic Mental Health 2002**

Principle 6:

... Similar linkages are required between mental health and general health care services, and social services such as housing and income support, which are necessary to maximise the positive clinical outcomes for forensic mental health clients. Effective inter-agency pre-release planning is vital to successful reintegration into the community following release.

- **AMA Position Statement – Health Care of Prisoners and Detainees**

13.6 Steps should be taken, by arrangement with the appropriate agencies, to ensure the continuation of psychiatric treatment and the provision of psychiatric care after release from the correctional facility.

Relevant literature

White and Whiteford (2006) state that “comprehensive [mental health] services can delay or prevent recidivism in mentally ill offenders.”²³¹ But if the prisoner has little support to return to on release, their chances are slim.

As the UN High Commission on Human Rights notes, “[i]t is particularly important in the case of prisoners who are receiving psychiatric treatment that arrangements should be made for their continuing care after they are released.”²³²

The Mental health Coordinating Council states that:

*Prison mental health programs should extend beyond assessment on admission, ambulatory and inpatient services, brief rehabilitation and other ancillary services, to provide a continuum of care from arrest, appropriate referral to prison, psychiatric or community care, rehabilitation, release planning, and ongoing support on release through community forensic services.*²³³

In addition to mental health through-care, the Senate Select Committee on Mental Health further recommends the provision of practical support:

Recommendation 57: *That there be a significant expansion of mental health courts and diversion programs, focussed on keeping people with mental illness out of prison and supporting them with health, housing and employment services that will reduce offending behaviour and assist with recovery.*²³⁴

Findings

I have been presented with two quite different versions from the Department and the complainants/Bill Somerville. The investigation did not pursue enquiries to a sufficient degree on this issue to enable a finding to be made on the actual state of affairs.

Both examples provided by Mr Somerville above have in common the release of a prisoner on the weekend and allege particular problems resulting from service unavailability during weekends. While these are anecdotes only, they present a potentially alarming picture. The release of particularly vulnerable and high needs

²³¹ White, P. & Whiteford, H. (2006), “Prisons: mental health institutions of the 21st century?”, *Medical Journal of Australia* 185 (6): 302-303 at 303

²³² Office of the United Nations High Commissioner for Human Rights (2005), *Human Rights and Prisons: A Pocketbook of International Human Rights Standards for Prison Officials*, Professional Training Series No. 11, Add. 3 at 70

²³³ Henderson, S. (2003), *Mental Illness and the Criminal Justice System*, Mental Health Coordinating Council

²³⁴ At 3.48

prisoners on the weekends when immediate practical support and key staff are most unavailable is far from ideal. If the problem is indeed as presented by Mr Somerville, then either services must be funded to provide weekend staffing, or the practice of weekend release must end.

Recommendation:

43. That FMH and the Disability Team ensure that their clients are provided with a continuum of care from prison through to post-release support in the community, including medical and psychiatric throughcare, linkage with external support services, assistance with living skills and housing, and other practical and social support.

The Department of Health and Community Services (DHCS) advised me in response to Recommendation 43, that:

The general intent of this recommendation is supported by DHCS and DOJ (Department of Justice).

DHCS acknowledge and agree that where a prisoner has been closely managed by our services within the prison and is to be directly case managed by DHCS post release, a comprehensive discharge planning approach should be followed and may include many of the elements outlined in this recommendation.

It should be noted, however, that in some cases an individual will also continue to be supervised by NTCS post release (if on parole) and whilst the Mental Health or Disability Services would clearly be responsible for clinical care in the community, many of the living skills, housing, practical and social support elements of a discharge plan might be considered a NTCS responsibility or jointly brokered between the two Departments. The primary health care provider might also be involved in the release planning process.

There are many prisoners who may be provided a brief intervention by DHCS services whilst incarcerated (i.e. for purposes of developing a report for the Court or for brief intervention if placed 'at risk'); however no community follow-up is considered necessary. In these circumstances DHCS would not provide post release services unless the prisoner is re-referred subsequently in the community.

In relation to weekend release, I had made the following recommendation in the draft of this report: That the Department of Justice review the situation of weekend release of prisoners in consultation with OARS NT and consider whether a change in sentencing practice is warranted. If so, the Department should consult with the Director of Public Prosecutions to explain the effect of weekend release and consider developing a protocol with prosecuting personnel that a weekday release date be sought from the court wherever possible.

The Department of Justice however, responded that it supported this recommendation but that . " A change in sentencing practice is not required. NTCS will review the application of an existing discretion (held by the Executive Director) with appropriate stakeholders."

I therefore make the following recommendation:

Recommendation:

44. That NTCS review the application of the existing discretion (held by the Executive Director) with appropriate stakeholders such that prisoners have weekday release dates wherever possible.

Access to specialist facilities

Complaint

The complainants assert that some women in J block should be in a specialist facility rather than the prison. That is, they should have either been diverted before entering the prison, or once in prison, they should be transferred out to such a facility on a temporary or more long term basis.

Amanda and Debbie claim that decisions about treatment are sometimes made for improper purposes such as to save the prison money. For example, they believe that prisoner R was at March 2006 housed in J block when she should have been at JRU. They suggest that the reason for this decision was purely financial - it costs the prison too much for the two officers per shift (or six officers over 24 hours) which are required to stay with prisoners at JRU, whereas if she is kept on the block the prison need only have one extra officer on the block during the daytime (ie one officer over 24 hours). The complainants state that prison officers have specifically told them that this is the reason for the decision.

Relevant standards

INTERNATIONAL INSTRUMENTS

- ***Standard Minimum Rules for the Treatment of Prisoners***

22. (2) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.
82. (1) Persons who are found to be insane shall not be detained in prisons and arrangements shall be made to remove them to mental institutions as soon as possible.
 - (2) Prisoners who suffer from other mental diseases or abnormalities shall be observed and treated in specialized institutions under medical management.

(3) During their stay in a prison, such prisoners shall be placed under the special supervision of a medical officer.

(4) The medical or psychiatric service of the penal institutions shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment.

83. It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social-psychiatric after-care.

- ***The CPT Standards***, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment, 3rd General Report [CPT/Inf (93) 12]

43. A mentally ill prisoner should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff. That facility could be a civil mental hospital or a specially equipped psychiatric facility within the prison system.

On the one hand, it is often advanced that, from an ethical standpoint, it is appropriate for mentally ill prisoners to be hospitalised outside the prison system, in institutions for which the public health service is responsible. On the other hand, it can be argued that the provision of psychiatric facilities within the prison system enables care to be administered in optimum conditions of security, and the activities of medical and social services intensified within that system.

Whichever course is chosen, the accommodation capacity of the psychiatric facility in question should be adequate; too often there is a prolonged waiting period before a necessary transfer is effected. The transfer of the person concerned to a psychiatric facility should be treated as a matter of the highest priority.

- ***European Prison Rules (2006)***

12.1 Persons who are suffering from mental illness and whose state of mental health is incompatible with detention in a prison should be detained in an establishment specially designed for the purpose.

12.2 If such persons are nevertheless exceptionally held in prison there shall be special regulations that take account of their status and needs.

...

47.1 Specialised prisons or sections under medical control shall be available for the observation and treatment of prisoners suffering from mental disorder or abnormality who do not necessarily fall under the provisions of Rule 12.

47.2 The prison medical service shall provide for the psychiatric treatment of all prisoners who are in need of such treatment and pay special attention to suicide prevention.

NATIONAL STANDARDS

- ***Standard Guidelines for Corrections in Australia***

2.36 Prisoners who are suffering from a severe psychiatric illness should be managed by an appropriate tertiary or specialist health care facility.

- ***National Statement of Principles for Forensic Mental Health 2002***

Principle 3: ...A prisoner who requires inpatient mental health care will be transferred from prison to an appropriate mental health facility having regard to the person's mental health needs, the offence leading to the person's detention, their social circumstances and the likelihood of their remaining in treatment. Specialist inpatient

forensic mental health services (secure facilities) are to be owned, funded and staffed by mental health services. Specialist inpatient forensic mental health services are to be located beyond the geographic boundary of a prison and run independently from correctional services.

Principle 13: Legislation should not allow coercive treatment for mental illness in a correctional facility.

- **AMA Position Statement – Health Care of Prisoners and Detainees**

13.4 Prisoners and detainees with a severe psychiatric illness should be moved to an appropriate psychiatric facility.

Relevant literature

The Office of the High Commissioner for Human Rights comments in its 2005 *Manual on Human Rights Training for Prison Officials*:

*Prison is not the right place for people who are mentally ill. Their care should be the concern of medical management. Keeping mentally ill people in prison makes prison life more difficult for everyone in the institution: staff and other prisoners, as well as the prisoner who is mentally ill.*²³⁵

This is echoed by the World Health Organisation:

*When prisoners require acute care they should be transferred to psychiatric wards of general hospitals with appropriate security levels. In accordance with the principles of de-institutionalisation, special psychiatric prison hospitals are strongly discouraged.*²³⁶

The recent Senate Select Committee on Mental Health urged all governments to meet this principle. Recommendation 59 of the Final Report provides:

3.50 That state and territory governments aim as far as possible for the treatment of all people with mental illness in the justice system to take place in forensic facilities that are physically and operationally separate from prisons, and incorporate this aim into infrastructure planning, and that the Thomas Embling Hospital in Victoria be used as a model for such facilities.

Ogloff (2002) sets out the three options for the placement of mentally ill offenders, in order of preference:

First, for mentally ill offenders who do not pose a security risk beyond that of other involuntary psychiatric patients, and who are charged with minor offences, it is recommended that they be diverted from the criminal justice system to the mental health system (see Brinded, Malcolm, Fairley, & Doyle, 1996). Many of the crimes committed by mentally ill offenders are minor or nuisance offences and the inmate could be best managed in the long-term by being connected with mental health services in the community as soon as possible.

*Second, for inmates who are mentally ill, certifiable under respective mental health acts, and who present some level of risk to others, it is most appropriate that they be hospitalised in secure psychiatric beds in hospitals in the community.*²³⁷

²³⁵ Office of the United Nations High Commissioner for Human Rights (2005), *Human Rights and Prisons: A Manual on Human Rights Training for Prison Officials*, Professional Training Series No. 11 at 70

²³⁶ World Health Organisation (2005), "Information Sheet: Mental Health and Prisons" at 3

Where there is no secure unit in the local hospital, he explains, security could be by way of a 24 hour presence by a custodial officer, at least in the interim. He continues:

Third, there is the possibility to develop formal mental disorder units in correctional centres that allow for the involuntary "hospitalisation" and treatment of mentally disordered offenders who are certified under mental health acts. One such unit existed in British Columbia, although it has subsequently been closed. MDO units may serve two very different purposes. First, inmates who are remanded for forensic psychiatric assessments may be housed there. Second, inmates who require psychiatric treatment may also be housed in these facilities. Most likely, of course, the development of MDO units in gaols would serve both purposes.

MDO units are most palatable to serve the purposes of providing a forum for assessing inmates who are remanded for forensic psychiatric assessments. However, even then, and under most other circumstances, MDO units are undesirable. Indeed, as Steadman and his colleagues have written:

"Given the importance of caring for disturbed inmates and the frequent inability of officials to transfer such individuals to state hospitals, the temptation may nevertheless exist to expand the level of mental health care at the jail to a point where all but the most psychotic prisoners can be handled internally." (p 130)

While this may seem advantageous in the short run, there is a serious danger that any such concentration of services will ultimately reduce the pressure on hospitals and community agencies to provide the much needed and appropriate services to mentally ill offenders.

In addition, as noted above, developing mental disorder units in gaols that are not clearly linked to mental health services may simply further separate mentally ill inmates from the very services they will need to rely upon when they are released to the community. Once again, the fact is that most of the mentally ill people in gaols will be released to the community within a relatively short period of time. If gaols provide mental health services to these people in isolation, without linking these inmates to the mental health service providers or agencies in the community, it will make it all the more difficult for inmates to become reintegrated in the community upon release.²³⁸

In relation to the role of financial consideration in treatment decisions, Coyle (2002) notes in *A Human Rights Approach to Prison Management: Handbook for Prison Staff*:

The treatment provided as a result of consultation and diagnosis should be that which is in the best interests of the individual prisoner. Decisions should not be based on the relative cost or convenience to the prison administration. (p56)

NTCS response

Our office asked Bronwyn Hendry and Wendy Hunter at the 14 November interview whether other jurisdictions set the bar at the same level as the Territory for (temporary) transfer out of prison to a specialist facility.

Ms Hendry believes that all Australian jurisdictions are fairly comparable in this respect, although there are slight legislative differences. The standards state that if a person requires acute specialist care they should be transferred out to that care. The

²³⁷ Ogloff (2002) at 11

²³⁸ Ogloff (2002) at 11-12

difference is that other jurisdictions have long term specialist facilities to house people who have been found not guilty by reason of mental impairment or not fit to plead. But “there is no jurisdiction or facility which would transfer everyone with a mental illness out of the prison into a specialist facility”, she states, simply because:

There is no need to provide acute specialist care for people who don't have an acute exacerbation of their illness. And illnesses vary in severity from very mild to severe so what treatment is provided is according to the clinical needs of the individual.

The investigating officer asked Ms Hendry about the example of Tasmania, which has a total prison population of 500, much lower than the Territory, and has recently opened a 35 bed secure forensic mental health facility. This would indicate that a much greater number of prisoners are being assessed as requiring specialist inpatient treatment than in the Territory.

Ms Hendry pointed out that only eleven to twelve of those beds were currently filled and six to eight of those prisoners are long term mental impairment prisoners. Further:

Whilst their prisoner population might be lower in comparison, their general population is much higher, so you would expect that they would require more mental health beds and more mental health services overall... [Also] it may be that the incidence of mental health problems is higher in their prison population than it is here.

In relation to the allegation that a decision was made by prison management in March 2006 to keep a female prisoner within the prison rather than being transferred to JRU on the basis that it was cheaper for the prison, Peter Mals of FMH stated in the 15 June interview:

I don't know of anything like that happening in recent times. The first step in getting someone into JRU would be a recommendation from us. What I'm saying is I'm not aware of any recent cases where we've recommended admission and the Director has vetoed. With previous Directors, yes, that has happened, or the response from the Director has been very slow (a delay of a week or so between our recommendation and the actual transfer) but I'm not aware of any cases like that in the last 12-18 months. What they're telling you about might be a case where no actual recommendation was made on our part.

PROPOSED MENTAL HEALTH UNITS

The NT Government's May 2005 submission to the Senate Select Committee on Mental Health recognised that:

Prisoners with mental illness, acquired brain injury or intellectual disability are housed currently either in maximum security or in the mainstream prison. Given the medium to long-term incarceration of many individuals in this category they would clearly be better accommodated in a more appropriate, safe and therapeutic environment oriented toward rehabilitation and community reintegration. No such environment exists in the NT. Establishing such a facility in a very small jurisdiction would require a substantial capital investment and operational funding.²³⁹

The authors further noted that “the development of a dedicated facility for this consumer group is on the government's agenda in future years” but did not suggest any timeframe.

²³⁹ At 23

This issue of a dedicated facility was addressed in the CAYA Review of Adult Custodial Services. Recommendation 39 of the Review stated:

We recommend the Service pursue negotiations with Health and Community Services to further develop the concept of small specialised secure mental health units in each of Darwin and Alice Springs Correctional Centres, with security and programs provided by Corrections, and specialised treatment provided by Health.

The Review suggested these units take the form of a distinct group of 12-20 cells, interview rooms, offices and a group therapy room, to be run on a living unit model. Specially trained prison officers would be dedicated to the unit and psychiatric nurses would work day and evening shifts, while other specialists would attend and deliver programs as needed.²⁴⁰

Recommendation 42 proposes that “once these units are established, only inmates who can be safely accommodated without escort would be transferred to Royal Darwin Hospital for treatment.”

Recommendation 40 then requires that “these units meet both the Australian Guidelines for corrections and the relevant health care standards”.

This would be impossible because Recommendation 42, by restricting access to inpatient care outside the prison, clearly conflicts with the standards set out above, particularly Principle 3 the National Statement of Principles for Forensic Mental Health.

Peter Mals’ response to this model in the 15 June interview was as follows:

The idea of the mental health ward within prison – that model is being abandoned pretty much everywhere because it has never worked successfully. Experience has been that because it is under prison officer control then issues of security infiltrate and take precedence over therapeutic aims. It has never worked successfully anywhere. I don’t know why they’re so sold on that model for the Territory. NSW is the last place to have that in-prison model – Long Bay – and they just recently decided to do away with that and build something outside Corrections in the Health Sector.

The investigating officer went on to ask Mr Mals whether he would see a role for a mental health unit within the prison for those prisoners who are assessed as not requiring transfer to JRU but who may have mental health needs that could be better managed in a smaller unit, and where prisoners still had the same access to JRU. He responded:

Yes, I think there’s a case for that kind of unit, as a type of halfway house between JRU and the mainstream of the prison, especially if there was to be a dedicated staff of prison officers in that unit who could be specially trained and provide some kind of consistency day-to-day. I think there is a case for that sort of thing. But it’s not going to work if it’s expected that it will take the place of JRU.

The 28 August 2006 NTCS submission to this investigation stated that NTCS was committed to the concept of developing one or two “secure mental health and behaviour management units.” The exact model will be determined by Cabinet. It is anticipated that the units will be jointly staffed by NTCS (prison officers) and DHCS (health professionals). They will cater for prisoners with mental health problems, cognitive disabilities and acquired brain injury who have difficult behaviours or require more specialised support, as well as those prisoners who are at risk of self harm or suicide. It is likely that the new units will be within prison grounds and under NTCS

²⁴⁰ At 28-29

management. It is not anticipated that JRU's role as the acute secure psychiatric inpatient ward would change, or that access to JRU would be restricted. It is possible, however, that the establishment of an intermediate care option would mean that prisoners may not need to spend as long at JRU or may not need to be transferred out to JRU at all if they are not of that high level of acuity.²⁴¹

Findings

While the exact model is yet to be determined, it appears that the proposed mental health units will satisfy an important need for a halfway option between the prison and the hospital (JRU) for prisoners with mental illness, intellectual disabilities or brain injury who do not cope well in the mainstream prison environment and require more specialist services. The option of housing prisoners with intensive needs away from J block would also lessen the disruption and impact of these prisoners' difficult behaviours on the other women in the block.

I welcome the proposal to develop secure mental health and behaviour management units. I am also aware that mental health units in interstate prisons have at times been criticised for inappropriate treatment of prisoners. Our office intends to closely monitor the development of the units in coming years to ensure that they meet best practice standards and maximise the provision of health and rehabilitation services to the prisoners they house.

An important gap in service would remain, however. The NT will still have no long term hospital forensic facility for the very mentally ill (either those on remand, those sentenced under criminal provisions, or those found unfit to plead or not guilty due to mental impairment). JRU, as a short term acute treatment facility, does not fulfil that role. Nor will the proposed new units if, as appears likely, they are established within prison grounds and under correctional management.

Recommendation 59 of the recently released Senate Select Committee on Mental Health Final Report provides:

3.50 That state and territory governments aim as far as possible for the treatment of all people with mental illness in the justice system to take place in forensic facilities that are physically and operationally separate from prisons, and incorporate this aim into infrastructure planning, and that the Thomas Embling Hospital in Victoria be used as a model for such facilities.

The NT has yet to develop such a facility. This issue is explored further in the section below titled "Not guilty due to mental impairment".

²⁴¹ 14 November 2006 interview with Bronwyn Hendry and Wendy Hunter

Prison officer training

Complaint

The complainants maintain that while a number of prison officers respond professionally to prisoners in the midst of mental health episodes, many other prison officers “freak out” and aggravate the situation by adopting an aggressive or punitive approach. A very common response, they state, is to physically force the woman into her cell and lock her in, whereupon she will often become even more agitated, screaming and destroying her room.

In general the complainants had no criticisms of officers personally. They recognised that most officers were doing the best they could within their training and within the facilities and resources available to them.

They were concerned, however, that due to a lack of understanding of mental health coupled with limited facilities, prisoners’ mental health episodes are commonly treated as behavioural problems rather than health issues. The response (confinement in the management cell of J block, or in B block or C block of the men’s complex) is identical to that handed down for disciplinary breaches.

Amanda alleges that at the time when prisoner R attacked an officer in July 2005, a number of officers “dragged her by the hair to her feet, slammed her against a wall”, and she was “kneaded and hit around the head.”

The complainants believe that prison officers should be better trained to recognise and respond to incidents arising from mental health or disability, and to facilitate the identifying and addressing of their needs.

Gina suggested that one approach to improving training might be to select a group of prison officers for intensive training in mental health and suicide issues. These specially trained officers could work closely with the relevant prisoners and also set an example, offer advice and provide peer learning to other officers.

NTCS response

The 28 August 2006 NTCS submission responds to this issue as follows:

The complainants’ view that prison officers require specialised training to recognise and respond to incidents, and to identify and address the needs of prisoners with mental health or disability challenges, has been recognised within NTCS and training has recently been instituted...

As a result of the additional funding provided to enhance clinical and behavioural support services to NT prisons, the DHCS developed three training packages which provide custodial officers and youth workers with basic strategies to better manage individuals with complex needs associated with intellectual disability, acquired brain injury and mental health. An outline of the packages follows:

Intellectual Disability (ID)

Provides officers with an understanding that prisoners with an ID do have the capacity to learn but often need information presented to them at a different rate. Behaviour is sometimes used as a means to mask the difficulties in understanding instructions and routines etc. Prisoners with ID have difficulty transferring skills from one environment to another (e.g. one block to another) and often need more explanation.

Acquired brain injury

Provides officers with an understanding of different parts of the brain and how damage either from injury or substance abuse affects the brain and subsequently the person's ability to function.

Mental health

Provides officers with an overview of mental illness and how it impacts on the prisoner. Also provides some basic information on identifying early symptoms.

The training is delivered by professionals working for DHCS in the area of mental health and disability services.

The packages were piloted in both Darwin and Alice Springs in April 2006 and roll out commenced during June in Darwin and in August in Alice Springs. Training for new and existing prison officers will continue to be provided on an ongoing basis.

In relation to the specific allegation above about officer violence towards R, NTCS denies this allegation. The Incident Reports record the use of physical force to place R in cell 4 (arm bar and ground stabilisation) after she kicked an officer, but NTCS is satisfied that the force used was reasonable. Police were contacted following the incident as per normal procedure. As both officers have now left the service, further enquiries by this office into this specific allegation were not feasible and in any case did not appear warranted.

DCC Superintendent Raby stated in the 15 November interview that "The bottom line is that prison is not the place for some of these people, and my staff are not trained in how to manage these people." He explains that at the moment staff are generally only trained to react – if someone is aggressive towards them they will deal with it as with any situation involving an aggressive person. He points out that staff are being provided with more tools through new mental health training currently underway, and that the more staff are skilled-up the better.

Mr Raby notes that it is the trend around Australia for prisons to become the default carers for people with mental health issues. Prison staff training has not yet caught up with this situation. Some jurisdictions have now raised mental health first aid training to the same platform as physical health first aid, and he believes this to be a logical way to go.

Findings

The World Health Organisation declares that:

Training on mental health issues should be provided to all people involved in prisons including prison administrators, prison guards and health workers. Training should enhance staff understanding of mental disorders, raise awareness on human rights,

*challenge stigmatising attitudes and encourage mental health promotion for both staff and prisoners.*²⁴²

I note that Peter Mals of FMH stated in a 15 June 2006 interview that prison officers “are not well trained at all” in mental health issues. He did however acknowledge substantial efforts to increase training in this area through the development of the new training modules referred to above.

I am aware that NTCS has committed to putting all its new and existing officers through this training in a gradual roll-out. I commend this initiative. I encourage NTCS to build and expand upon this training and integrate it further with existing officer recruit training in coming years along the lines suggested by Mr Raby.

Separate/solitary confinement

Complaint

The complainants claim that the standard response of officers to a prisoner in a heightened state is to panic and lock her in her cell. Complainants report that women with serious mental illness or disability are being kept in solitary confinement for extended periods under “special management regimes”. This may occur in their own cell, in cell 4 of J block (the “management” cell), or in blocks B and C in the men’s complex.

For example, they state that prisoner H was locked in her cell for a number of months at a time. Prisoner R was being kept in solitary confinement for weeks at a time, including two weeks at B block in the men’s prison in the second half of March 2006. A third prisoner, M, who has significant brain disorders from substance abuse, was frequently held in cell 4 as well as B and C blocks in the men’s prison. All three are Aboriginal prisoners.

At one time in 2005, they allege, there were four women on “special regimes” at the same time. These women were locked in their cell for 23 hours a day and spent the remaining hour in cell 4, J block’s management cell. They would then be put back into their own cell, when the next prisoner would be taken out for her hour in the cage, and so on.

[Cell 4 is in the middle of the “main” (remand/maximum/medium security) area of J block. The cell is of similar size to all other cells in the area but with sparser, “suicide-proof” furnishings. Outside the cell door is an enclosed cage of around 2 x 3 metres, jutting out into the small courtyard of the “main” area of J block.]

The complainants believe that solitary confinement frequently exacerbates the conditions of these women:

For the women with mental health problems, it’s probably the worst thing for them to be caged up. [In cell 4] they look like they’re animals in a little cage. The women who walk past aren’t allowed to talk to them. They’ll yell and scream and spit but it’s not really their

²⁴² World Health Organisation (2005), “Information Sheet: Mental Health and Prisons” at 3

fault because they don't know any better. So it's not good for them and it's not good for anyone else because it puts everyone on edge.

Regulatory framework

Except in the context of prisoner misconduct, neither the *Prisons (Correctional Services) Act* nor the *Regulations* make mention of the use of separate confinement. Instead s 60 and 61 of the Act provide in general terms that:

60. The Director may order that such precautions as he or she thinks fit be taken to maintain the security and good order of a prisoner, prison or police prison.

61. (1) In addition to precautions he or she is required under section 60 to take, an officer may take such precautions not inconsistent with that section as he or she thinks necessary to maintain the security and good order of a prisoner, prison or police prison.

NTCS Directive 2.4.2 ("Separate Confinement, Management of Disruptive Prisoners and the Non Entitlement to Prescribed Privileges") sets out the circumstances for the use of separate confinement and the related procedures. Separate confinement is defined as "separation of a prisoner away from the general prisoner population". The circumstances under which it may be ordered are (at 5.3 and 5.14):

a. Prison Misconduct

- Following misconduct proceedings
- Separate confinement for up to 7 days

b. Administrative Separation

- "For management purposes, as a precaution where pursuant to s 61 of the *Prisons (Correctional Services) Act*, an officer reasonably believes it is necessary to separately confine a prisoner to maintain the security and good order of a prisoner or prison"
- Up to 7 days with further extensions as approved by the Director or delegate

c. Medical Separation

- For prisoners with an infectious disease
- At the direction of the medical officer

d. Protective Separation

- For the protection of a prisoner from other prisoner(s)
- Up to 7 days with further extensions as approved by the Director or delegate

e. Disruptive Prisoners

Clause 5.1 of the Directive applies in all situations above and requires that "Separate confinement is to be imposed at the minimum level consistent with the reason for the separation."

It appears that the prisoners mentioned by the complainants have been separately confined at different times under either a, b, or e above. In addition, they have been under separate confinement for the purpose of observation due to being placed 'At

Risk' of self harm or suicide. 'At Risk' procedures are set out under a separate Directive and are discussed further in the next chapter of this report.

The "Disruptive Prisoners" section is a new addition to the Directive since December 2005. A "disruptive prisoner" is defined as "a prisoner who continually jeopardises the good order and management of a Correctional Centre." The relevant procedures under the Directive are as follows:

5.14 Disruptive Prisoners

5.14.1 For management purposes, where a prisoner through his attitude, conduct and behaviour continually jeopardises the good order and management of a prison, threatens the health and safety of staff and other prisoners may have the following sanctions enforced.

- a. Be housed in an area of the institution that segregates him/her from other prisoners to ensure his/her safety, staff and other prisoners health and safety.*
- b. Have all or certain privileges restricted or removed as per Appendix B.*
- c. Have limited out of cell time to ensure his/her, staff and other prisoners health and safety.*
- d. Have his/her security rating reviewed.*
- e. Be separately confined.*

5.14.2 Prior to any of the above sanctions being enforced, the OIC of the accommodation area where the prisoner is housed will compile a management plan/regime for the prisoner concerned.

5.14.3 Dependent on the mental capacity or behavioural tendencies of the prisoner, consultation may be necessary with the Visiting Medical Officer, Forensic Mental Health Services and Classification and Security Assessment Committee.

5.14.4 The management plan/regime can only be enforced on the approval of the Superintendent.

5.14.5 If the management plan/regime includes separate confinement, it can only be approved by the Superintendent or delegate up to 14 days, with an extension of a further 14 days with the approval of the Director or delegate. Any further extension beyond 28 days must be approved by the Director.

5.14.6 All management plans/regimes must be reviewed on a monthly basis with the reviewing officer informing the Superintendent of the outcome and any recommendations of the continued management of the prisoner concerned.

NTCS response

The 28 August NTCS submission acknowledges that:

The three women referred to within the complaint and at 4.2.3.3(g) have experienced repeated episodes in separate confinement for a range of reasons including placement under observation due to a risk of self harm... The women were located in Block B, Block C and Cell 4 Block J; sometimes moving between different blocks or different cells in the same block within one episode.²⁴³

Prison records show that the days (including part days) spent in separate confinement between January 2005 and August 2006 are as follows:²⁴⁴

²⁴³ At 37

²⁴⁴ At 37

Name	Days in Confinement / Under Observation
<i>Prisoner M</i>	14
<i>Prisoner H</i>	67
<i>Prisoner R</i>	61

NTCS notes that these women have not actually been incarcerated for the entire period, but each experienced a number of custodial episodes during this time.

NTCS was asked to comment on the practice of separately confining women prisoners in B and C block of the men's complex at DCC. The 28 August 2006 NTCS submission explains that

The availability of observation cells, higher staffing levels and surveillance cameras in areas other than J Block would guide the choice of location for female prisoners in need of separate confinement...

Given the limited options available within J Block, and the varying needs and numbers of women who may be deemed to require separate confinement at any one time, cells in both C and B Block have also been used. The qualities and locations of these cells have been identified as an issue for NTCS and are on the internal NTCS priority list for capital works.²⁴⁵

In relation to the facilities available for separate confinement in general, NTCS responds as follows:

It would be the preference of NTCS to have more options in terms of accommodating prisoners with mental health and disability related issues...

In the shorter term these facilities have been identified as NTCS capital work priorities; with particular reference to the At Risk cells, as well as the recreation and surveillance capacity in B Block. Cell 4 within J Block has a small open air area completely encompassed in a "cage". A preferable option would be the extension of recreation areas attached to individual cells as has been envisaged in early planning for an upgrade of the maximum security area of B Block.

However, the outcome of the development of the NTCS Action Plan will have a bearing upon the management of the increasing number of women prisoners and their specific needs. A Mental Health and Behavioural Management Unit will obviously provide more options to respond to prisoner needs from stabilisation through to longer term placement...

The case of [Prisoner M] has been identified in the complaints and might illustrate the approach taken to the provision of appropriate accommodation. Based on records of the time, the impact of various confinement options were considered with input sought and received from specialist providers. The Management Plan of 27/2/06 notes the input from 'medical' that the B Block environment is "detrimental to her well being". A transition from B Block to J Block was devised including the level of observation required, specified responses to certain behaviours (eg. injury to self or aggressiveness), and the diagnosis of, and reporting required to, Forensic Mental Health Services...

It is the case that confinement may be a response to both disciplinary and behavioural or mental health related issues. It is apparent from records that instituting separate confinement in response to an incident, e.g. assault by one prisoner on another prisoner, does not mean that mental health, personality disorders, and/or other disabilities are not taken into consideration, nor that specialist input is neither sought nor utilised to develop an appropriate response. With regard to [Prisoner M] for example, prison officers had

²⁴⁵ At 36

*identified the need for referral to forensic mental health services; and medical services provided detailed guidance with regard to her Management Plan.*²⁴⁶

DCC Superintendent Raby, in his 15 November interview, agreed that it has been the case that at different times, prisoners with mental illness, cognitive disability or acquired brain injury have spent a significant amount of time in separate confinement. This occurs under Disruptive Prisoner, misconduct and 'At Risk' provisions. He explains that the reasons are often about safety. Prisoner R, for example, was put in separate confinement after she assaulted two staff in a matter of days. He accepts that the situation is certainly not ideal, and neither are the prison's facilities. But his first priority is the safety of his staff.

New training is providing staff with more tools for managing prisoners with difficult behaviours due to mental health or disability. However, separate confinement will still be the only way in some cases.

In addition to the new training modules, Mr Raby states that the relationship with FMH is a lot better than it has been and DCC prison staff now cooperate much more closely with FMH in the management of individual prisoners and the development of Management Plans. With office space being set up in the prison for FMH, allowing a daily FMH presence, he expects greater cooperation and more integrated management of individual prisoners.

Mr Raby confirmed that no analysis has been done on the proportion of prisoners held in separate confinement as "disruptive prisoners" whose "disruptive" behaviour stems from their mental illness or disability.

Our office asked Mr Raby about the timeframe for capital works to improve the standard of separate confinement cells, as referred to in the NTCS submission. He stated that no timeframe could be specified as "These cells are on the Master Plan but no funding has yet been approved."

Case study: prisoner C

As a result of a separate complaint to the Ombudsman, I am aware of a fourth Aboriginal woman who has spent significant time in separate confinement in both ASCC and DCC. Prisoner C entered ASCC on remand on 1 April 2006. On 5 August 2006 she was transferred from ASCC to DCC. For her entire time in ASCC (four months or 126 days), she was classified as a "Disruptive Prisoner" and kept in separate confinement in the maximum security men's block, segregated from interaction with all other prisoners.²⁴⁷ I have viewed her one page Management Plan for this period. I am informed that this Management Plan was established in consultation with FMH.²⁴⁸

On 29 June 2006, the consultant psychiatrist with the Central Australian Mental Health Service conducted an assessment of C and recommended she be admitted as an involuntary patient to the Alice Springs Hospital in-patient unit. The unit was unable to admit her as it was not an appropriately secure facility. Her condition then stabilised somewhat and the psychiatrist determined that there would be no

²⁴⁶ At 37-38

²⁴⁷ 9 August 2006 email from NTCS Professional Standards Unit to Ombudsman's Office

²⁴⁸ 29 November 2006 email from NTCS Professional Standards Unit to Investigating Officer

therapeutic benefit in transferring her to Darwin. Instead, the decision was made to provide intensive support while in ASCC.²⁴⁹

C was found not guilty of her charges due to mental impairment and was declared “liable to supervision” pursuant to Part IIA of the *Criminal Code*. On 5 August 2006 she was transferred to DCC on order of the court and following DHCS’ recommendation.²⁵⁰

For the first two months after her transfer to DCC, she had “a strict management plan due to her irrational behaviour” which included her being separately confined at different times in B block, C block and cell 4 J block. In October 2006, “her management plan was reviewed and changes were made to decrease the rigidity of her regime.”²⁵¹

On 6 November 2006, a comprehensive seven-page Management Plan was established, signed off by both the DCC Deputy Superintendent and FMH. The plan allows C autonomy in some respects and clear boundaries in other respects, and emphasises the need for all staff to treat C in a respectful manner at all times.

One of the complainants, Gina, reported that from mid October, she noticed a concerted program whereby FMH and prison welfare staff would visit prisoner C (and another prisoner R) daily and an extra officer would be stationed inside the maximum/medium security area at all times (ie on the inside of the fence). This meant that R and C were subject to less solitary confinement. She commented that the program appeared to be working and both prisoners were doing a lot better. Gina was released in mid November.

These observations indicate that with intensive structured support, at least for this prisoner, behaviours can improve and the use of solitary confinement can be greatly reduced.

Relevant standards

INTERNATIONAL INSTRUMENTS

- ***Basic Principles for the Treatment of Prisoners***

7. Efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged.

- ***Standard Minimum Rules for the Treatment of Prisoners***

21. (1) Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.

32. (1) Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.

(2) The same shall apply to any other punishment that may be prejudicial to the physical or mental health of a prisoner. ...

²⁴⁹ 9 August 2006 email from NTCS Professional Standards Unit to Ombudsman’s Office

²⁵⁰ Ibid

²⁵¹ 7 November 2006 email from NTCS Professional Standards Unit to Investigating Officer

(3) The medical officer shall visit daily prisoners undergoing such punishments and shall advise the director if he considers the termination or alteration of the punishment necessary on grounds of physical or mental health.

- **The CPT Standards**, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment, 11th General Report [CPT/Inf (2001) 16]

32. In every country there will be a certain number of prisoners considered to present a particularly high security risk and hence to require special conditions of detention. The perceived high security risk of such prisoners may result from the nature of the offences they have committed, the manner in which they react to the constraints of life in prison, or their psychological/psychiatric profile. This group of prisoners will (or at least should, if the classification system is operating satisfactorily) represent a very small proportion of the overall prison population. However, it is a group that is of particular concern to the CPT, as the need to take exceptional measures vis-à-vis such prisoners brings with it a greater risk of inhuman treatment.

Prisoners who present a particularly high security risk should, within the confines of their detention units, enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. In particular, they should be able to meet their fellow prisoners in the unit and be granted a good deal of choice about activities. Special efforts should be made to develop a good internal atmosphere within high-security units. The aim should be to build positive relations between staff and prisoners. This is in the interests not only of the humane treatment of the unit's occupants but also of the maintenance of effective control and security and of staff safety.

The existence of a satisfactory programme of activities is just as important - if not more so - in a high security unit than on normal location. It can do much to counter the deleterious effects upon a prisoner's personality of living in the bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value, etc.). As regards, in particular, work activities, it is clear that security considerations may preclude many types of work which are found on normal prison location. Nevertheless, this should not mean that only work of a tedious nature is provided for prisoners.

It is axiomatic that prisoners should not be subject to a special security regime any longer than the risk they present makes necessary. This calls for regular reviews of placement decisions. Such reviews should always be based on the continuous assessment of the individual prisoner by staff specially trained to carry out such assessment. Moreover, prisoners should as far as possible be kept fully informed of the reasons for their placement and, if necessary, its renewal; this will inter alia enable them to make effective use of avenues for challenging that measure.

- **The CPT Standards**, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment, 2nd General Report [CPT/Inf (92) 3]

48. Specific mention should be made of outdoor exercise. The requirement that prisoners be allowed at least one hour of exercise in the open air every day is widely accepted as a basic safeguard (preferably it should form part of a broader programme of activities). The CPT wishes to emphasise that **all prisoners without exception** (including those undergoing cellular confinement as a punishment) should be offered the possibility to take outdoor exercise daily. It is also axiomatic that outdoor exercise facilities should be reasonably spacious and whenever possible offer shelter from inclement weather.

56. The CPT pays particular attention to prisoners held, for whatever reason (for disciplinary purposes; as a result of their "dangerousness" or their "troublesome" behaviour; in the interests of a criminal investigation; at their own request), under conditions akin to solitary confinement.

The principle of proportionality requires that a balance be struck between the requirements of the case and the application of a solitary confinement-type regime, which is a step that can have very harmful consequences for the person concerned. Solitary confinement can, in certain circumstances, amount to inhuman and degrading treatment; in any event, all forms of solitary confinement should be as short as possible.

NATIONAL STANDARDS

- ***Royal Commission into Aboriginal Deaths in Custody***

Recommendation 181: That Corrective Services should recognise that it is undesirable in the highest degree that an Aboriginal prisoner should be placed in segregation or isolated detention.

- ***Standard Guidelines for Corrections in Australia***

1.76 Every prisoner who is placed in segregation as a punishment should be visited daily by a member of the prison management and as frequently as practicable (preferably daily) by a representative of the medical officer. The medical officer or their representative should advise the officer in charge of the prison if they consider the termination or alteration of the segregation is necessary on grounds of physical or mental health.

1.80 Every prisoner who is placed in segregation for management or administrative reasons should be visited daily by a member of the prison management and as frequently as practicable (preferably daily) by a representative of the medical officer. The medical officer or their representative should advise the officer in charge of the prison if they consider the termination or alteration of the segregation is necessary on grounds of physical or mental health.

2.18 Prisoners who are identified as being at-risk of self harm should be placed under a management regime appropriate to their individual needs that is designed to ensure their well-being.

2.19 Prisoners placed under a special management regime should not be denied access to privileges or entitlements other than those necessarily removed for their own protection, and such removal should be for the minimum time necessary. Prisoners should only be segregated as a last resort in order to prevent self-harm or suicide and should be closely monitored.

- ***AMA Position Statement – Health Care of Prisoners and Detainees***

Solitary confinement

6.1 Solitary confinement, defined as a correctional facility regime in which a prisoner or detainee is confined separately from other prisoners or detainees as a means of punishment, is inhumane. Solitary confinement is medically harmful as it may lead to a number of physical and/or mental disorders.

Relevant literature

The term “solitary confinement” conjures up images of archaic underground sensory deprivation cells where prisoners spend their time in total darkness. The concern with solitary confinement relates also to its more modern forms, however:

*Another form of solitary confinement occurs when a prisoner is held in a single cell with access to normal light and air and can hear prisoners moving in adjacent areas. This type of punishment should only be used in exceptional circumstances for short periods of time. In all such cases prisoners should be carefully monitored on a daily basis by a doctor to note any deterioration in their health; in that case the punishment should be ended.*²⁵²

The WA Inspector of Custodial Services has declared that “Whatever form it takes, the treatment of prisoners who are segregated from mainstream accommodation and services is a vital indicator of the health of a prison.”²⁵³

The UN Human Rights Committee has expressed concern about the use of solitary confinement, especially for those detained prior to trial and conviction:

*The Committee is of the view that solitary confinement is a harsh penalty with serious psychological consequences and is justifiable only in case of urgent need; the use of solitary confinement other than in exceptional circumstances and for limited periods is inconsistent with article 10, paragraph 1, of the Covenant.*²⁵⁴

In one case the Committee has held that the use of confinement was inconsistent with article 10(1) of the ICCPR, in circumstances where the prisoner’s confinement to a cell “was intended to maintain prison order or to protect him from further self-harm, as well as other prisoners.” The Committee has also indicated that prolonged solitary confinement may amount to acts prohibited by article 7. The assessment of whether the treatment is incompatible with the standards of article 7 depends on all the circumstances of the case. Relevantly, factors including mental health have been found to aggravate the effect of solitary confinement so as to bring that treatment within article 7.²⁵⁵

“Isolation is not good practice”, states Andrew Coyle in *A Human Rights Approach to Prison Management*:

There are at least two models for the management of violent and disruptive prisoners. The first is by placing them in isolated conditions, either on their own or with one or two other prisoners. Under this arrangement prisoners spend all day and night in their living accommodation. In the most extreme of these conditions prisoners have no access to any activity or external stimulation and have nothing at all to do. They may be allowed an hour of solitary recreation in an empty outdoor exercise cage. They are strip searched and shackled every time they leave their cell. In some jurisdictions prisoners can spend years in this kind of regime. This method of dealing with prisoners, however dangerous, is not good practice and often arises from an absence of proper management techniques.

...
The international instruments make clear that solitary confinement is not an appropriate punishment other than in the most exceptional circumstances; whenever possible its use should be avoided and steps should be taken to abolish it. These instruments

²⁵² Coyle, A (2002), *A Human Rights Approach to Prison Management: Handbook for Prison Staff*, International Centre for Prison Studies, London at 81

²⁵³ Office of the Inspector of Custodial Services, Western Australia (2001), *Report of an Unannounced Inspection of the Induction and Orientation Unit and the Special Handling Unit at Casuarina Prison*, Report No/1 at 4

²⁵⁴ Concluding Observations of the Human Rights Committee: Denmark, 31/10/2000 CCPR/CO/70/DNK at [12], quoted in Human Rights and Equal Opportunity Commission (2006), Written submission to the NSW Coroner’s Inquest into the Death of Scott Simpson, File No. 988/04 at 4

²⁵⁵ Human Rights and Equal Opportunity Commission (2006), Written submission to the NSW Coroner’s Inquest into the Death of Scott Simpson, File No. 988/04 at 4

*acknowledge the fact that, potentially, periods of solitary confinement are prejudicial to the mental health of the prisoner.*²⁵⁶

The WA Inspector of Custodial Services quotes studies on the effect of segregation on a person's mental health:

A meta-analysis reviewing a number of earlier papers concluded that, on balance, segregation caused an overall detrimental effect on the mental health of personality disordered detainees (other than schizophrenics) and that this could lead to extreme acting out behaviours and the development of severe mental illness. More recent research has indicated that "the forced idleness and isolation in these [segregation] units cause many previously stable men and women to exhibit signs of serious mental illness." [References omitted]²⁵⁷

The NSW Coroner recently investigated the prison suicide of mentally ill man Scott Simpson. On 30 November 2005, one of Mr Simpson's treating specialists, Dr Lewin, gave the following evidence to the inquest:

Solitary confinement is not a medical treatment. There is no circumstance in which that is appropriate in the care of a mentally ill person...I regard it as fundamentally inappropriate for someone as disturbed as this man [Mr Simpson] to be in solitary confinement outside hospital.

... It's inhumane, there's no indication that it improves the situation, there's no scientific evidence that it is any benefit and there's a tremendous amount of scientific evidence that it makes mental symptoms, such as paranoia, significantly worse. It is grossly inhumane and in my opinion a contravention of all principles of humane management. The fact that it is used in the prison system in my opinion is an absolute abomination.

*...if you put someone who is paranoid and agitated and greatly distressed in a solitary confinement setting for 23 hours a day you cannot expect that to have a calming effect. These people behave as if petrol has been poured on a fire. In many, many, many cases it is absolutely contra-indicated [sic] from a medical point of view. It cannot be constructive. Now it does stop them from killing someone else but it certainly makes them personally more, more vulnerable and more frightened and more agitated.*²⁵⁸

The Victorian Institute of Forensic Mental Health observes that:

it is not uncommon for a mentally ill prisoner displaying acute and disturbing psychiatric symptoms to be placed in a management and observation cell (known as a 'Muirhead cell'). This placement is not a mental health decision, but one made by correctional administrators when there is no other accommodation available to guarantee the safety of a prisoner displaying disturbing psychiatric symptoms.

The fact that Muirhead cells, which were designed to be used by correctional administrators to safely accommodate prisoners displaying difficult and often violent behaviours, are also used for mental health reasons, is often difficult to reconcile. At the most extreme, this can lead to psychiatric care being seen as punitive within the prison environment.

*The ramifications of a punitive view of mental health services developing within a prison are substantial and strategies need to be implemented to address this. The availability of 'turnaround' beds in a gazetted facility, rather than use Muirhead cells for acutely mentally ill prisoners, would be a worthwhile initiative in this respect.*²⁵⁹

²⁵⁶ Coyle (2002) at 73, 80

²⁵⁷ Id at 5

²⁵⁸ Quoted in Human Rights and Equal Opportunity Commission (2006), Written submission to the NSW Coroner's Inquest into the Death of Scott Simpson, File No. 988/04 at 6

²⁵⁹ Victorian Institute of Forensic Mental Health (2005), *Submission to the Senate Select Committee on Mental Health* at 21

The Australian Mental Health Consumer Network argues that prisoners with mental illness should be specifically excluded from segregated confinement:

The AMHCN opposes the prolonged and unnecessary incarceration of any prisoner in isolated segregation or security units. Prisoners with serious mental illnesses, even if they are currently stabilised or asymptomatic, should never be confined for prolonged periods in the harsh isolation conditions typical of segregation. There is an unacceptably high risk that the isolation, reduced mental stimulus, lack of structured activities, and the absence of social interaction will provoke a deterioration of their symptoms and increased suffering. We recognize there are some prisoners with mental illness who require extreme security precautions even when under mental health treatment. For these individuals, prisons should provide specialised secure units that ensure human interaction and purposeful activities in addition to mental health services.²⁶⁰

This call is echoed by the Royal College of Physicians (UK):

Prisoners with obvious mental disturbance should not be placed in solitary confinement and should be managed by closer supervision and support instead, combined, if necessary, with medical care and sedation.²⁶¹

Similar statements are made in relation to those with cognitive disabilities by the Office of the Public Advocate Queensland:

One of the paradoxes of prison is that often inmates in need of services are placed in units where it is most difficult to deliver services. Prisoners isolated from the general prison population, are unable to participate in normal daily prison activities and spend much of the day locked in their cells. These areas of segregation known as administrative detention, special management, solitary confinement, or crisis support most often accommodate inmates with assorted behavioural problems. Many will be prisoners with cognitive disabilities demonstrating 'challenging behaviour'...

The use of these units at all for prisoners with mental illness or cognitive disabilities is open to the severest condemnation. These units do not provide any semblance to an appropriate environment in which treatments with sustainable outcomes can be administered, nor are prison staff appropriately qualified to undertake the interventions that are required to address the issues confronting these prisoners. If these units are to be used there should be clear guidelines for their use and appropriate monitoring and reporting practices implemented. Informal arrangements where areas are set aside for these practices 'in house' should not be tolerated...

There should be a full review of the use and monitoring practices associated with the use of segregation areas within the prison system. Any person being contained in them should be assessed for mental illness and cognitive disabilities which if found, will prevent the person being so confined.²⁶²

Peter Mals stated in the 15 June 200 interview that adequate social support is one of the most important factors for a prisoner's mental health, and generally this means mixing with people from his/her own country.

²⁶⁰ Submission to the Senate Select Committee on Mental Health (2005) at 38

²⁶¹ Royal College of Physicians (2002), *Suicide in Prisons*, Council Report CR99, RCP, London at 21

²⁶² Office of the Public Advocate Queensland (2005), *Issues for People with a Cognitive Disability in the Corrections System* at 24-25

PRISONER MISCONDUCT

The Australian Mental Health Consumer Network argues that prisoners with mental illness can be charged with disciplinary breaches at a disproportionate rate, but that this is an inappropriate response to their challenging behaviours:

*Prisoners with mental illness can have unique difficulties complying with prison rules and may engage in bizarre or disruptive behaviour because of their illness. Punitive responses to such conduct do little to reduce or deter it. When prisoners who are on the mental health caseload violate rules, disciplinary procedures should require mental health input to the disciplinary officers regarding whether the prisoner's behaviour was connected to or caused by mental illness, and regarding what sanctions might be appropriate. In specialised units housing only mentally ill prisoners, corrections officials should work with mental health staff to determine whether the normal prison disciplinary system should be suspended, and mental health staff should determine appropriate responses to prisoner misconduct consistent with his or her mental diagnosis and treatment plan.*²⁶³

The situation is similar for prisoners with cognitive disabilities or brain injury:

*The traits generally possessed by this group means that they will continue to attract the prison offences provisions unless and until the reality of their condition is factored into their treatment.*²⁶⁴

Pollack (2005) explains that women, in particular, may come under scrutiny for misconduct charges. Again, she states that a punitive response is often not helpful:

*Behaviours commonly exhibited by many women in prison, such as angry outbursts, substance abuse, self-injury and dissociation may be regarded as normal self-protective measures cultivated in response to traumatic events. These self-protective strategies are often reactivated within the prison when events and/or relationships replicate abusive dynamics or when women have flashbacks or memories of past abuse. Responding to women's coping strategies punitively only reinforces the need for them to self-protect, thereby perpetuating, rather than alleviating, women's distress and difficult behaviour.*²⁶⁵

The UN High Commissioner for Human Rights explains that “[i]t is important to distinguish between prisoners who intentionally disrupt the order of the prison and prisoners who are mentally disordered and whose behaviour is disruptive.”²⁶⁶ This applies both in the context of misconduct charges as well as other forms of coercive management for security purposes which are not primarily punishment-oriented, such as segregation for “disruptive prisoners”.

Findings

I recognise that separate confinement does not necessarily imply solitary confinement however it is my view that this is generally the effect.

²⁶³ Submission to the Senate Select Committee on Mental Health (2005) at 38

²⁶⁴ Office of the Public Advocate Queensland (2005), *Issues for People with a Cognitive Disability in the Corrections System* at 26

²⁶⁵ Pollack, S. (2005), “Taming the Shrew: Regulating Prisoners Through Women-Centred Mental Health Programming”, *Critical Criminology*, Volume 13, pp 71-87 at 81

²⁶⁶ Office of the United Nations High Commissioner for Human Rights (2005), *Human Rights and Prisons: A Manual on Human Rights Training for Prison Officials*, Professional Training Series No. 11 at 70

I am concerned by what appears to be the fairly common practice of the holding of prisoners with serious mental illness or disability in separate confinement. I am aware of four Aboriginal women prisoners over the last two years where this has been the case (R, C, M and H). This has occurred for different reasons including disciplinary charges, classification as “disruptive prisoners”, and risk of self harm. NTCS has acknowledged that one of these prisoners, C, was held in segregation as a “disruptive prisoner” in the men’s maximum security block of ASCC for an unbroken four month period, plus additional time in DCC.

I am also concerned by the shortage of safeguards in place in the Directive regulating the use of solitary confinement.

A comparison can be drawn with the use of separate confinement in psychiatric facilities, which is regulated by NT legislation. Under s 62 of the *Mental Health and Related Services Act*, patients in “approved treatment facilities” may only be secluded:

where no other less restrictive method of control is applicable or appropriate and it is necessary for the following:

- (a) for the purpose of the medical treatment of the person;*
- (b) to prevent the person from causing injury to himself or herself or any other person;*
- (c) to prevent the person from persistently destroying property.*

In addition, the section requires that a person who is being separately confined must be visited by a nurse at 15 minute intervals and examined by a medical practitioner at 4 hour intervals. If the person is kept in seclusion for more than 6 hours, this must be reviewed by an authorised psychiatric practitioner.

In the prison system, however, a mentally ill person can be separately confined with none of these protections for months at a time. The relevant Directive contains no requirement for any monitoring by health workers whatsoever. This is contrary to the relevant standards.

The international standard also requires that prisoners receive a minimum one hour per day exercise in the open air, and have access to rehabilitation programs. There are no such requirements in Directive 2.4.2 for separately confined prisoners. Only *maximum* out-of-cell time is prescribed in the Directive.

In addition, the Management Regime at Appendix A (applicable to those separately confined due to prisoner misconduct or administrative separation) restricts visits to “one 30 minute non-contact visit per week”. The national and international standards demonstrate that family visits are an entitlement, not a privilege, and should not be subject to such restrictions. In addition, the decision to allow a contact or non-contact visit should be made on a case-by-case basis and in light of the reason for separation (for example, whether the misconduct related to drugs or other contraband). Where the visit involves children, a contact visit should be allowed wherever possible.

Of all the categories for separate confinement set out under Directive 2.4.2, the “Disruptive Prisoner” provisions appear to be most open to abuse. The NTCS submission accepts that a prisoner can be classed as “disruptive” and separately confined for an indefinite period even where their disruptive behaviour is entirely due to their illness or brain injury.²⁶⁷

²⁶⁷ At 34

While I am informed that the routine practice is for FMH to be consulted prior to a management regime being applied to such a prisoner (as suggested by the Directive at 5.14.3), I am conscious that this is not a *requirement* of the Directive.

The NTCS submission states that commencing mid September 2006, the primary health provider will begin a policy of a daily visit by a nurse to all prisoners held in separate confinement. This is a welcome development which will bring NTCS into line with the standards on this point (for example, clause 1.76 of the *Standard Guidelines for Corrections in Australia*). But again, I am conscious that this is not a *requirement* of the Directive.

The national and international standards proceed from the assumption that separate confinement may well have a deleterious effect on mental health. This has been observed by prison officers. In a recent survey staff named "Isolating prisoners for extended periods" as an attitude/behaviour seen to be not useful in dealing with challenging behaviours arising from mental illness or intellectual disability.²⁶⁸

The basic principle set out in the *Mental Health and Related Services Act* is the requirement that the person be held in the least restrictive environment appropriate. The assumption is that involuntary admission to JRU will be more restrictive than living in the community. But it is possibly less restrictive than imprisonment, especially if the person is on a lengthy regime of separate confinement as a 'disruptive prisoner' or otherwise. The least restrictive environment principle needs to receive greater emphasis in the prison environment.

In the Scott Simpson inquest referred to above, the Human Rights and Equal Opportunity made the following recommendations to improve safeguards in the procedures allowing solitary confinement:

6.1 The Commission submits that the Coroner should make the following recommendations as they relate to public health and safety, and ways to prevent deaths from happening in similar circumstances in the future:

(a) The Department of Corrective Services amend their policies to explicitly state that prisoners should not be placed in segregated custody other than in exceptional circumstances and for limited periods.

(b) If the Department of Corrective Services detains a mentally ill prisoner in segregated custody for more than 48 hours, they should be required to certify that segregated custody is the least restrictive means of addressing the security concern. In providing this certification, the Department must be required to consider the following:

- (1) any less restrictive means of addressing the security concerns;*
- (2) the particular mental health needs of the prisoner as identified by Justice Health (in accordance with recommendation (c) below); and*
- (3) any recommendations from Justice Health (in accordance with recommendation (c) below).*

(c) An appropriately qualified medical practitioner employed by Justice Health should be required to assess all mentally ill prisoners detained in segregated custody within 48 hours of placement, and to report, in writing, to the Department of Corrective Services. Justice Health should identify in this report:

- (1) the particular mental health needs of the prisoner;*
- (2) any therapeutic concerns with the prisoner's detention in segregated custody;*

²⁶⁸ 28 August NTCS submission to the Ombudsman at Att 10

- (3) any recommendations as to a more appropriate placement, for example, if the prisoner would be more appropriately detained in segregation within a hospital setting, such as, 'D ward'; and
- (4) any recommendations as to more appropriate conditions of imprisonment in light of the prisoner's mental health needs, for example, allowing interaction with another inmate through a secure barrier.

(d) An appropriately qualified medical practitioner employed by Justice Health should be required to assess the health, including the mental health, of all prisoners held in segregated custody on a weekly basis, and to report in writing to the Department of Corrective Services. Justice Health should identify in this report:

- (1) any negative (physical or mental) effects on the prisoner arising from their detention in segregated custody;
- (2) any recommendations as to a more appropriate placement, for example, if the prisoner would be more appropriately detained in segregation within a hospital setting; and
- (3) any recommendations as to more appropriate conditions of imprisonment in light of the prisoner's mental or physical health needs.²⁶⁹

I am of the opinion that similar safeguards must be inserted into NTCS Directive 2.4.2.

I make the following Recommendations 45 and 46, which I am pleased to note are supported by both the Department of Justice and the Department of Health and Community Services.

Recommendation:

45. That NTCS Directive 2.4.2 be reviewed for its impact on prisoners with mental illness, intellectual disability or acquired brain injury. That changes include:

- a) **Setting out the principle that separate confinement is generally damaging for mental health and should be avoided wherever possible**
- b) **Setting out the principle that separate confinement may be particularly distressing for Indigenous prisoners**
- c) **Setting out the principle that the separate confinement of women in a men's block may be particularly distressing**
- d) **Setting out the principle that separate confinement for extended periods (greater than 21 days) should be avoided at all costs**
- e) **Requiring officers to demonstrate that the decision to separately confine a prisoner is a last resort and that all other alternatives are not feasible or appropriate**
- f) **Defining minimum out of cell hours for those in confinement and the conditions for the out of cell hours (including adequate space to allow exercise in the open air)**

²⁶⁹ Human Rights and Equal Opportunity Commission (2006), Written submission to the NSW Coroner's Inquest into the Death of Scott Simpson, File No. 988/04 at 13-14

- g) Requiring daily medical and/or FMH monitoring of those in confinement**
- h) Requiring daily visits by the Welfare Officer and/or Indigenous Support Worker of those in confinement**
- i) Amending Appendix A (“Management Regime for Separate Confinement”) to specify that the prisoner may receive visits in accordance with the entitlements of maximum security prisoners, and that the decision to provide a contact or non-contact visit should be made on a case-by-case basis. Where the visit involves children, the presumption should be to allow a contact visit.**
- j) In the section relating to “Disruptive Prisoners”:**

Clearly distinguishing between behaviours *intended* to disrupt and those disruptive behaviours which stem from mental illness, intellectual disability or acquired brain injury. In the latter case, the underlying principle should be that a health intervention is the priority, and that consultation with FMH or disability support officers is mandatory.

The Department of Justice also notes that the term utilised by NTCS is “separate confinement” rather than “solitary confinement” and I accept that this is the current phrase in use in the NT.

Recommendation:

46. That the management cell of J block be renovated or shifted to allow access to a larger open-air area. That in the interim, prisoners confined to the management cell receive at least one hour per day in the open grounds of J block under supervision.

The Department of Justice has advised me that funding for this renovation has recently be approved.

“The general intent of this recommendation is supported. Funding has recently been approved to expand facilities within J Block. In the short term this will provide for the upgrade and modification of the management cell capacity of J Block. Two existing cells have been identified for conversion to management cells at an approximate cost of \$80,000. This will mostly negate the need for females to be accommodated in the men’s prison.”

Not guilty due to mental impairment

The issue discussed in this section was not directly an issue of complaint raised by the complainants, however it was an issue which arose in the course of the investigation and is directly relevant to its subject matter.

As noted above, there were three male prisoners at August 2006 who were being held in NT prisons subject to custodial supervision orders having been found not guilty due to mental impairment or unfit to stand trial. Since this time a female prisoner, referred to in this report as prisoner C, has joined this list.

In 2002 amendments to the *Criminal Code Act* introduced new provisions in relation to people with mental illness, cognitive disabilities or brain injury who are charged with criminal offences in the NT.

Part IIA of the Act allows a court to make a finding that the person is not guilty of the offence due to mental impairment (including senility, intellectual disability, mental illness, brain damage and involuntary intoxication). Alternatively, the court may declare a person unfit to stand trial. In either case, the person may either be released unconditionally or a supervision order may be made – either custodial or non-custodial.

S 43ZA(2) requires that “The court must not make a custodial supervision order committing the accused person to custody in a prison unless it is satisfied that there is no practicable alternative given the circumstances of the person.”

The principle that the court is to apply when making an order is, at s 43ZM:

In determining whether to make an order under this Part, the court must apply the principle that restrictions on a supervised person's freedom and personal autonomy are to be kept to the minimum that is consistent with maintaining and protecting the safety of the community.

A supervision order is for an indefinite term, subject to periodic reviews by the court. At these reviews the court is to decide whether to continue, vary, or revoke the supervision order, taking into account issues such as danger to the community, danger to the person, and “whether there are adequate resources available for the treatment and support of the supervised person in the community”: s 43ZN(1)(e).

These new provisions came into force on 15 June 2002, replacing s 382 of the Code relating to prisoners held “at the Administrator’s pleasure”.

The management of a “supervised person” in the prison is governed by NTCS Directive 2.4.7 (*Supervised Persons – Part IIA Criminal Code*). The basic principle is (at 1.2):

The care and custody of supervised persons shall be managed on the basis that the restrictions on their personal autonomy are kept to the minimum consistent with maintaining security and good order of the Correctional Centre, and the supervised person.

The prescribed “care and treatment” afforded to each supervised person is set down by a written Determination of the Director. The Determination may provide for

“additional visitation, mail, property, telephone or other privileges not available to sentenced prisoners.”²⁷⁰

Like all other prisoners, people held in the prison as “supervised persons” may be transferred out to JRU on a short term basis if their mental illness becomes particularly acute, but will then be returned to the prison (if their mental impairment is purely disability or brain injury related, admission to JRU is not an option). As stated above, the NT has no long term forensic mental health facility that could house these people as an alternative to imprisonment. In the prison, these people will be housed in the mainstream prison environment or in separate confinement, as there are currently no special facilities in either prison for prisoners with mental illness or disability. The proposed new secure mental health and behaviour management units will improve this situation but it is likely that they will be built within prison grounds and under prison management.

The December 2005 Forensicare review of the Top End Mental Health Service discussed the effects of the new legislative regime and the extent to which it meets best practice standards:

It appears that the new provisions made in 2002 with respect to mental impairment have to date been little utilised by defence lawyers. At this stage it is unclear whether this is a statistical ‘blip’ in a small population, or whether there are deeper underlying reasons. Our suspicion is that the provisions are unpopular with offenders and their lawyers. This is unsurprising since in the event that the court orders a Custodial Supervision Order, this must be served in prison and there is no automatic right of release at the end of a specified period. Hence, despite the legislative progress made in 2002, in practice the situation is little different from the antiquated Governor’s Pleasure system which has now been abolished in most other States and Territories.

As long as patients on Supervision Orders under the Act are detained in prison rather than hospital, then notwithstanding the heroic efforts at rehabilitation of such offenders carried out by the Forensic Mental Health Team, it is unlikely that the defence will be attractive to defence lawyers. Thus far, prosecutors have also shown little inclination to raise the issue and so it has hardly been utilised...

If however, an inpatient facility for Forensic Patients (and for mentally ill prisoners) were to be built, with appropriate rehabilitation mechanisms, then it is highly likely that the defence would become more attractive and would be utilised more appropriately. Under the current state of affairs it seems that many offenders who would properly qualify for such a defence (particularly given the relatively broad statutory criteria for the defence in the NT) are choosing instead to accept a guilty plea and serve time in jail, since this has the reassurance of a fixed term of detention. This is suboptimal from the perspective of both human rights and public protection.

The development of an inpatient forensic unit has historically been problematic in the NT. It would certainly require some careful and creative thinking given its demographic peculiarities and need to cater to both acute and rehabilitation populations. Nevertheless, the likely level of psychiatric pathology in the prisons of the Territory and the ethical imperative to comply with United Nations regulations governing the detention of prisoners (Mullen et al 2000) should make the development of such a unit a priority for the Northern Territory Government.

Such a secure unit should form part of an integrated Territory-wide forensic mental health service. In practice it could service both the patients under the Act and acutely unwell prisoners, as well as occasionally taking very disturbed civil patients.

With all due respect to the authors of the CAYA report (2003), their proposed solution of having a ‘hospital’ based in the prison where involuntary treatment can be applied in a

²⁷⁰ At 6.11, 6.12

custodial setting is not one which we endorse. Whilst the CAYA report argues that "it is possible to create a prison facility that is an accredited hospital", most experts (Ogloff 2002) do not feel that such facilities are appropriate venues for coercive psychiatric treatment, a view endorsed by the Commonwealth in the Proposed National Statement of Principles for Forensic Mental Health.

This should not simply be seen as an ethical argument: it is also an argument for minimising risk of harm to the public. The current state of affairs in Darwin whereby a mentally impaired homicide offender is being given leave from the prison under the supervision of the forensic mental health team, with permission of prison authorities and the court, appears to us to be fraught with unacceptable risks. The gradual community reintegration of such offenders is a very sensitive area and can only properly be implemented from a hospital setting...

Our concerns are not based on any lack of confidence in prison staff themselves, more in the fundamentally flawed rehabilitation model...

It was also profoundly disheartening and disturbing that the solicitors we consulted believe that the prognosis for mentally disordered offenders placed under Mental Impairment legislation is very poor. The international literature (eg Wiederanders and Choate 1994) and our experience in Victoria suggest quite the opposite. Of course, if such offenders are placed in prison, denied effective medication such as Clozapine and not provided with a clear rehabilitation pathway, then the prognosis will be poor.²⁷¹

Forensicare argues instead for:

- *Strong and repeated advocacy for a dedicated forensic inpatient service*
- *Provision of mental health care equivalent to that available in the community (including access to appropriate medication) for all such persons in prison*
- *Focus on quality of life, vocational and other rehabilitation activities.*

Recommendation 27

That DH&CS establishes a clear policy position that patients who have been found unfit to stand trial or not guilty on grounds of mental impairment should be housed in a hospital and the Department works with government to develop appropriate secure facilities as a matter of urgency. Whilst a variety of models could be considered with respect to funding and responsibilities, we strongly recommend that such a unit be under the auspices of health rather than justice and that persons under the relevant legislation be treated as 'patients' rather than 'prisoners'.²⁷²

Peter Mals explained in his 15 June interview that the Victorian system is regarded as most state-of-the-art. They have an assessment prison where all prisoners go on initial reception. From there prisoners with mental health needs can be transferred to the Thomas Embling Hospital, which has both acute wards and long-stay wards. People found to be not guilty due to mental impairment go to Thomas Embling rather than prison. The emphasis is on rehabilitation and reintegration into the community. "The main thing that we lack up here [in the NT] is an extended stay forensic facility. JRU doesn't fulfil that role. JRU is purely an acute treatment facility", he explained.

The recent Senate Select Committee on Mental Health was unequivocal in its call for a health model rather than a prison model. For example, Recommendation 59 states:

That state and territory governments aim as far as possible for the treatment of all people with mental illness in the justice system to take place in forensic facilities that are physically and operationally separate from prisons, and incorporate this aim into

²⁷¹ Forensicare (2005), Review of Top End Forensic Mental Health Service of the Northern Territory: Final Report, Forensicare for NT Department of Health and Community Services at 29-31

²⁷² Id at 32

*infrastructure planning, and that the Thomas Embling Hospital in Victoria be used as a model for such facilities.*²⁷³

The World Health Organisation further declares that “The imprisonment of people with mental disorders due to lack of public mental health service alternatives should be strictly prohibited by law.”²⁷⁴

Professor Christopher Puplick noted in his submission to the Select Committee that:

*[NSW] is the only mainland jurisdiction and one of the very few in the world which still incarcerates forensic patients – people found not guilty by reason of mental illness – in clear breach of domestic legislation, the National Medical Health Forensic Policy and the United Nations Declaration of Human Rights.*²⁷⁵

Of course he forgot about the Northern Territory; a common mistake. But with NSW now reforming its system and removing forensic patients from the prison system, Professor Puplick could equally be making this statement about the NT.

Findings

I acknowledge that the NT faces particular hurdles in meeting the accepted standards in relation to people found not guilty due to mental impairment or unfit to stand trial, by virtue of the small numbers of people concerned and high costs. I am aware that the cost of providing a bed in JRU is currently \$938 per day, significantly higher than most other states and territories and significantly higher than the cost of a prison bed.²⁷⁶

I note Forensicare’s conclusion that the small numbers are in part the result of the shortcomings of the current regime and its avoidance by defence lawyers.

It is time that the NT developed a long term forensic facility able to house both “supervised persons” and those prisoners who develop conditions requiring longer term admission to a specialist facility. This facility must be outside the prison and under health management, and could be by way of an expansion of JRU. Such a facility would be *in addition to* the proposed secure mental health units in prison, which serve a different role.

The national and international standards on this point are clear. As Forensicare notes, there are also many pragmatic reasons which would justify a new strategy. I concur with Recommendation 27 of the Forensicare Review quoted above.

In the draft of this report, I made two recommendations on this issue. Firstly, (draft recommendation 47) that NTCS and DHCS establish a clear policy position that patients who have been found unfit to stand trial or not guilty on grounds of mental impairment should be housed in a hospital setting rather than prison.

The Department of Justice and Department of Health and Community Services responded that:

²⁷³ Senate Select Committee on Mental Health (2006), Final Report, *A National Approach to Mental Health – From Crisis to Community* at 3.49

²⁷⁴ World Health Organisation (2005), “Information Sheet: Mental Health and Prisons” at 3

²⁷⁵ At 8

²⁷⁶ Senate Select Committee on Mental Health (2006), First Report, *A National Approach to Mental Health – From Crisis to Community* at 13.90

Ideally individuals unfit to plead or found not guilty on the basis of mental impairment should be accommodated more appropriately. As you are aware, Government is currently considering a proposal for more appropriate facilities for these individuals. Once such facilities are available, and the model under which they will operate is determined, a clearer policy position will be articulated.

The second recommendation on this subject in the draft report was (draft recommendation 48) that the Departments move to develop an appropriate long term forensic facility outside the prison and under health management, and in compliance with the national and international standards, to be operational within five years of the release of this report.

The Department of Justice and DHCS response was:

As noted in response to recommendation 47, appropriate facilities are currently under consideration by Government and the model under which they will operate is yet to be determined.

I have noted the Departments' responses, but I feel that it is important that both Departments take into account my conclusion in favour of a non-corrections model in their future policy and capital works activities.

Recommendations:

47. That NTCS and DHCS note the conclusion in this report that patients who have been found unfit to stand trial or not guilty on grounds of mental impairment should be housed in a hospital setting rather than prison.

48. That the Departments move to develop an appropriate long term forensic facility in compliance with the national and international standards, to be operational within five years of the release of this report. In determining the model for such a facility, the Departments should note the conclusion of this report that it should be outside the prison and under health management.

Access to counsellors

Complaint

The complainants assert that there is very little access for any women on J block to psychologists or counsellors for one-on-one counselling sessions, despite many individual women submitting requests to see a counsellor. The complainant suggests that such services would not only be important for women with mental health issues but for all women prisoners at different times.

Amanda states that she has been asking for counselling since she entered the prison in 2003. The first time she received it was in October 2006, and only after the prison realised that she was in crisis.

Pru Gell from Dawn House, who conducts a weekly art program at J block, advised that she was aware of only one woman receiving counselling, and she was on a court-mandated order specifying regular counselling.

One complainant suggested that a formal peer support scheme be introduced for J block, involving training and support for a group of female prisoner volunteers, in order to facilitate and support the informal mentoring and counselling which routinely operates among female prisoners.

NTCS response

Counsellor/psychologist staffing levels at August 2006 were as follows:²⁷⁷

ASCC	DCC
1 x Welfare Worker / Counsellor 0.5 x Case Manager (above have qualifications to undertake counselling role) 1x Treatment Intervention Worker Positions currently vacant: 1x Principal Psychologist 1x Psychologist 1x Treatment Intervention Workers 1x Senior Case Manager	1 x Principal Psychologist 1 x Registered Psychologist 1 x Conditionally registered psychologist 2 x Social Workers Positions currently vacant: 1x Psychologist 0.5 x Treatment Intervention Worker

Counselling in DCC

Counselling in DCC is delivered by the Prisoner Rehabilitation Team on an as needs basis. Waiting time is dependent on the availability of staff but “would be in the order of two weeks”. Individual crisis counselling is also available with a minimal waiting time (generally the same day). Access for female prisoners is the same as that available to male prisoners.

Data collection and reporting on individual counselling sessions has been rough, however the Acting Manager of Prisoner Services estimates that approximately sixteen counselling sessions have been provided to female prisoners over the 12 months to August 2006. The Principal Psychologist has now instituted a new recording regime to better monitor service delivery.²⁷⁸

In addition, the Welfare Worker and an Indigenous Support Workers visit J block each Friday. The two new Indigenous Support Worker positions (making three in total, one of whom is female) have resulted in an Indigenous Support Worker usually attending J block more than once per week. This is better access than the men receive.

²⁷⁷ 28 August 2006 NTCS submission to the Ombudsman at 44

²⁷⁸ Id at 44

Counselling in ASCC

Waiting time for counselling appointments depends upon the urgency of the specific request, but a response usually occurs the same day or the next. Consultations usually occur in the H block interview room or the Q block programs area. Males and females have the same access to counselling, although male prisoners have relatively easier access to Q block, which has separate interview rooms allowing better privacy. The Acting Manager of Prisoner Services was, at August 2006, to be raising staff awareness of the need to ensure equal access for female prisoners.

Recruitment to all positions remains a barrier to service delivery, and a number of funded positions remain vacant. There has been little or no response to extensive advertising at a local and national level.

In addition, the Elders' Visiting Program has recently been expanded to include women Elders and women prisoners.²⁷⁹

Findings

NTCS states that approximately sixteen counselling sessions have been provided to female prisoners at DCC over the 12 months to August 2006. I am unclear as to how many distinct women this has involved. Some women (especially those on court-mandated orders) would have received a number of sessions, therefore the actual numbers of women receiving counselling would have been less than sixteen. Over the same period (2005/06 financial year), 116 distinct female prisoners were received into NT prisons.

In any case, I am unable to reconcile the versions provided by NTCS and the complainants. The complainants assert that women prisoners regularly submit requests for counselling but very rarely receive a response. Amanda states that she waited three years for a counselling session. On the other hand, NTCS asserts that waiting times are around two weeks.

The versions provided are so different that I am not able to make a finding as to the precise situation.

Recommendations:

49. That NTCS ensure that female prisoners are fully informed of their right to request individual counselling sessions, and the process for making such requests, through the formal induction and prisoner handbook.

50. That in conjunction with the new recording regime for counselling sessions at DCC, the prisoner Rehabilitation Team track the requests or referrals received for individual counselling sessions from female prisoners, and the waiting times between requests and delivery of the service, to ensure that waiting times are within the two week range suggested by NTCS.

Recommendations 49 and 50 are supported by the Department of Justice.

²⁷⁹ Id at 45

General recommendations

I make the following general recommendations which are supported by both the Department of Justice and the Department of Health and Community Services.

Recommendations:

51. That DHCS and NTCS furnish a joint report to the Ombudsman within one year of the release of this report which sets out the following:

- a) **The extent to which the new screening tool is operational**
- b) **Early indications as to the level of mental health and disability needs among women prisoners at ASCC and DCC**
- c) **The types and levels of services that have been delivered to women prisoners by the new disability support officers at each prison.**
- d) **The level of contact between the new Top End FMH Indigenous consultant and Indigenous women prisoners at DCC.**
- e) **The proportion of prison officers having completed the three new training modules on mental health, intellectual disability and acquired brain injury**
- f) **The progress in establishing an on-site FMH presence at DCC and the impact on service provision**
- g) **The progress in developing the proposed secure mental health units**
- h) **The progress in establishing a long term forensic facility for the NT**
- i) **Other progress in mental health and disability care for women prisoners, including future strategies and long term plans for expanding services.**

52. That the Department of Justice, in consultation with DHCS, research and develop options for greater front-end diversion of offenders with mental illness, intellectual disability and acquired brain injury from the criminal justice system.

DHCS added that: *“Amendments to the Mental Health and Related Services Act relevant to this recommendation were recently passed in the Legislative Assembly and should be commenced in the next 4-6 months.*

The ‘dismissal of charge’ provisions (Part 10 Division Two) have been redrafted to better articulate the circumstances under which the Court may request a certificate from the Chief Health Officer regarding the extent to which mental illness or disturbance influenced the offence for which the person is before the

Court and, after receiving such a certificate, the Court may decide to dismiss the relevant charge.

The introduction of 'Voluntary Treatment Plans' (Part 10 Division Three) is in effect a mechanism to allow an individual with mental illness to be diverted from the Court into a voluntary treatment arrangement.

The intention of this amendment is to encourage people to participate in a treatment plan for a period of 6 to 12 months, and for this to be taken into account in sentencing. It is hoped this will reduce the number of people with a mental illness who commit relatively minor offences from being incarcerated and improve their mental health and engagement with treatment services.

I note that this Bill was passed on 18 April 2007 without amendment but is still yet to be commenced.

Recommendation:

53. That this report be forwarded by the Ombudsman to the Human Rights and Equal Opportunity Commission to assist them with a national review of the treatment of women with mental health problems within the criminal justice and prison systems as recommended in 2006 by the Anti-Discrimination Commission Queensland and the Senate Select Committee on Mental Health.

The draft of Recommendation 53, which has been modified in this final version, but not so as to affect the Departments' responses, was "noted" by both Departments.

suicide & self harm

Prisons collect individuals who are finding it difficult to cope, they collect excessive numbers of people with mental disorder, they collect individuals with weak social supports, they collect individuals who, by any objective test, do not have rosy prospects...Prisoners suffer the ultimate ignominy of banishment to an uncongenial institution...where friends cannot be chosen, and physical conditions are spartan. Above all the process of imprisonment separates them from everything familiar, including their social supports and loved ones, however unsatisfactory.... This collection of life events is sufficient in any individual to make him or her depressed. The depressive feeling may include a wish to die.²⁸⁰

Suicide attempts and self harm are known to be a part of the life histories of a significant proportion of women in prison Australia-wide. Self-harming behaviour is also known to be more prevalent among women prisoners than men.²⁸¹

The NT has a low rate of prisoner suicides. Figures specific to the NT regarding the self harm histories of prisoners are not available as surveys have not been undertaken.

In the 2002 WA Department of Justice survey of women prisoners in that state:

- 52% reported that they had seriously thought about and/or attempted suicide prior to imprisonment.
- 12% had attempted suicide in prison.
- Of those women who reported attempting suicide since imprisonment, all of the non-Aboriginal women had also attempted suicide prior to imprisonment, while half of the Aboriginal women who had attempted or seriously contemplated suicide since imprisonment had never previously thought about or attempted suicide.
- 22% of Aboriginal women and 13% of non-Aboriginal women had self-harmed since their imprisonment²⁸²

²⁸⁰ Chauvin (2004), quoted in Anti-Discrimination Commission Queensland (2006), *Women in Prison* at 97

²⁸¹ WA Dept of Justice, *Profile of Women in Prison – Full Report* (2002) at 18

²⁸² WA Dept of Justice, *Profile of Women in Prison – Executive Summary* (2002)

When asked what led the women to self-harm or attempt suicide they indicated that previous abuse, grief and loss, imprisonment and sentencing, family/relationship problems, isolation (particularly from family), depression, stress and a sense of hopelessness were the most common factors.²⁸³

The 2003 *Victorian Prisoner Health Survey* found that over 30% of women prisoners have attempted suicide.²⁸⁴ The group that showed the highest rate out of all prisoners for previous incidents of deliberate self-harm was Aboriginal women.²⁸⁵

A NSW survey of women prisoners reported similar results:

- 39% stated that they had previously attempted suicide;
- 54% stated that they thought about suicide at some time in their life.
- 23% stated they had deliberately self-harmed or injured themselves at some time in the past.
- Approximately 30% stated that thoughts of suicide had increased since incarceration. Approximately 10% had greatly increased their suicidal thoughts since imprisonment;
- Approximately half the self harms incidents reported occurred in the community and 40% occurred in prison alone. About 10% had self-harmed in both settings²⁸⁶

Complaint

One complainant in this investigation, Angela, stated that around 90% of women in J block at the time she was imprisoned have self-harmed or attempted suicide prior to their incarceration. She bases this figure upon the number of women with visible scars as well as the number of women who have specifically told her about their experiences.

Despite this, four complainants believe that many prison officers at DCC are inappropriately trained to detect or respond to incidents of self harm or attempted suicide, and that practices may be outdated and anti-therapeutic.

One complainant related her personal story:

Gina spent eight months in DCC between March and November 2006. This included one week on remand. It was her first time in prison.

She entered the prison on 15 March. Based upon a psychiatric report presented to the court referring to recent suicide attempts, the court had ordered that the prison hold her as a person At Risk. Gina states that this was actioned by the prison in the following way. On her first night in prison she was strip-searched by a number of prison officers including two male officers,²⁸⁷ which she found extremely distressing. She was then placed into isolation on a 24 hour observation regime in a cell in the men's complex. The next day she had her

²⁸³ WA Dept of Justice, Profile of Women in Prison – Full Report (2002), p19

²⁸⁴ Quoted in Mental Health Legal Centre (2005), *Submission to the Senate Select Committee on Mental Health* at 24

²⁸⁵ Victorian Institute of Forensic Mental Health (2005), *Submission to the Senate Select Committee on Mental Health* at 9

²⁸⁶ Preliminary findings from the *NSW Inmate Health Survey*, conducted by Tony Butler for the NSW Corrections Health Service, reported in Select Committee on the Increase in Prisoner Population - Interim Report (2000) p82-3

standard initial medical assessment with a male doctor who asked her "You're not going to do anything stupid are you?" This, she says, was the extent of the discussion of her mental state. The doctor took her off the At Risk declaration following that "assessment."

For her first week in prison Gina was kept in A block in the men's section with two other women, due to J block being at capacity. During the daytime, 9.30am to 2pm, they were taken to J block. They were in individual cells in A block but Gina states that the men's dorm looked straight into her window, which she found very uncomfortable.

Gina was shocked that despite the court's order, she could be taken off At Risk status as early as the next day. She claims that there was no follow-up whatsoever after the initial medical. At no point in her eight months was she ever assessed by a psychiatrist or psychologist. She never saw Forensic Mental Health. Nor did she ever receive any medication besides two valium on her first night. Gina states that she was in a very unstable mental state at the time. She didn't feel that she could ask for help but she believes that it should have been obvious to others that she needed it. She cried every day for the first three months. She lost 12 kg within a couple of months of entering prison. It wasn't until the last few months of her sentence that she formally requested to see a counsellor. The counsellor offered to her, she states, was a trainee psychologist who was the same age as Gina's daughter. On hearing this, she cancelled the appointment.

Twice Gina attempted suicide in prison. She did not tell any officers and she did not get any medical attention.

Gina believes that the general attitude towards her by officers was that because she was mature-aged and educated and actively mentored other girls, she was assumed to be fine herself. She does not blame the officers for this but claims that they are not adequately trained in these issues and simply don't understand.

Gina states that following her initial treatment resulting from her At Risk status (being immediately strip-searched and put under isolation and observation in the men's prison), she deliberately tried to conceal her depression throughout the rest of her time in prison in order to avoid detection and to avoid again being declared At Risk. The only staff she ever spoke to about her mental health was from Dawn House, an external agency, as she knew they would not immediately report her.

Gina found that this response was common to most other women prisoners. That is, they attempt to conceal their emotions and avoid seeking help from anyone other than other inmates. Suicide or mental health will never be discussed with medical staff as prison officers are always present, including when a prisoner goes to hospital. An At Risk declaration, and the procedures which follow, is experienced as punishment. Most women who have been through it, Gina believes, find it extremely distressing and damaging, especially considering a person's vulnerable state at the time. Gina explains that in difficult times she would seek out the comfort of other inmates, and that most women prisoners actively support each other.

A number of complainants described the attempted suicide in June 2005 of a young Aboriginal woman in J block. The prison's response to this distressing incident, they claim, was archaic, heavy handed and traumatic. Kim and Amanda provided the following account. The woman concerned did not contact this office herself.

²⁸⁷ Male officers are not permitted to conduct stripsearches of female prisoners (NTCS Directive 2.2.9, section 5.2.3). Gina states that she never lodged a complaint, but a Senior Prison Officer did on her behalf about six months later, upon hearing of the incident. Gina asserts that one of the male officers then came to her and apologised in person, and passed on the apologies of the second male officer. No reason was given for the incident. Gina does not believe that there was any written record made of the complaint.

After speaking to her young daughter on the prisoner telephone, Sue (not her real name) became visibly distressed. She walked into the office and asked the prison officers for a razor to shave her legs. An officer gave her a razor.

Kim heard Sue say, as she left the office, "I'm going to slash up." Kim immediately went into the office and informed the prison officer. He replied "That's just hearsay" and remained seated.

A few minutes after Sue had left the office with a razor, a scream was heard. Sue had severely cut herself. She was taken to hospital by ambulance and required surgery to repair the damage.

Amanda and Kim had heard that when Sue woke up from surgery, she was discovered by an officer self-harming again in her hospital bed. Consequently she needed to have further surgery. Upon her return to DCC, the complainants claim that Sue was chained to a bed and the wall in separate confinement in C block under observation for two weeks, being allowed back in J block during the day. While held in this cell, Sue tried to strangle herself.

Amanda and Kim state that it was common knowledge that Sue was emotionally unstable. She had previously slashed up and once tried to hang herself. But despite an officer being specifically warned by Kim of the potential for harm, officers had failed to detect or prevent the risk. After Sue was found, some officers handled the situation well while others "totally freaked out".

One complainant commented that the attitude of both prison officers and prison medical staff during and after this incident was that Sue's actions constituted bad behaviour rather than mental health issues.

Another complainant explains that the incident was very upsetting for many J block prisoners. She believes that it was especially distressing for Sue's family member and cell-mate, who was required to go back into the room where it happened, clean up the blood all over the walls and floor, and sleep there that night.

Following the incident, a meeting was held in J block involving prisoners and officers. Amanda states that in the course of the meeting, prisoners were blamed for not adequately warning officers about Sue. Amanda felt that this was very unfair. Three prisoners received counselling from an external agency following this incident, but the prisoners were selected by officers.

Gina believes that the prison needs to be much more conscious of women at risk. She claims that there is no real consideration of women's well-being and mental health anywhere in the system. She suggests that a formalised peer support system or buddy system be put in place between inmates (carefully and individually selected), to support and extend what is already happening informally.

Gina strongly believes that officers need more mental health training. She knows of a number of officers, those who show a lot of care for some inmates but are searching for new tools, who would welcome this training. She said that little things matter a lot when you are feeling very low, like officers showing they care through sympathetic smiles or small chats (done in subtle ways so as not to show favouritism).

In 2004 this office received a complaint from another J block prisoner, in relation to her treatment as a prisoner assessed as at risk of suicide. As a result of this assessment, the complainant was transferred to an observation cell in C block, in the men's complex, where she endured the "blood curdling screams and constant loud banging" of a mentally ill man in a neighbouring cell. DCC acknowledged these facts.

In response to the complaint, this office was advised by the then CEO of the Department of Justice Mr Richard Coates that.²⁸⁸

- The number of female prisoners assessed as “At Risk” is “very low”
- “There are no suitable observation cells for female prisoners at risk of self-harm in the women’s section of DCC.”
- The practice of transferring female “At Risk” prisoners to the A wing of C block “will remain in place for the foreseeable future.”

NTCS response

The NTCS submission of 28 August 2006 states that only three incidents of self harm by female prisoners are recorded from April 2003 to August 2006. It acknowledges that “self harm histories may well be highly prevalent amongst the women prisoners.”²⁸⁹

Approximately half of all custodial staff at NT prisons currently have suicide prevention training. NTCS aims for all custodial officers to be trained in this regard. Registered trainers provide a two day Applied Suicide Intervention Training (ASIST) workshop to the recruit program. The training includes discussion of the impact of separate confinement on a person at risk of self harm or suicide.²⁹⁰

Procedures regarding self harm and suicide are currently under review with a view to developing a multi-disciplinary approach.²⁹¹

The NTCS response to the specific allegations regarding Sue’s attempted suicide is set out later in this chapter.

‘At Risk’ procedures

The relevant procedures are set out in the ‘At Risk’ Procedures Manual attached to NTCS Directive 2.8.3. The manual covers three types of At Risk categories: At Risk of self harm / suicide, At Risk due to a medical condition, and At Risk due to a need for Protection.

A prisoner can be classified as ‘At Risk of self harm’ by any prison officer, programs staff or health staff, by way of a written declaration to this effect. The Chief Prison Officer (or, in the evening shift, the Senior Prison Officer) is to be immediately notified. The CPO must then:

- arrange for the prisoner to be within view of an officer at all times
- notify the prison medical service (who must then notify FMH)
- start an At Risk file
- commence implementation of the Emergency Management Protocol

²⁸⁸ 22 April 2004 Correspondence to Ombudsman

²⁸⁹ At 40

²⁹⁰ Ibid

²⁹¹ 28 August 2006 NTCS submission; 15 November 2006 interview with DCC Superintendent Raby

The Emergency Management Protocol requires the prisoner to be stripped, dressed in a non-rip gown, placed in an Observation Cell and for CCTV observations to be commenced. Physical restraints may be applied but should be kept to a minimum (accompanied by urgent referral to health staff).

Clause 6.3 states that “Throughout the implementation of this protocol, Custodial Officers are, as far as possible, to maintain a humane and supportive attitude in their dealings with the prisoner and should make active efforts to dispel the impression that any part of this protocol is being applied for punitive reasons.”

Within two hours of the At Risk declaration, the prison medical service must assess the prisoner. This may occur by telephone. FMH must then assess the prisoner as soon as practicable or within 24 hours.

The Emergency Management Protocol remains in place until the medical service or FMH have assessed the prisoner and filed an Individual Management Plan.

The Individual Management Plan is prepared by the first health professional to assess the prisoner. It may cover where the prisoner is to be accommodated, the schedule of observations, any special surveillance procedures, the prisoner’s allowed clothing and personal items, involvement of support people and medication. The plan is to be updated each time a health professional has contact with the prisoner.

Cessation of At Risk status occurs on the recommendation of the prison medical service or FMH. A prisoner in the post At Risk period is to be provided with adequate medical follow-up.

If a prisoner has instead been declared At Risk of Self Harm by the court before arrival at the prison, the same Emergency Management Protocol is implemented. However, while the prison medical service is to be notified, there is no requirement for an “assessment” by the medical service. In addition, FMH is not required to be notified at all if the medical service decides to remove the prisoner from At Risk status.

The Manual also sets out common early warning signs, “red flags” and high risk periods for suicide/self harm.

Relevant standards

- ***Standard Guidelines for Corrections in Australia***

2.18 Prisoners who are identified as being at-risk of self harm should be placed under a management regime appropriate to their individual needs that is designed to ensure their well-being.

2.19 Prisoners placed under a special management regime should not be denied access to privileges or entitlements other than those necessarily removed for their own protection, and such removal should be for the minimum time necessary. Prisoners should only be segregated as a last resort in order to prevent self-harm or suicide and should be closely monitored.

- **AMA Position Statement – Health Care of Prisoners and Detainees**

14.3 The principle of nursing suicidal prisoners and detainees is supportive human contact. A prisoner or detainee should not be put into seclusion solely on account of their suicidal ideation.

14.4 When a prisoner or detainee is identified as having a significant risk of suicide, the attending staff should arrange for the prisoner or detainee to communicate with someone trusted, including family members and other appropriate people outside the correctional facility as appropriate.

- **Royal Commission into Aboriginal Deaths in Custody**

Recommendation 181: That Corrective Services should recognise that it is undesirable in the highest degree that an Aboriginal prisoner should be placed in segregation or isolated detention.

Relevant literature

The NSW Select Committee on the Increase in Prisoner Population discussed the issue of suicide and self harm among women prisoners in their July 2000 Interim Report:

Suicide, attempted suicide and self-harm are significant risks among inmates, particularly those who present with mental health problems. In relation to self-harm among women in prison, Dr Giuffrida explained that-

“It is clearly much higher than one would expect in the community, and indeed more so than you would expect to see in a public hospital situation, and often the forms of self-harm are really quite severe and even grotesque. There are a small number of women who do repeated self-damage causing severe scarring and often secondary infection and have been extraordinarily difficult to manage and control in the prison situation.” (Giuffrida evidence 15 February 2000)²⁹²

The Royal College of Physicians (UK) states that:

Prisons are expected to manage a population that is particularly prone to suicidal behaviour. This is a highly paradoxical situation because not only do prisoners have an increased likelihood of suicide but also the prison may further increase suicidal propensity in vulnerable people. Prisons house distressed, often aggressive, individuals in close proximity, they remove all possible avenues of flight, are stigmatising and demoralising. They may exacerbate depression and anxiety; they may induce drug-withdrawal states. To compound this problem prisons are then insufficiently equipped to deal with this serious rise in suicidal thinking and behaviour.²⁹³

Risk factors for suicide and self-injury in prisons can be grouped into four main categories: personal, contextual, historical and clinical. These categories include factors that are static and dynamic. Whilst static risk factors are useful in identifying those most at risk of suicide or self-injury in prison, the dynamic risk factors are amenable to change and can be targeted as areas for possible intervention.²⁹⁴

²⁹² At 87

²⁹³ Royal College of Physicians (2002), *Suicide in Prisons*, Council Report CR99, RCP, London at 32

²⁹⁴ Howells, K., Hall, G. & Day, A. (1999), “The Management of Suicide and Self-harm in Prisons: Recommendations for Good Practice”, *Australian Psychologist* 34(3) pp 157-165 at 159

According to Hayes (1994), there are two primary causes of gaol suicide; these are the prison environment, which is conducive to suicide, and the crisis situation of the inmate. Characteristics of the prison environment which contribute to suicide risk include:

- Fear of the unknown
- Distrust of the authoritarian environment
- Lack of apparent control over the future
- Isolation from friends/significant others
- Shame of incarceration
- Dehumanising aspects of incarceration

Predisposing factors within the individual might include:

- Recent excessive alcohol and/or drug use.
- Recent loss of stabilizing resources.
- Severe guilt/shame over alleged offence.
- Current mental illness.
- History of suicidal behaviour.²⁹⁵

USE OF ISOLATION/ OBSERVATION CELLS

The recent Anti-Discrimination Commission Queensland *Women in Prison* report related similar themes to those raised by Gina:

The experience of being in [an observation cell in the Crisis Support Unit], isolated from others, greatly heightened some women's levels of distress, and may have had the effect of increasing the desire to selfharm.

Women prisoners related their fear of showing any emotion that may be noticed by prison officers and result in them being put under observation and transferred to the CSU. A number stated they were afraid to cry even as part of a normal human response to being in an entirely abnormal and difficult environment such as prison. One particular older female prisoner, in prison for the first time reported:

"On my first day, I was feeling sad, I was sitting in a cell where the lights didn't work... they should have just let me have a little cry, I had sussed out the other people in the cell with me - I thought they were OK."

Instead she states, she was removed from the other prisoners, medicated with valium and placed in a padded cell for four days, on 15 minute observations.²⁹⁶

Howells, Hall and Day (1999) explain that:

One of the common strategies for managing prisoners at risk of self-harm has been the use of observation/safe/sterile cells (Hall, 1996). These are cells that are made suicide-proof by removing all opportunities for self-harm, and they generally include isolation and observation. In many instances, these observation cells are in the same unit or management area as punishment cells. Whilst these facilities may sometimes be useful in ensuring the safety of a proportion of prisoners identified as being at high risk, it is important to have a wider range of crisis-management methods. We suggest that the

²⁹⁵ Oglloff, J. (2002) "Identifying and Accommodating the Needs of Mentally Ill People in Gaols and Prisons", *Psychiatry, Psychology and Law*, Vol 9, No. 1 at 26

²⁹⁶ At 100

routine use of observation cells of this sort is a cause for concern, for the following reasons:

- *Prisoners may be confused and unclear as to whether they are being treated or punished when they are placed in an observation cell.*
- *The environment itself may be hostile, often housing prisoners who are 'acting out' with officers consequently being required to exert physical control.*
- *The presence of prisoners undergoing punishment results in an atmosphere that is punitive and coercive rather than therapeutic.*
- *Observation is an isolating experience that is likely to exacerbate the level of distress and suicidal rumination (Howard League for Penal Reform 1991)*

The design and use of observation cells is an attempt to remove the opportunity to self-harm rather than removing the motivation for self-harm or providing the support that would offset this impulse (Atlas 1989). Staff members are often acutely aware that observation cells contribute to and exacerbate the problems of the distressed prisoner rather than ameliorate his/her concerns. The consequences of the aversive nature of observation cells are twofold: firstly, staff members are sometimes reluctant to identify someone as at risk on the formal assessments believe the person would then be transferred to an observation cell and would suffer mentally as a result. Secondly, it is likely that prisoners with thoughts of self-harm will be reluctant to admit them to staff because they fear the consequences of making this disclosure.²⁹⁷

The Royal College of Physicians notes that “the majority of commentators reject the use of any form of isolation for potentially suicidal inmates.” It calls “strange” the idea that those “who are thought to be suicidal are best managed in isolation. This is clearly the opposite of what is required.” The college explains the history to the practice as follows:

Seclusion has traditionally been used in most prison systems as a punishment under the label 'solitary confinement'. Punishments of this kind are a way of controlling difficult prisoners; it is therefore easy to see how this technique may have become generalised into a means of controlling all difficult prisoners, even when it is acknowledged that they need care rather than punishment. Prisoners are likely to interpret a period in a stripped cell as a punitive response to their distress, even if it is carefully explained that this is not the case...

We strongly recommend that the use of seclusion and stripped cells for the management of suicidal prisoners should be stopped. We very much welcome the news, therefore, that came at the end of our work that a strong management directive has been issued within the prison service that suicidal prisoners shall not be secluded. The old management by seclusion should be replaced by close observation and, in some cases, removal to NHS hospitals.²⁹⁸

The United Nations Committee Against Torture has

stressed the importance of training medical personnel to detect any signs of a suicide risk among inmates, for example during the initial screening on admission. On no account should a person with suicidal tendencies be placed in solitary confinement. Serious suicidal cases should be transferred to a psychiatric establishment.²⁹⁹

In 2006 the Senate Select Committee on Mental Health expressed its concern with Queensland practices in relation to women prisoners:

²⁹⁷ At 161

²⁹⁸ Royal College of Physicians (2002) at 19, 52, 53

²⁹⁹ Mr Rasmussen, Alternate Country Rapporteur, United Nations Committee Against Torture (2000), Summary record of the first part (public) of the 444th meeting : Australia. 21/11/2000. CAT/C/SR.444 at paragraph 49

13.108 *Seclusion of prisoners who have been assessed as being at risk of suicide, self-harm or as a danger to others raises greater concerns. The committee received evidence from Sisters Inside about the 'Crisis Support Unit S4' isolation cells at the Brisbane Women's Correctional Centre (BWCC) and the Chair and one other member of the committee subsequently visited the gaol. At the time, all but one of the nine women in these cells were affected by a serious mental illness. The cells have been designed so that there are no furniture or design features that would allow them to harm themselves. The prisoners are locked down for 19 or so hours a day, are given only a hospital gown to wear and are under constant video surveillance. The Chair was advised by management that strip searches are mandatory for reception, whenever isolation cell inmates are escorted out of their cells and on return, after contact visits, whenever leaving an area in the facility such as the health centre, when placed on observation and every evening. The requirement for further three strip searches at meal break times had recently been removed.*

13.109 *It is alarming to note that though these women are regarded as at very high risk of self harm, many were on relatively short sentences and would soon be released. The rate of recidivism amongst these women was said to be very high.*

13.110 *The process of isolating such persons and placing them in seclusion appears effectively to prevent suicide and may prevent disruption to other inmates, but is hardly therapeutic for people who are mentally ill. A former visiting general practitioner to the BWCC, Dr Schrader, made the following observations about the use of the isolation cells at the Centre:*

"The treatment is the opposite of therapeutic. The use of seclusion is inappropriate for those of risk of self-harm and suicide. Observation alone does little to help the woman overcome her distress and suicidal or self-harming feelings and is alienating in itself ... A key element in suicide prevention is the presence of human interaction."³⁰⁰

On 6 July 2000 the Human Rights Commissioner of HREOC wrote to the NSW Commissioner of Corrective Services expressing his concerns about safe cells in NSW prisons. He commented that the elimination of hanging points has often resulted "in cells that are so stark and bare as to be oppressive and inhumane" and possibly "more likely to increase psychological alienation and suicidal tendencies through the very process of reducing the possibilities of suicide attempt."³⁰¹

Professor Paul Mullen, Clinical Director of the Victorian Institute of Forensic Mental Health, also stated to the recent Senate Select Committee on Mental Health:

The culture of prisons inevitably is a culture of observation and control. The culture of therapy for mental disorder is a culture - or should be - of communication and enablement of people to begin to stretch their capacities and begin to move. You see it very clearly when you come across suicide risk. The response of a prison to suicide risk is to restrict the possibilities of suicide. At the grossest end, you put people in a plastic bubble, take all their clothes away and watch them. That does prevent suicide but it also, in my view, produces enormous destruction to the psychological and human aspects of that individual, and it is not the way to go."³⁰²

As Howells, Hall and Day explain (1999):

³⁰⁰ Senate Select Committee on Mental Health (2006), First Report, *A National Approach to Mental Health – From Crisis to Community* at 13.108-13.110

³⁰¹ Aboriginal and Torres Strait Islander Social Justice Commissioner, "Citizens Inside", paper presented at the Human Rights and Equal Opportunity Commission workshop *Prisoners as Citizens*, Sydney 27 November 2000 at 4

³⁰² Quoted in Sisters Inside Inc. & Aboriginal Family Violence Prevention and Legal Service (2005), *Building on Women's Strength: Developing community-based service models for women in prison and released from prison in Victoria* at 16

*Social isolation and segregation of the prisoner have been found to be associated with self-harm. As Livingston (1997) suggested, this finding raises serious doubts about the use of segregation and strip cells as a management device. Segregation may undermine the main coping mechanism used by many offenders: escape from / avoidance of the stressor (Johnston 1978). While in segregation, such offenders are forced to ruminate on the stressor and their inability to deal with it. This leads to an increase in their distress, which, in turn, increases their risk of self-harm, rather than producing a "cooling-off" period.*³⁰³

In relation to women with Borderline Personality Disorder, Sorbello, Eccleston, Ward & Jones (2002) argue that:

*External obstacles created by prison environments (eg loss of freedom, disempowerment) elevate these dysfunctional behaviours. Difficult challenges arise for correctional staff who often view this behaviour as 'acting out' or manipulative, thus incidents are perceived as management rather than treatment problems. This is especially problematic given the prevalence of suicide and/or self-harm amongst this population. Volatile women are often placed in an observation cell until regaining composure, however this merely exacerbates the woman's distress and provides additional time to ruminate about suicidal and/or self-harming ideation.*³⁰⁴

The Royal College of Physicians summarises the findings of the Committee for the Prevention of Torture on this subject:

*The Council of Europe Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has drawn out a number of important points from its visits to a wide range of European countries. The Committee noted that: careful statistics are important; seclusion is a poor means of managing suicidal prisoners; the identification of prisoners at risk requires special training; special emphasis should be placed on the early phases of imprisonment; the best means of managing a prisoner at risk of suicide is a constructive relationship with members of staff; prisoners with mental disturbance should not be placed in solitary confinement; and all prison systems should have a suicide-prevention programme clearly identifiable.*³⁰⁵

In light of such findings, the College states that in its recent review of suicide prevention policy, HM Prison Service (2001) recommended at 2.15 that stripped cells and segregation units should not be used for the actively suicidal.³⁰⁶

The Anti-Discrimination Commission Queensland concluded, in the context of similar complaints in the Queensland context, that:

*It is clear to the ADCQ that, particularly in the [Townsville Women's and Brisbane Women's Correctional Centres], but also at other facilities for women prisoners, there should be a greater emphasis on developing and strengthening protective factors within the prison to mitigate against self-harm, instead of the current level of reliance on strategies such as CSUs [Crisis Support Units]. The use of CSUs should be a last resort, confined to prisoners who are a risk to other prisoners or to staff. The use of seclusion for prisoners liable to self-harm or suicide, but who do not pose a risk to others, should not be the primary approach by prison authorities. Rather, individual care plans should specify the measures required to manage the risk safely, including removing and treating the prisoner in a specialist mental health facility if necessary.*³⁰⁷

A South Australian academic in the field of the prevention of prison suicide, Elizabeth Grant, was consulted in the course of this investigation. Ms Grant is currently

³⁰³ At 158

³⁰⁴ At 200

³⁰⁵ Royal College of Physicians (2002) at 5

³⁰⁶ Id at 25

³⁰⁷ Anti-Discrimination Commission Queensland (2006) at 101

completing a post doctorate thesis at the University of Adelaide on the subject of reducing Aboriginal self harm and suicide through environmental factors in prison.

She explained that the research clearly demonstrates that people identified as At Risk should never be isolated. She pointed out that there has never been any evidence to support the isolation of people At Risk, and a very large amount of evidence to discredit it. She acknowledged that it was however common prison practice in most Australian jurisdictions to do so. Prisons have historically adopted this approach rather than the more involved and perhaps challenging approach of reducing stress in the prison environment.

Ms Grant also states that the Nagle Royal Commission³⁰⁸ recommended that there should be a specific legal basis in correctional legislation to authorise the use of seclusion. The lack of a specific legal basis, she suggests, may render seclusion practices invalid.³⁰⁹

BEST PRACTICE IN THE MANAGEMENT OF SELF HARM & SUICIDE

Elizabeth Grant explained that current theories of best practice emphasise that the management and prevention of suicide and self harm should begin long before an individual prisoner engages in self harm or attempts suicide. The emphasis should be on the reduction of risk and the enhancement of “liveability” in the prison environment, and the promotion of coping strategies and wellbeing among the general prisoner population.³¹⁰

The Committee for the Prevention of Torture (Council of Europe, 1991) states:

The central plank of the suicide prevention programme must be to address the problems of overcrowding, lack of integral sanitation and inadequate regimes. It may be true that conditions found in many local prisons will rarely be the sole and unique cause of a suicide; however for someone who is already predisposed to taking his life, they might often prove the last straw. Another key element of suicide prevention is the establishment of constructive relationships between staff and inmates, as well as between inmates. As far as the delegation could see, contacts between prison staff and inmates tended to be impersonal. Staff will have to possess good interpersonal communication skills for there to be a significant improvement. Steps to improve the general level of prison conditions and staff inmate relations must be accompanied by more specific measures aimed at identifying those most likely to commit suicide... Further, all prison staff, whatever their precise job, should be on the lookout for (which implies being trained in recognising) signs of suicidal behaviour. Of course persons identified as a suicide risk should be subject to special precautions. In particular they should not be placed alone in a cell with easy access to means of killing themselves (cell window bars, broken glass, belts or ties), should benefit from counselling, support and appropriate association, and should, for as long as necessary, be kept under a special observation scheme.³¹¹

Some experts take these themes a step further by arguing that the emphasis should not be on suicide prevention directly, but on developing and strengthening protective factors. Factors that mitigate against self-harm are:

- *family support and visits,*
- *constructive activity within the prison system,*

³⁰⁸ Nagle JF, *Report of the Royal Commission into New South Wales Prisons*, NSW Government Printer, Sydney, 1978.

³⁰⁹ 30 October 2006 telephone conversation with Investigating Officer

³¹⁰ Ibid

³¹¹ Royal College of Physicians (2002) at 21-22

- support from other prisoners,
- support from prison staff and probation officers,
- support from prison visitors and other services,
- having hopes and plans for the future,
- being in a system with excellent inter-departmental communication, and,
- staff who are professionally trained and valued by the system.³¹²

The Royal College of Physicians has summarised the findings of a number of previous reviews concerning the prevention of suicide in British and Irish prisons. These reports produced the following findings:

- Good prison regimes, which include occupation, time out of cell, good access to telephones and information and good access to family and friends have been highlighted by all reports as aspects of prison life that could act to generally enhance prisoners' lives to reduce risk of suicide.*
- There is a need for adequate NHS provision, so that patients with mental illness needing observation or treatment should transfer promptly to an NHS facility.*
- Prisoners requiring enhanced observation because of their suicide risk should have such observation provided in a humane way through enhanced human contact with nursing staff within a safe (ligature-free) cell.*
- Seclusion is not a good method of managing suicidal prisoners.*
- Reports agree that, where possible, young people and vulnerable people should not be exposed to prison if at all possible. This indicates an NHS responsibility to ensure that there are adequate and timely screening procedures in the community at the point of arrest or in court (police or court liaison schemes) to ensure that consideration is given to diversion prior to remand to prison.*
- Training of prison staff (not just health care staff) in the recognition of suicide potential and training in basic approaches to management of suicidal people is recommended as a way of enhancing the total prison response to the problem.*
- Prisons need an enhanced substance misuse service, as this emerges as an important factor relating to suicidal behaviour in prison populations.³¹³*

The suicide prevention strategy of England and Wales has the following key elements:

- **primary care** – creating a safe environment and helping prisoners to cope with custody
- **special care** – identifying and supporting prisoners in crisis and treating them with dignity
- **after-care** – caring for the needs of those affected by suicide and self-harm
- **community responsibility** – involving the whole prison community in the awareness and care of prisoners at risk of suicide³¹⁴

In practice, the strategy works as follows:

Each prison has to establish a team and membership includes prison staff, prisoner representation and external organisations such as the Samaritans. The procedural system for supporting prisoners identified at risk has been broadened from a simple referral system to a case conference approach requiring the drawing up of an action plan. Any member of staff can initiate the process if a prisoner is thought to be at risk of self-harm. The system encourages a multi-disciplinary response in identifying the level of support appropriate for the individual and the most suitable location, whether in the residential unit or in the health care centre. The approach discourages the use of isolation and rigid observational routines as a sole method of caring for prisoners at risk of suicide. The shared community response to caring for those at risk has been developed to include visiting agencies such as the Samaritans befriending prisoners, and

³¹² Liebling (1994), quoted in Anti-Discrimination Commission Queensland (2006) at 101

³¹³ Royal College of Physicians (2002) at 22-23

³¹⁴ Id at 21

also peer group support in the form of listener/befriender schemes run by selected prisoners who are trained by the Samaritans.³¹⁵

The report refers to successful prisoner observation/listening schemes and 'buddy' schemes operating in the US (especially New York) and the UK, where selected prisoners are trained and employed (and paid) to identify and support distressed prisoners. In England and Wales, the majority of prisons have these schemes.³¹⁶ Such schemes have led to a significant decrease in incidences of self-harm.³¹⁷

The Ombudsman Victoria (2006) describes the operation of these schemes in that state's prisons:

Peer educators, peer listeners, peer mentors and 'stabilisers', refer to trusted prisoners who volunteer to assist and support new and/or vulnerable or special needs prisoners to adapt to the prison environment. Their use is widespread within the prison system and can assist in minimising risks to prisoners. The schemes are appreciated by staff and prisoners alike. Tasks for peer support prisoners can include liaising between prisoners, staff and visitors, resolving disputes, dealing with complaints about bullying and intimidation. Prisoners say they are able to go to a peer support worker more easily than to an officer, to mediate or resolve particular issues. Peer support is not available for prisoners placed in the management cells, although their role might be useful in such situations.

Peer listeners and mentors have a 'case load' and are available to other prisoners 24 hours 7 days a week. At Loddon Prison there are some 40 of these prisoners in the different units. In other locations there are prisoner 'stabilisers' who may assist in supporting new or vulnerable prisoners (Port Phillip Prison). At the MAP there are also 'buddy' cells, which allow new or vulnerable prisoners to share cells with longer-term inmates. A good practice noted at Ararat is that peer educators and mentors can access a psychologist who provides de-briefing support. On the other hand, issues about privacy and breaches of confidentiality can arise and require appropriate handling. While the peer listener and mentor schemes are valuable in giving prisoners an increased sense of responsibility for the welfare of their fellow inmates, they should not represent an attempt by prison management to shift the burden in respect of the legal duty of care that they owe to prisoners. Greater clarification on this issue would be desirable and the schemes need careful monitoring and appropriate support and training for prisoners who take part in the schemes.³¹⁸

Howells, Hall and Day (1999) make the following suggestions in relation to a prison's approach to a person in an actively suicidal state:

The initial tasks are to evaluate the security of the crisis situation and to develop a relationship with the person in crisis. The next tasks are to help the person identify specific problems, assess and mobilise the client's strengths and resources, and finally to develop an action plan...

In our opinion, methods of observation and supervision of the suicidal power should be active rather than passive, involving supportive contact rather than impersonal observation. Whilst observation cells are an important management strategy for a small number of high-risk prisoners, the efficacy of such cells ultimately lies in their use in facilitating communication between the prisoner and prison staff, so that stressors can be identified and problem-solving strategies adopted...

A proportion of at-risk prisoners will have a long-term vulnerability to self harm that is likely to persist throughout their prison sentence. We would suggest that a unit,

³¹⁵ Id at 24-25

³¹⁶ Id at 7, 19, 25, 39

³¹⁷ Anti-Discrimination Commission Queensland (2006) at 102

³¹⁸ Ombudsman Victoria & office of Police Integrity Victoria (2006), *Conditions for Persons in Custody*, Victorian Government Printer at 83

managed by a psychologist but staffed by prison officers and with good medical support, dedicated to the care of at-risk prisoners is required in many prison systems. This unit, using case-management principles, should also include structured employment and recreation opportunities, as well as treatment for suicidal and self-harming behaviour. The unit would also need explicit protocols on admission and on return to mainstream, and thus needs to be part of a wider organisational strategy for treating and managing at-risk prisoners. The New South Wales management strategy (New South Wales Department of Corrective Services, 1997) uses such an approach...

Case management allows for an identified staff member to take responsibility for an at-risk prisoner and ensures ongoing monitoring of situational stressors throughout a sentence...

Long-term management involves changing the personal experience of prison for at-risk prisoners by creating an environment where prisoners are not socially isolated, where interpersonal problems are managed effectively, and staff are available to help with negative life events. We believe that the process of humanising the system is likely to be brought about by case management, modelling of appropriate behaviour by senior staff, defining the prison officer role in terms broader than custody and security and, most importantly, engaging prison officers in the treatment and rehabilitation of offenders.³¹⁹

Case study: Sue's attempted suicide

In order to learn more about the prison's practices in relation to self-harm and suicide, our office took an in-depth look at the specific incident of Sue's attempted suicide on 5 June 2005.

The following documents were reviewed:

- 5 June Incident Report by Senior Prison Officer (SPO) H
- 5 June Incident Report by Acting SPO G
- 6 June Declaration of At Risk Status
- 6 June Individual Management Plan
- 6 June Incident Report by SPO C
- 6 June Incident Report by Prison Officer (PO) M
- 7 June Incident Report by PO G
- 7 June Incident Report by PO W
- 8 June email from Visiting Medical Officer to Superintendent Brown containing VMO's At Risk notes
- 9 June / 13 June CMS/FMHS At Risk Notes
- 13 June Incident Report by Acting SPO M
- 13 June Incident Report and Briefing Notes by Acting Chief Prison Officer G
- 14 June 2005 Report by Professional Standards Unit
- 16 June Suicide Attempt/ Self-Harm Notification
- 15 August Minute from Superintendent Brown to Deputy Director Operations and Security
- At Risk Observation File 6 June – 14 June
- Use of Restraint File
- 28 August 2006 NTCS Report to Ombudsman p40-43

³¹⁹ Howells, Hall & Day (1999) at 161, 162

The account of the incident which emerges from these documents mirrors the version provided by the complainants above in many respects. Sue attempted suicide by cutting, at around 9.30am on 5 June 2005. She was transported to the Royal Darwin Hospital for the night where she underwent surgery. At 1pm the next day she returned to the prison. She was taken to the prison doctor who declared her 'At Risk' and she was placed in B block, cell 6, under observation. That afternoon Sue opened the wound in her wrist and was returned to hospital, where she was assessed by FMH for admittance to JRU. The assessment concluded that she did not meet the criteria for admittance, and she was thereafter discharged and returned to the prison that same night (6 June). The Chief Prison Officer liaised with the prison doctor regarding Sue's management. She was placed again in B block cell 6 where she was shackled to the bed overnight. An officer was stationed outside the cell for direct observation at 15 minute intervals.

Sue remained in B block cell 6 each night on observation until her release from prison on 14 June. During each day she was conveyed to J block. On 13 June, the day before her release, she again attempted suicide while on observation in B block. Officers physically intervened and stopped her. The decision was taken to again shackle Sue to the bed and place a motorcycle helmet on her head, in addition to her being medicated. After two to three hours the shackles were removed. Sue was released the next morning.

The Incident Reports indicate that it was prison officers who cleaned Sue's cell on 5 June rather than Sue's cell mate as indicated by the complainants.

The Visiting Medical Officer provides some additional background information to this incident. He stated in his report to the Superintendent that Sue has Borderline Personality Disorder and a history of self harm, and is well known in the criminal justice system. He describes the nature of Borderline Personality Disorder:

[It] is common in young females especially those who have been sexually abused and is typified by manipulation, self-harm episodes, eating disorders and sometimes accidental suicide. The cutting behaviours performed with a primary intent to manipulate and the act of cutting will often lead to de-escalation of the tension that caused the cutting. The condition is highly resistant to treatment and usually improves as lifestyle conditions improve rather than after any particular psychiatric therapy.³²⁰

The Visiting Medical Officer also makes clear his disagreement with the hospital's decision to discharge Sue:

[On 6/6/05] ... needs reassessment and admission. The prison is not able to hold her under adequate circumstances while she is like this...

Informed at approx 2030 hrs that [Sue] is coming back to the gaol. This is inadequate in my opinion...

The hospital plainly has no idea what facilities we have at DCC and representatives should be asked to attend and see what is available for patients like [Sue] after hours.³²¹

He also criticises the lack of FMH services after-hours:

³²⁰ 8 June 2005 email from Visiting Medical Officer to Superintendent Brown

³²¹ Ibid

*It is problematical that FMHS are not on call. A psychiatric registrar has minimal understanding of forensic patients and is a poor substitute decision making option for our NTCS clients.*³²²

Matters of concern arising from the case study

SOLITARY CONFINEMENT

As noted above, isolation of a person at risk of suicide or self harm is known to be deleterious in most cases, particularly for Aboriginal prisoners. Social support is generally recognised as the best medicine.

In Sue's case, isolation was not only the immediate response but it remained the overriding theory for the next nine days right up until her release. Furthermore, the isolation took place away from her familiar environment and in the men's maximum security block. Social support was by no means non-existent, but it was limited.

Sue was taken to J block for a few hours of each day. She also had regular personal interaction with prison officers and medical staff.

The At Risk Observation file reports that on 11 June, six days after her first suicide attempt, Sue received a visit from another prisoner and was permitted to make a telephone call to her daughter. She also received a one hour visit from her mother and other family members that same day. The file makes no other mention of any other contact with support people over the nine days. There is no mention of any contact from the Welfare Officer, Indigenous Support Worker or Prisoner Rehabilitation Team. There is no record in the file of any counselling being provided.

INVOLVEMENT OF FORENSIC MENTAL HEALTH

Sue's At Risk Observation Notes from 6 June to 14 June 2005 do not mention any contact with Forensic Mental Health. The Superintendent's 15 August Minute to the NTCS Deputy Director Operations and Security explains that Sue was assessed by FMH at the Royal Darwin Hospital on the evening of 6 June after her first suicide attempt. FMH determined that Sue did not meet the criteria for admission to JRU as "she was deemed to have a behavioural problem not a psychological problem" (in the Superintendent's words).

I recognise that self harm and attempted suicide do not necessarily imply mental illness. But while Sue might not have met the relevant criteria for involuntary removal to a psychiatric facility at that time, it appears to this office that it is an excessively narrow interpretation of FMH's role to rule out any further contact with the prisoner despite her obvious crisis and even a second suicide attempt.

COORDINATION OF SERVICES

If it is indeed the case, as the records would indicate, that neither FMH, the Prisoner Rehabilitation Team, the Welfare Officer nor the Indigenous Support Worker (assuming that all were made aware of Sue's state at some point over the nine days)

³²² Ibid

regarded it as their role to provide any counselling or support to Sue, then this would indicate either a profound gap in services or a severe failure at the most basic level to coordinate services for extremely vulnerable prisoners.

USE OF THE CELL B6 RESTRAINT

An additional matter of concern in the above account is the use of bodily restraints on 6 and 13 June 2005. On both dates Sue was shackled to the bed via handcuffs on both arms securing her to metal rings attached to the wall and bed base of the cell. On 6 June this restraint was in place from 10.15pm to 9.34am the following morning (11 hours and 15 minutes). On 13 June it was in place for two hours in the evening. In the case of 13 June, the mattress had first been removed before Sue was secured to the concrete bed base. The above documents do not specify whether this was also the procedure on 6 June.

Cell B6 is the only cell in DCC which has the metal rings to allow this type of restraint. The rings have likely been in place since the prison was built in 1978.³²³

The investigating officer viewed this cell on 15 November 2006. The cell is one of approximately two used for observation in DCC as it contains a CCTV camera. Like the other solitary confinement cells in B block, the cell is small, old, dank, discoloured and concrete with almost no natural light. Metal rings are fixed along the concrete bed base and the wall adjoining the bed. The cell opens into an enclosed open-air space with high concrete walls, concrete floor and only the sky visible through a caged roof. As stated above, it is part of the men's maximum security and remand block constructed in the 1970s.

Is the restraint authorised?

NTCS Directive 2.2.3 ("Use of Restraints") governs the application of physical restraints on prisoners in the NT. The Directive contains a Schedule of Approved Instruments of Restraint and specifies at section 5.2 that "Unauthorised instruments of restraint must not be used."

The cell B6 restraint applied to Sue on 6 and 13 June 2005 is not listed in the Schedule of Approved Instruments. It is not referred to anywhere in the Directive.

Superintendent Raby confirmed that the cell B6 restraint is simply treated as handcuffs or anklecuffs.³²⁴ No special authorisation or reporting is usually necessary for the use of handcuffs or anklecuffs. This compares with the use of "restraint belts, hobbles or body chains" which under the Directive may only be applied on the authority of the Superintendent or Officer in Charge and where a "detailed report" must be furnished "without delay" to the Superintendent regarding the use of the restraint.³²⁵

Record-keeping and reporting

The use of the cell B6 restraint on Sue on 6 and 13 June 2005 is recorded in the DCC Restraint File. In this register the type of restraint has been listed as "H/cuff / shackle." The authorising officer and time and date of application and removal are recorded. The reason for the use of restraint is in both cases listed in one word only: "self-harm". No other information is listed on the register.

³²³ 15 November 2006 interview with Superintendent Raby

³²⁴ Ibid

³²⁵ NTCS Directive 2.2.3 at clauses 5.13 and 5.15.

The At Risk Observation file makes no mention of the use of the restraint on 6 June but does mention “Shackles / cuffs. Pris. restrained on bed” on 13 June. A “restraint belt” is mentioned on 7 June in the context of transport to the medical centre or hospital, but the use of this “restraint belt” is not mentioned on the prison’s Restraint File, contrary to the Directive.

Prison officers state that on both 6 and 13 June the use of the bed restraint was discussed with prison medical staff (the prison doctor on 6 June and the registered nurse on 13 June).

The At Risk Observation File records that Sue saw prison medical staff every day from 6 June to 13 June. The only contacts mentioned on the Corrections Medical Service / Forensic Mental Health Service At Risk Notes are on 9 and 13 June. Only the 13 June notes refer to a discussion with custodial staff about the use of restraints. The prison doctor’s own notes also do not refer to any discussion about use of restraints on 6 June, although they do generally refer to a discussion with custodial staff about “overnight care”. The Individual Management Plan prepared by the prison doctor on 6 June also makes no mention of the use of restraints

On 14 June 2005 the Professional Standards Unit prepared an Investigation Report into Sue’s attempted suicide for the Deputy CEO Department of Justice. The report concludes that “the Correctional Centre and medical staff have responded appropriately and followed all required procedures in this incident.” The report also makes no mention of the use of restraints.

Superintendent Raby’s response

Superintendent Raby states that the use of the bed restraint in cell B6 is not common. In recent years it is only recorded as having been applied to two prisoners, both of them women, both in cases of self-harm. As at November 2006, the most recent use of the restraint was in September 2006.³²⁶

Mr Raby agrees, however, that it is inadequate that there are no specific guidelines for the use of this particular restraint. He also states that the recording and accountability procedures for all types of restraints need to be improved. He has tasked the Deputy Operations with developing a new Superintendent’s Instruction on the use of the cell B6 equipment in particular.

Superintendent Raby acknowledged that the use of this restraint has not been formally evaluated against the relevant minimum standards or principles of best practice and that there were no plans to do so. He commented that he was aware of similar equipment in a number of other prisons around Australia.³²⁷

³²⁶ 15 November 2006 interview with Superintendent Raby

³²⁷ Ibid

Use of restraints: Relevant standards

- **Standard Minimum Rules for the Treatment of Prisoners, Rule 33**

Instruments of restraint, such as handcuffs, chains, irons and strait jackets, shall never be applied as a punishment. Furthermore, chains or irons shall not be used as restraints. Other instruments of restraint shall not be used except in the following circumstances:

- (a) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority;
- (b) On medical grounds by direction of the medical officer;
- (c) By order of the director, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority.

Since the Standard Minimum Rules (adopted in 1955), there has been a shift in thinking away from the notion that medical officers should be involved in authorising coercive measures against prisoners. Thus the revised European Prison Rules state:

- **European Prison Rules 2006**

68.1 The use of chains and irons shall be prohibited.

68.2 Handcuffs, restraint jackets and other body restraints shall not be used except:

- a. if necessary, as a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority unless that authority decides otherwise; or
- b. by order of the director, if other methods of control fail, in order to protect a prisoner from self-injury, injury to others or to prevent serious damage to property, provided that in such instances the director shall immediately inform the medical practitioner and report to the higher prison authority.

68.3 Instruments of restraint shall not be applied for any longer time than is strictly necessary.

68.4 The manner of use of instruments of restraint shall be specified in national law.

Use of restraints: Relevant literature

Coyle (2002) states in *A Human Rights Approach to Prison Management*:

Only in exceptional circumstances should restraints be used to prevent a prisoner harming him or herself. Best practice suggests that this should rarely be necessary, because there are alternative methods to prevent self-injury.

The senior member of staff on duty must authorise the use of physical restraints and should ensure that they are used properly. The director of the prison and a medical officer must see any prisoner restrained because of violent behaviour or self-injury as soon as possible and authorise the continuing use of restraints if necessary. The decision and the procedure for each use of restraints must be closely monitored by

*higher authority and, according to best practice, by an authorised independent monitor.*³²⁸

The Royal College of Physicians states instead that “physical restraints should never be used in security or seclusion cells.”³²⁹

Elizabeth Grant (University of Adelaide) recently inspected prisons all over Australia for the purpose of her post doctorate research into Aboriginal self harm and suicide and the importance of prison design. She stated that she had never seen nor heard of a type of restraint such as this anywhere else. Her belief was that it would be in “gross contravention” of basic standards and best practice.³³⁰

The investigating officer has found no specific reference to this type of restraint in any standards or literature on the subject.

In 2001 the WA Office of the Inspector of Custodial Services discussed the use of a so-called “blue bed” in the Special Handling Unit of Casuarina Prison. This “bed” is a portable blue mattress on a steel base. Four fabric straps are pulled tight over the mattress to restrain the prisoner from their shoulders to their feet. The Inspector’s report states:

The “blue bed” merits special description. It has come to form part of the mythology of the SHU – the so-called “Hannibal Lector” bed...

*Its purpose is said to be akin to that of a padded cell – a place here a person can come to feel the pointlessness and futility of his own aggression or “acting out”, eventually exhausting himself if he continues to struggle. The purported purpose is not just to control but also to be in some sense therapeutic, preventing self-harm, and its usage is meant to be short-term until the main objective can be achieved. Of course, it is claustrophobic in its effect, and there can be no doubt that it is capable of abuse – for punishment rather than prevention. The prisoners fear it.*³³¹

In relation to allegations regarding the use of the blue bed, he stated:

...allegations of brutality that cannot be convincingly refuted constitute a significant political and correctional system risk. It is not good management of that risk to rely on the fact that prisoners may not be able to prove allegations; the Ministry must be in a position to disprove them. Thus, the most robust way of guarding against these risks is to have comprehensive record-keeping practices in place that are, in turn, indicative of effective accountability processes. From this perspective, the Casuarina practices are defective....

4.8 To meet desirable standards of accountability, a proper record-keeping system should be created along the following lines:

- *The register would be specific to usage of the blue bed;*
- *It would be readily retrievable in hard copy and computerised format;*

³²⁸ Coyle, A (2002), A Human Rights Approach to Prison Management: Handbook for Prison Staff, International Centre for Prison Studies, London at 66

³²⁹ Royal College of Physicians (2002) at 21

³³⁰ 30 October 2006 telephone interview

³³¹ Office of the Inspector of Custodial Services, Western Australia (2001), *Report of an Unannounced Inspection of the Induction and Orientation Unit and the Special Handling Unit at Casuarina Prison*, Report No/1 at 23-24

- *The record would contain full particulars including:*
 - *a detailed statement of the reasons for use and thus the reasons for not using some alternative;*
 - *the time at which the prisoner was first restrained;*
 - *the names of the officers who were involved in the cell extraction or other event immediately preceding his being put under restraint;*
 - *a notation of his physical and mental condition once under restraint; and*
 - *a statement that the duty medical officer had been notified and asked to attend;*

This would all be signed off by the senior officer.

- *The duty medical officer would then note and sign off the time of his/her arrival, observations made of the prisoner, any action taken or recommended, and the time scheduled for the next visit;*
- *The Assistant Superintendent Incident Management should also attend and note the actions taken, his or her own observations of the prisoner, and any instructions issued;*
- *If available, the Prisoner Support Officer should be asked to attend;*
- *These processes should be repeated at regular intervals during the period of restraint; and*
- *The Superintendent should attend at or immediately after the time that the prisoner is released back into his cell, interview him and note and sign off any complaints made by the prisoner.*

4.9 This may sound elaborate. But use of the most extreme form of restraint in the most closed part of the most closed prison in the State must be logged in a way that facilitates accountability. Record-keeping protocols must match the seriousness of the events and the political and management risks that they pose...

Records must be kept in a way that enables all such events to be properly scrutinised; this is the best form of protection against unfounded allegations and the optimum way of ensuring that the public interest in maintaining justice within the prison system is assured.³³²

The issue of the “blue bed” formed part of the WA Deaths in Custody Watch Committee submission to the UN Committee against Torture. In November 2000 the UN Committee expressed its concern regarding the allegations of inappropriate use of instruments of physical restraint including shackles and “full-body restraints” and recommended improved accountability systems to monitor the use of these restraints.³³³

Casuarina Prison’s notorious “blue bed”, depending on the actual circumstances of its use, would appear to offer more comfort to the prisoner and less risk of injury than

³³² Id at 24-35

³³³ Committee Against Torture CAT/C/SR.444 (Summary Record)

the cell B6 restraint which involves hard shackles and, at least in the case of 13 June 2005, no mattress.

Conclusion

NTCS clearly has a duty of care to protect prisoners from self-inflicted harm. The duty extends beyond mere physical control of the prisoner (whether through direct officer intervention or the application of mechanical instruments of restraint), to the promotion of well-being, the reduction of stress in the prison environment and the strengthening of protective factors among prisoners.

It is my view that current procedures and practices, as exemplified in the case study, are narrow, outdated, and place inappropriate reliance on isolation and restraint at the expense of providing a supportive environment for prisoners.

NTCS submits that its records show a low rate of self harm incidents among women prisoners. In my view the actual rate may be much higher, as the interstate surveys have found. I note that Gina states that she twice attempted suicide in 2006 without being detected by the prison. One effect of the current practices, she explains, is that women prisoners feel compelled to conceal their distress from prison staff rather than seek help or support, in order to avoid the “punishment” which flows from an At Risk declaration.

In relation to the specific incident of Sue’s attempted suicide, it is very apparent to me that prison staff were faced with a very difficult situation on 6 and 13 June of a prisoner in a highly unstable state who was very determined to harm or kill herself. I am satisfied that prison officers in this case acted reasonably, within procedures, and within the constraints of the training, facilities and staffing resources available to them. The broader question is whether those procedures reflect best practice and whether there are overarching improvements to be made in relation to the management of and support for prisoners at risk of self harm or suicide.

I am aware that the proposed new mental health and behaviour management units, when established, will likely offer better accommodation, supervision and intensive support for prisoners at risk of suicide and self harm. In addition to this development, I believe that more immediate procedural changes are required. Furthermore, in the medium to long term, a whole-of-prison strategy is warranted rather than just an additional specialised unit.

It is my view that immediate amendments to the ‘At Risk’ Procedures Manual and the Use of Restraints Directive are required to improve safeguards and prevent inappropriate treatment. In the longer term, NTCS in conjunction with DHCS must develop a more holistic strategy for suicide and self harm prevention in NT prisons. As it is women prisoners who are disproportionately at risk of self harm, they should receive specific consideration in the development of such a strategy.

IMMEDIATE AMENDMENTS TO THE ‘AT RISK’ PROCEDURES MANUAL

Gina described how the At Risk order made by the court was summarily dismissed by her second day in prison, and the support which she felt she sorely needed was not

forthcoming. Her account of the process appears to be in-keeping with the “At Risk” Procedures Manual, which in the case of court-ordered At Risk status requires no specific assessment and no involvement by FMH. This is inadequate and puts NTCS at risk of breaching court orders of this type.

Recommendation:

54. That section 3.4 of the NTCS Directive 2.8.3 ‘At Risk’ Procedures Manual in relation to court-ordered At Risk status (“Management of Prisoners Flagged At Risk prior to Reception”) be immediately amended to require:

- a) Notification of Forensic Mental Health by the primary health provider as soon as practicable**
- b) Assessment of the prisoner within two hours by the primary health provider and as soon as practicable or within 24 hours by Forensic Mental Health**
- c) Cessation of At Risk status as per the normal procedure at section 9**
- d) Adequate medical and mental health follow-up**

This recommendation is supported by both the Department of Justice and the Department of Health and Community Services.

The Procedures Manual currently stipulates that removal and isolation in an observation cell is to be the immediate and default approach to a declaration of At Risk of self harm. The standards and the literature on best practice state very clearly that isolation should either *never* be used for suicidal prisoners or at least should be an option of last resort. Instead observation should occur by way of direct human contact and should involve an active supportive relationship rather than a passive “observer”.

Recommendation:

55. That the At Risk Procedures Manual be immediately amended to stipulate that in relation to prisoners identified as At Risk of self harm or suicide:

- a) Isolation in an observation cell occur only as a last resort, and only when the prisoner is a risk to other prisoners or staff**
- b) That observation occur by way of supportive human contact**
- c) That in the immediate aftermath of a self harm incident or suicide attempt, in addition to the procedures currently in place regarding assessment by the primary health provider and FMH, the following occur:**
 - i) That urgent crisis counselling be arranged through the Prisoner Rehabilitation team, Forensic Mental Health, or an external provider**
 - ii) That the prisoner be visited by the Welfare Officer or Indigenous Support Worker**

iii) That prison staff facilitate contact with family members and other support people nominated by the prisoner

The Departments have jointly made the following observations about Recommendation 55 (being the same in draft form):

The general intent of the recommendation is supported by both DHCS and DOJ. Implementation will require some additional resources (particularly point ii)); which can be partially addressed through capital works. Observation occurring through human contact in combination with camera surveillance is supported; and the form and mix of observation methods will be dependent upon the needs of the offender. It must be noted at point (i) that the prisoner may additionally be at risk of self harm. Prison staff will only facilitate contact with family members (and others as nominated) on a case by case basis; and with the advice of Forensic Mental Health Services and/or primary health care services.

In my view these qualifications, if integrated into the final recommendation, would have substantially changed the intent and outcome of the recommendation. The evidence in this investigation is clear that isolation should only be used as a standard response where the prisoner's behaviour threatens the safety of *others*. Observation should not be passive [ie camera surveillance] at all, but should be active supportive human contact. The evidence is also clear that there should be no qualification along the lines of a 'case by case basis', as to who is to be contacted by the prison in such cases.

I am unable to justify a change to the draft of Recommendation 55.

IMMEDIATE AMENDMENTS TO THE 'USE OF RESTRAINTS' DIRECTIVE

I find that it is inappropriate that the use of the restraint in cell B6 is not subject to any specific guidelines or accountability mechanisms beyond those which apply to the use of handcuffs and anklecuffs. Shackling a person to a bed overnight is of a very different order to standard uses of handcuffs. In terms of limiting a prisoner's movement, shackling a person to a bed for over eleven hours is arguably the most extreme restraint available in the prison, surpassing "restraint belts, hobbles or body chains" which are more stringently controlled under the NTCS Directive on Use of Restraints.

In my view such an extreme type of restraint would require a specific authorisation for its validity. The *European Prison Rules* quoted above recommend that the manner of use of instruments of restraint be specified in national law. This has not occurred in the NT. Nor is specific authorisation for this type of restraint to be found in the NTCS Directive. The Directive clearly states at 5.2 that "Unauthorised instruments of restraint must not be used."

I find that NT prison staff currently have no proper authority to apply the cell B6 restraint.

This lack of regulation may be compared with the strict rules for the use of "mechanical means of bodily restraint" set out in the *Mental Health and Related Services Act*. These rules relate to the management of patients in psychiatric units ("approved treatment facilities") in the Territory and cover mechanical restraints such

as belts, harnesses, manacles, sheets and straps.³³⁴ Provisions under this Act include:

- the use of mechanical restraints on a person must be authorised by a psychiatric practitioner (except in emergencies)
- the person must be reviewed by a registered nurse at intervals not longer than 15 minutes
- the person must be examined by a medical practitioner at intervals not longer than four hours
- the person must be reviewed by an authorised psychiatric practitioner, if the mechanical restraint remains applied for six hours.
- The person must be provided with any other psychological and physical care appropriate to the person's needs
- If a medical practitioner, senior registered nurse on duty or an authorised psychiatric practitioner is satisfied, having regard to the criteria specified in subsection (3), that the continued application of mechanical restraint to a person is not necessary, he or she must, without delay, release the person from the restraint³³⁵

I am of the view that any new authorisation for the cell B6 restraint must set out in detail the circumstances for the use of this restraint and full procedures regarding authorisation, reporting and record-keeping which reflect the severity of this restraint. These should be along similar lines to those outlined by the WA Inspector of Custodial Services above in relation to Casuarina Prison's "blue bed".

Recommendation:

56. That NTCS Directive 2.2.3 (Use of Restraints) be immediately amended to include the following procedures in relation to the use of the cell B6 restraint:

- a) That the procedures applying to "restraint belts, hobbles or body chains" apply to the use of the cell B6 restraint in addition to the following provisions
- b) That the restraint be used as a last resort only in order to protect a prisoner from harm to self
- c) That the use of the restraint be accompanied by constant direct supervision
- d) That a mattress always be used
- e) That a maximum duration for the application of the restraint be specified, in the order of two hours.
- f) That a detailed report be furnished to the Superintendent by the senior officer containing:
 - i. a detailed statement of the reasons for use and thus the reasons for not using some alternative
 - ii. the time at which the prisoner was first restrained

³³⁴ S 61(1)

³³⁵ S 61(4) - (11)

- iii. the names of the officers who were involved in the cell extraction or other event immediately preceding his/her being put under restraint
 - iv. a notation of the prisoner's physical and mental condition once under restraint and
 - v. a statement that the Visiting Medical Officer had been notified and asked to attend
- g) That the Visiting Medical Officer note the time of his/her arrival, observations made of the prisoner, any action taken or recommended, and the time scheduled for the next visit
- h) That if available, the Welfare Officer or Indigenous Support Worker should attend
- i) The Superintendent should attend at or immediately after the time that the prisoner is released back into his/her cell, interview him/her and note and sign off any complaints made by the prisoner.

This recommendation is supported by the Department of Justice.

LONGER TERM STRATEGIES

Both the Department of Justice and the Department of Health and Community Services support the following recommendations.

- Recommendations:**
57. That the use of the cell B6 restraint be phased out over a three year period from the release of this report, in conjunction with the development of a holistic suicide prevention strategy.
58. That NTCS in conjunction with DHCS research and develop a multi-disciplinary suicide and self harm prevention strategy for DCC and ASCC based on best practice, which emphasises the development and strengthening of protective factors and supportive relationships and case management of vulnerable prisoners and avoids the use of isolation and passive observation. That adequate training, programs, procedures and facilities be put in place to facilitate the strategy, including alignment with IOMS. That the strategy be in place within two years of the release of this report.
59. That DCC consult with women prisoners to consider options for the formal involvement of prisoners in suicide and self-harm prevention including the development of a peer listener scheme whereby prisoners are carefully selected, trained, paid and supported to identify and assist others experiencing distress.

In relation to Recommendation 58, I am further advised that:

DHCS and DOJ response: DOJ are represented on the NT Suicide Prevention Coordination Committee (NTSPCC), which is currently developing an Action Plan based on the NT Strategic Framework for Suicide Prevention. This forum is an avenue to advance the work proposed by this recommendation and to ensure alignment with broader suicide prevention initiatives across the NT. The NT Suicide Prevention Coordinator, based within the Mental Health Program, DHCS will work with relevant officers in DOJ to develop this strategy.

issues arising

The issues covered in this chapter were raised by the complainants at different times but not as central themes of their complaint. They have nevertheless emerged in the course of the investigation as important matters which are closely connected to the main subject areas of this report.

Physical facilities

General conditions

A description of the basic structure of the women's facilities at ASCC and DCC is provided in the Introduction to this report. In ASCC, there is one women's dorm which all women prisoners share. It is situated in H block, enclosed from but surrounded by medium and maximum security areas for male prisoners. In DCC, women are held in J block which is situated outside the main perimeter fence of the prison in separate enclosed grounds. A small vegetable garden has been established by prisoners at the rear of the buildings. The expansion works planned by the Department of Justice for the immediate future are set out in Appendix E to this report.

OVERCROWDING

As noted in the Introduction, the female prisoner population of the Territory is growing at a rapid rate, putting pressure on current facilities. This has had a number of effects:

- Women prisoners received at ASCC remaining there for much longer periods than has ever been the case before.
- At times, women being housed in men's blocks. For example, Gina states that when she entered the prison on March 2006, J block was at full capacity. She spent her first week housed in a cell in A block in the main (men's) complex, together with two other women, due to a total lack of cell space in J block.

- Depending on population mix, women in the maximum/medium/remand section of J block have at times been fast-tracked to the Low Security Area, and at other times, held back due to lack of space
- Cells built for one are routinely “doubled up”
- The small courtyard where maximum/medium/remand prisoners spend most of their out-of-cell hours each day becomes cramped.

I am aware that the men’s sections of both ASCC and DCC were also filled to above capacity for a large part of 2006.

CONDITIONS

Areas of concern regarding J block include:

- the small size of the courtyard available to maximum/medium/remand prisoners
- the small size of cells of around 2 x 3 metres, generally shared by two inmates
- the small size of the open air cage attached to the management cell
- the lack of space and facilities for programs and education
- the donga (demountable) accommodation for the Low Security Area
- limited exercise facilities
- the lack of open classification accommodation, unlike, for example, the men’s cottages at ASCC which have no perimeter fencing
- The lack of cooking facilities which would allow a degree of self-catering in the Low Security Area. Debbie states that a gas stove is present but the gas has been disconnected for a number of years.
- The lack of covered areas providing shade and shelter from the rain for prisoners and during visits. Visit facilities currently consist of two covered outdoor picnic tables. Debbie states that during rain, visitors and prisoners must huddle together under this small covered area or on the edge of the maximum section outside the custodial office. Often, she states, visits simply occur while standing in the rain on the grass.

Our office is aware that the maximum and mainstream areas for male prisoners at DCC are also old, cramped and in poor condition.

The CAYA Review of Adult Custodial Services recommended (recommendations 31 and 32) that NTCS move to a Living Unit Model of prison management. Primarily the authors were referring to an interdisciplinary staffing and case management approach rather than the physical design of accommodation facilities however the two aspects are closely aligned. In addition, Recommendation 61 states:

We recommend a comprehensive approach to adding the facilities needed for NTCS to achieve its mandate. This includes a staff training facility at Darwin, expanded program

areas, and offices and programs to support the Living Unit program. The appropriate public works processes need to be put in place to design and build these facilities.³³⁶

The Review further suggests that:

*New construction should feature self-contained housing units with four to six bedrooms, a lounge and a kitchen. Inmates would do their own laundry and cleaning and prepare meals (instruction provided if needed on these tasks). This would promote their ability to function independently on return to society.*³³⁷

The CAYA Review primarily recommends upgrades to existing building stock rather than expansion of prison capacity. While it recommends that “the service increase the number and percentage of minimum security accommodations” (Recommendation 63) it then specifies at Recommendation 66 that this additional capacity be established outside the prison environment:

66. We recommend that the additional minimum security space be developed: in halfway houses in the communities; in a mobile work camp to build community housing; and in a minimum security farm camp.

General conditions: Relevant standards

- **Standard Minimum Rules for the Treatment of Prisoners**

9. (1) Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by him/herself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

(2) Where dormitories are used, prisoners carefully selected as being suitable to associate with one another in those conditions shall occupy them. There shall be regular supervision by night, in keeping with the nature of the institution.

10. All accommodation provided for the use of prisoners, and in particular all sleeping accommodation shall meet all requirements of health, with due regard being paid to climatic conditions, particularly to cubic content of air, as well as minimum floor space, lighting, heating, and ventilation.

- **Standard Guidelines for Corrections in Australia**

2.2 Each prisoner should be provided with suitable living accommodation.

2.3 Cells or rooms that are designed for single or multiple occupancy should be consistent with the standards relating to size, light, ventilation etc as set out in the Standard Guidelines for Prison Facilities in Australia and New Zealand (1990) or as later modified.

2.4 Accommodation should be provided to respond effectively to the actual needs and risk status of a prisoner. In some cases, single cell accommodation may be provided. In other cases, multiple or dormitory accommodation may be more appropriate.

³³⁶ CAYA Management Consulting International (2004), *A Path to Good Corrections: A Review of the NT Correctional Services – Adult custodial operations*, CAYA Management Consulting International for NT Correctional Services

³³⁷ Id at 42

General conditions: Relevant literature

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment recommends that the basic standard for prison cell space, for both males and females, should be not less than 6 square metres per prisoner.

Where accommodation is overcrowded and does not meet the international standards, the Committee recommends that staff make arrangements to reduce the time prisoners spend in their cells or dormitories.³³⁸

The International Centre for Criminal Law Reform and Criminal Justice Policy suggest the following standards for cell accommodation:

Cells/secure sleeping rooms shall contain a minimum, utilisable floor area of 8 square metres.

Every cell/secure sleeping room in a correctional centre shall be equipped, at a minimum, with the following:

- (i) Continuously available hot and cold water, servicing a fixed basin*
- (ii) Toilet designed for the mechanical elimination of human waste*
- (iii) Artificial light source which is both occupant and centrally controlled*
- (iv) A bed frame elevated from the floor*
- (v) A mattress designed in specific recognition of fire dangers in secure settings*
- (vi) A table and chair designed to complement each other*
- (vii) 0.3 square metres of fixed shelf space*
- (viii) Three fixed clothing hooks*
- (ix) Direct natural light source*
- (x) All furnishings and fixtures utilised in cells or security rooms used specifically for special security containment shall be designed and installed in a manner to prevent user suicide and to provide safety measures to all individuals*

*Toilets, urinals, sinks and showers, where communal, exist in ratio of one of each device for every ten prisoners.*³³⁹

In relation to recreation and sport facilities:

Secure prisons shall incorporate, within the security perimeter, an all purpose, outdoor athletic field for use in team sports...

Secure prisons shall incorporate, within the security perimeter, an outdoor activity area or areas to facilitate both passive and active recreational opportunities. These areas may also be designated fire refuge areas and shall be sufficiently large to contain the entire inmate population at any one time allowing at least 3.7 square metres per person.

*Secure custody centres shall incorporate an indoor gymnasium.*³⁴⁰

The design or format of the prison also has an important bearing on quality of life and rehabilitative aspects. A number of women's prisons interstate, particularly those built in the last 10-15 years, have moved away from the traditional institutional design of prisons towards self-standing "cottage" style living units as suggested by the CAYA Review. Examples are Emu Plains Correctional Centre (NSW) and Brisbane Women's Correctional Centre. At these prisons around six inmates are housed in

³³⁸ Office of the United Nations High Commissioner for Human Rights (2005), *Human Rights and Prisons: A Manual on Human Rights Training for Prison Officials*, Professional Training Series No. 11, p 51

³³⁹ International Centre for Criminal Law Reform and Criminal Justice Policy (2001), *International Prison Policy Development Instrument*, Vancouver at V46

³⁴⁰ Id at V55

each self-contained unit. Each unit has bathroom and laundry facilities, as well as a kitchen and living area.³⁴¹ This design allows prisoners greater autonomy, responsibility and maintenance of living skills.

Facilities for children

Inter-woven throughout the issues of complaint discussed in this investigation was a constant theme of anxiety about separation from children and problems maintaining contact with children among women prisoners at DCC. A number of complainants believed that the prison could be doing more to assist women to maintain contact with their children.

VISIT FACILITIES

The women state that they have requested better visit facilities for children, including play equipment and the installation of a small fence around the visit area so that children can be more easily supervised. Debbie explains that children often run backwards and forwards and try to get out the gate, and mothers “get in trouble” for this.

The enhancement of visit facilities was a recommendation of the CAYA Review. Recommendation 48 called for “improved family-inmate visits and correspondence”, including:

- *Enhance the visits facilities. Security need not be compromised by providing a grassy area on which families can sit and interact,*
- *More child-friendly, playground equipment for children*
- *Expand visiting times. Limits of one two hour visit or two one hour visits are not adequate, nor do they appear to be compelled by operational reasons within the prison. At Alice, especially, when top end families come for a weekend, extensions should be made.*
- *Review the telephone program, to see if it can be enhanced and/or costs reduced*
- *Extended stay family visiting units*
- *Video links have proven useful, and should be expanded. In cases where inmates have been involuntarily transferred, the service should look at paying the costs of weekly video links*
- *Photographs taken during visits – if equipment control is an issue, the prison could provide an instant camera and bill a dollar or two for the costs of film.*
- *Family days, with barbeque, dancing/singing by inmates. Done now at end of Good Beginnings Program, should be expanded to whole of prison*
- *Improved provisions for young children to be housed with their incarcerated mother*
- *Make visits and family contact a programs responsibility.*

While NTCS has committed to the implementation of all recommendations of the Review, almost nothing has been done to implement this recommendation in J block. An exception is the recent installation of a new prisoner telephone in the Low Security Area, to complement that already in place in the maximum/medium/remand area. The new phone is greatly appreciated by the prisoners our office has spoken to, as it

³⁴¹ Danby, Dr S., Farrell, Dr A., Skoien, P. & Quadrelli, C., “Inmate Women as Participants in Education in Queensland Correctional Centres”, Paper presented at the Women in Corrections: Staff and Clients Conference, Australian Institute of Criminology and Department for Correctional Services SA, Adelaide, 31 October – 1 November 2000 at 7

allows them contact with children and family during the evening which was previously difficult.

RESIDENTIAL FACILITIES FOR CHILDREN

Like most other jurisdictions, NTCS policy allows women prisoners, subject to approval, to keep young children in prison with them. NTCS Directive 2.4.6 (“Accommodation of Infants in Custody”) states that:

5.1 The Commissioner may allow female prisoners to keep their children within the Correctional Centre where the occupancy is in the best interests of the child, providing the offence for which the offender is being held does not pose a risk to the child and adequate facilities are available.

Section 5.7 then provides that “Where the Commissioner approves the accommodation, adequate facilities and supervision are to be provided.”

The Directive is very rarely used. Debbie states that only one child has ever been kept at J block since she entered the prison in early 2004. This was the baby of a pregnant prisoner who gave birth during her time at DCC. The limit of the extra support she received, claims Debbie, was one extra sandwich a day when she was pregnant. The woman had brain damage due to petrol sniffing and had very little idea about how to care for her baby. The baby only survived, Debbie believes, due to a lot of help from other inmates. She explains that there were no special facilities provided to this woman to help her care for her child, except for a bassinette which filled the whole floor space of her cell. She was housed in the Low Security Area in the one cell which has a sink. This is known as the special cell for babies and sick people.

Facilities for children: Relevant standards

INTERNATIONAL INSTRUMENTS

- ***Standard Minimum Rules for the Treatment of Prisoners***

23(2) Where nursing infants are allowed to remain in the institution with their mothers, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.

- ***The CPT Standards***, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment, 3rd General Report [CPT/Inf (93) 12]

66. A mother and child should be permitted to stay together for at least a certain period of time. If the mother and child are together in prison, they should be placed in conditions providing them with the equivalent of a crèche and the support of staff specialised in post-natal care and nursery nursing.

- ***The CPT Standards***, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment, 10th General Report [CPT/Inf (2000) 13]

29. Where babies and young children are held in custodial settings, their treatment should be supervised by specialists in social work and child development. The goal

should be to produce a child-centred environment, free from the visible trappings of incarceration, such as uniforms and jangling keys. Arrangements should also be made to ensure that the movement and cognitive skills of babies held in prison develop normally. In particular, they should have adequate play and exercise facilities within the prison...

Consideration should be given to providing access to crèche-type facilities. Such arrangements can enable women prisoners to participate in work and other activities inside the prison to a greater extent than might otherwise be possible.

NATIONAL STANDARDS

- ***Standard Guidelines for Corrections in Australia***

1.41 The management and placement of female prisoners should reflect their generally lower security needs but their higher needs for health and welfare services and for contact with their children.

3.20 Contact between prisoners and the community should be encouraged in recognition of the important role families and communities have in assisting the reintegration of prisoners back to the community upon release and the advantages to be gained from reducing the isolation of prisons and prisoners from the community.

3.21 Prisoners should be encouraged and where practicable, assisted to develop and maintain their family ties and relationships through visits to the prisoner by family and friends and through the controlled use of telephones and letters.

3.25 Visitors should be treated with respect and visiting facilities should be provided that are conducive to prisoners receiving visitors in as dignified a manner as is consistent with the security and good order of the prison.

3.28 The arrangements for visits should take into consideration different family structures particularly in relation to indigenous prisoners.

3.29 Prisoners should not be denied access and/or visits with their children, unless the access is not in the best interests of the child/ren.

3.30 Where possible, prisons should provide for visitors to take refreshments in the company of prisoners and for suitable play facilities, equipment and toys to be made available for visiting children.

Facilities for children: Relevant literature

Coyle (2002) asserts that:

Women prisoners need particular recognition because in most societies women take prime responsibility for childcare and imprisoned mothers are often separated from their children. Thus, when mothers are imprisoned they will normally be very anxious about the arrangements which have been made for their children's welfare. Their children will also be upset and disoriented. Both for the welfare of mother and child, and for the smooth running of the prison, prison staff should make every effort to assist them and to ensure that special arrangements can be made for the bonds between mothers and children to be maintained...

The matter of mothers in prison who have small infants is a very sensitive one. In a number of jurisdictions mothers are allowed to keep new-born babies with them in prison. When this happens the mother and baby should be in a unit where they can live

*together on a continuous basis. Such units should have all the facilities which a nursing mother would normally require. This is preferable to keeping the baby in a separate nursery unit which the mother is only able to visit at certain times.*³⁴²

Interstate correctional services have developed special facilities catering to children which aim to create a normalised home environment to the greatest extent possible. An example is the Mothers and Children's Program at Emu Plains Correctional Centre and the Parramatta Transitional Centre in NSW.

The NSW Select Committee (2000) explains:

The program comprises a fulltime residential program and an occasional residential program. The full-time program allows for children to reside with their mother whilst in custody up to school age. An occasional residential program also exists to allow children up to the age of 12 years to spend weekends and/or school holidays with their mother. The Department of Corrective Services reports that since December 1996 until January 2000 the Mothers and Children's Program has been responsible for assisting 21 women and 23 children in the full-time residence program and 34 women and 46 children in the occasional care program. Eligibility to the program rests first with the determination of what is in the best interests of the child. A woman must also be a minimum classification prisoner.

A Family Support Worker manages the program and a network of community agencies support the women and their children. The agencies include:

- *Wentworth Area Health Service*
- *Tresillian Nursing*
- *Nursing Mothers Association*
- *Kidsafe*
- *Salvo Moneycare*
- *Parenting Effective Training*
- *Children's Toy Library – Penrith Council*

*The women are also assisted with a pre-release plan through Inmate Development staff who also run such groups as Domestic Violence, Alternative to Violence Groups, Drug and Alcohol Counselling, Psychological Counselling, Welfare Assistance and Education.*³⁴³

Findings

Facilities for women at DCC, as for men, are less than ideal. It is apparent that J block has developed in a rather haphazard manner over the years and that little foresight has been expended on designing a purpose-built facility which suits the needs of women prisoners. As stated earlier in this report, while NTCS recognises significant shortcomings in J block facilities such as programs and educational space, it has no particular plans or timelines for capital works.

Women from Central Australian towns and communities should have the option of being held in ASCC rather than DCC in order to be closer to family and country. At the same time, facilities, programs, education and employment options for these women are very limited.

³⁴² Coyle, A (2002), *A Human Rights Approach to Prison Management: Handbook for Prison Staff*, International Centre for Prison Studies, London at 93, 135

³⁴³ NSW Select Committee on the Increase in Prisoner Population (2000), *Interim Report: Issues Relating to Women* at 97-98

With the increasing population of women, NTCS will soon have little choice but to undertake longer term capital works planning. It is important that research and consultation begin soon regarding the best options for the accommodation of women offenders in the Territory.

The lack of facilities for children represents a glaring omission which is illustrative of the broader lack of consideration of women's needs discussed throughout this report. Facilities for visits at J block are basic and not designed for children. NTCS has had a policy in place dating from 1998 allowing young children to be housed with their mothers "providing ... adequate facilities are available" but has never put in place even the most rudimentary of facilities to support this policy. This falls far below the international and national standards expressed above and requires immediate attention.

I concur with the CAYA Review in concluding that capital works at J block should have as their focus the upgrade of facilities rather than an expansion of capacity. While increasing numbers of women prisoners will continue to put pressure on J block facilities, the situation (except in intermittent periods such as March-April 2006) is not yet at breaking point. The Department of Justice should begin now to seriously develop alternative sentencing options for women prisoners. CAYA Recommendation 66 calls for additional minimum security capacity to be developed in halfway houses, a mobile work camp and a minimum security farm camp. I am aware that NTCS has begun the necessary research. Specific consideration must be given to developing options for women prisoners/offenders.

As noted in the introduction to this report, the majority of women prisoners in the Territory serve very short sentences. The average sentence is around three months. When remand prisoners are included, the average time spent in prison (remand and sentenced) is just two months. Both of these figures are about half those of male prisoners in the Territory.³⁴⁴ The figures are very substantially lower than interstate. In Queensland, for example, women prisoners have a median expected sentence of 1.9 years, while the most frequent length of sentence is 2-5 years (31.2% of women prisoners).³⁴⁵

The frequency of very short sentences for women prompts the question of whether imprisonment is justified at all. A number of other jurisdictions such as NSW have introduced legislative amendments preventing the incarceration of prisoners for under six months in favour of community sentencing alternatives.

Such options for women in the NT could include bail hostels (for women on remand), a transitional centre (for women in the last part of their sentence, where women go to work, education or programs each day and return to the centre each evening), community work orders, mentoring programs, work camps, farm camps and Indigenous healing centres. All of these options are working successfully interstate. In the draft of this report, I recommended that DCC develop a five year capital works plan for the upgrade of J block based on best practice design for women's prisons and in consultation with women prisoners, particularly the enhancement of facilities for programs, education, sport, recreation and kitchen facilities (Low Security Area).

The Department of Justice response was positive, but suggested another time frame:

The general intent of this recommendation is supported.

³⁴⁴ Estimate provided by Department of Justice, 5 Jan 2007

³⁴⁵ Danby, Farrell, Skoien & Quadrelli (2000)

A 10 Year Capital Works Masterplan is being developed including consideration of either an upgrade to current infrastructure or a distinct facility for females, addressing needs in both Alice Springs and Darwin Correctional Centres. The cost will be dependent upon the outcome of the planning process. Ultimately the decision on whether to fund any such works is a matter for Government to be determined in the light of competing priorities including schools and hospitals.

It is my expectation that, based on the findings in this report, the upgrade of J Block would occur in the first five years of the capital works plan.

Recommendation:

60. That DCC develop a five year capital works plan for the upgrade of J block based on best practice design for women's prisons and in consultation with women prisoners, particularly the enhancement of facilities for programs, education, sport, recreation and kitchen facilities (Low Security Area).

In the draft of this report I recommended that the DCC implement Recommendation 46 of the CAYA Review within two years.

The Department of Justice responded that :

The general intent of this recommendation is supported, however, it could not be implemented in full without significant additional funding. Infrastructure related requirements will be addressed through the aforementioned Capital Works Masterplan. Funding has recently been approved to expand facilities in the short term within J Block; which will provide for some improvements to the visiting area at an approximate cost of \$60,000.

I acknowledge that implementation of Recommendation 48 of the CAYA Review will require significant funding overall, however some aspects of it require comparatively little additional funding. Taking into account the department's response, I have altered the time frame in the draft recommendation.

Recommendation:

61. That DCC, in consultation with women prisoners, implement Recommendation 48 of the CAYA Review of Adult Custodial Services in relation to J block within five years of the release of this report. That this include:

- a) Enhancing visits facilities by constructing additional shade and rain cover**
- b) Developing appropriate visits facilities for children including an enclosed play area and playground equipment**
- c) Expanding visiting times, especially for children**
- d) Reviewing the telephone program to see if it can be enhanced and/or costs reduced**
- e) Developing extended stay family visiting units**

- f) **Holding more family days involving barbecues and activities**
- g) **Greatly improving facilities and support for young children to be housed with their incarcerated mother**
- h) **Making visits and family contact a programs responsibility.**

In the draft of this report I made a recommendation that the Department of Justice develop a strategy for alternate sentencing and remand options for women. The Department's response was:

Noted: Whilst DOJ can develop such a strategy these types of policy options are a matter for Government.

I have therefore added to the draft recommendation.

Recommendation:

62. That rather than expanding female prison capacity, the Department of Justice develop a comprehensive strategy for the establishment of further alternative sentencing and remand options for women around the Territory and that this strategy be presented to Cabinet within 12 months of the release of this report.

Communication barriers

It has emerged in the course of this investigation that problems in lines of communication within DCC may be hampering coordination of the women's section and even stymieing positive developments for the women. I am referring to communication between levels of hierarchy, between custodial and programs staff, and between staff and women prisoners.

Three examples in particular illustrate this. The first is the DCC Superintendent's decision around early August 2006 to allow women access to the men's Pre-Release Program. This is explained further in the Pre and Post Release chapter. The Superintendent and Manager Prisoner Services had been informed that the women had been advised of this option but had declined. Interviews with prisoners and Bill Somerville in November 2006 indicated that in fact prisoners were never informed of this option and that a number of women who had been released over the previous four months would have gladly attended the program had they known.

The second example is the renewed implementation around October 2005 of the unwritten policy barring escorts of female prisoners by male prisoners. As explained further in the Programs, Education and Employment chapter, it appears that this policy has been applied to all number of situations with all number of mis-formulations and that at least four women prisoners summarily lost their jobs or were shut out from their educational course without the knowledge of programs or education staff or the Director.

The third example is the general lack of planning or consideration in relation to women as a group in areas such as programming.

The complainants mentioned many other day-to-day examples of mixed messages, inconsistent policies, lost requests and bureaucratic jumbles.

It is my feeling that the problem may in part be a consequence of the fact that there is no single senior management position or prisoner services position overseeing women prisoners as a group. This may be contrasted with the new men's minimum security area (Living Skills Unit) which has its own Deputy Superintendent devoted to oversight of the unit. It may also be contrasted with the situation in other jurisdictions. For example the NSW Department of Corrective Services has a Women's Services Unit which researches, develops and assists the Department in the formulation of policy and programs relating to the special needs of women in correctional centres. Its primary purpose is "to ensure equity of access to programs and services for female inmates."³⁴⁶

With the development of a new women's policy, it will be particularly important to have a single management line in order to coordinate the execution of the policy. Similarly, the implementation of the recommendations of this report will require a level of coordination which would be greatly facilitated by having single position primarily responsible for pulling together the various threads into an integrated approach.

In the draft of this report I recommended that the NTCS consider creating a new senior position at DCC or altering an existing job description to oversee management and services to women prisoners. The Department responded that it supported this recommendation but additional resources would be required. In my view the evidence in this report supports a conclusion that a senior DCC officer should have overall responsibility for J Block operations. An additional position is not essential as long as someone is made responsible.

Recommendation:

63. That NTCS create a new senior position in DCC or allocate the responsibilities to an existing job, to oversee management and services to women prisoners.

The second aspect to improving communication lines is facilitating the flow of information between women prisoners and management and among women prisoners themselves.

It is my view that a more structured approach to this task would enable better consultation, improved information-sharing, more effective resolution of complaints, and more democratic representation of women prisoners' concerns.

I believe that this could be accomplished by way of the formal establishment of a J block prisoner committee or representative.

³⁴⁶ Colleen Subir, Acting Senior Project and Policy Adviser for Women's Services Unit, 28 March 2000 evidence to the NSW Select Committee on the Increase in Prisoner Population (2000), *Interim Report: Issues Relating to Women* at 63

Similar committees exist in a number of women's prisons around Australia. Most other prisons have prisoner representatives, which serve a similar role. This role includes:

- providing a conduit for information from prisoners to management and vice versa
- providing a forum for management to consult with prisoners
- resolving/mediating disputes between inmates
- providing an avenue for complaints from prisoners and a unified voice to management
- external advocacy
- organising events

George (2006) has undertaken a study of the benefits and constraints of prisoner committees in women's prisons in South Africa, Canada and California, their relevance to the Australian context and the most effective model for committees. The study found that in every prison with a functioning committee, both prisoners and management were overwhelmingly supportive of their existence and valued the useful role they served.

One warden in Canada explains the benefits of prisoner committees to management:

*I can't imagine how you would run the prison without them. Or why you would... Of course it makes things run better. The prison environment is one that the women have to live in. If women are happy and more satisfied with the institution it is easier to run. The fewer negative interactions that we have with women the better the prison is for them to live in. The committee keeps a lid on issues that are a fundamental part of our population, this makes our work much easier. The inmate committee records things to hand, it gives prisoners a voice. There is no way I could know what was going on with out them. It's much less work for us. We find out problems quickly, we can rely on what we have been told and we get ideas on how to deal with them.*³⁴⁷

Another warden commented that committees were a surer route for information to the women prisoners than were staff.³⁴⁸

Generally these committees are elected by the prisoner population by secret ballot. Being on the committee is a paid job for prisoners with training provided. The committee consults with the larger prisoner body, hears concerns, resolves conflict, passes on important information from staff, and forwards concerns from prisoners to prison management together with suggested solutions. The committee executive usually meets directly with the prison superintendent on a monthly basis. Frequently a staff member is allocated as "committee liaison." In larger prisons, the committee has a devoted office with computer, telephone, fax, filing and photocopy facilities. They have a list of internal staff phone numbers and a direct line to the superintendent.

In relation to the most effective committee model, the study recommends:

- *Legislation and subordinate regulation must mandate the committee's existence.*
- *The existence or non-existence of the committee must be a performance indicator in external prison audits and accountability assessments.*
- *Mandate a monthly meeting between the committee and management.*
- *Minutes of these meetings include reasons for rejecting prisoner requests be circulated amongst the population.*

³⁴⁷ George, A. (2006), *Prisoner Committees in Women's Prisons: A Report on Women's Prisoner Committees in California, Canada and South Africa*, Deakin University, Geelong at 11

³⁴⁸ Id at 7

- Mandate the level of resources, including staff and training for committee members.
- Mandate that chairs are paid positions and depending on the size of the institution other members of the committee are paid positions, at a pay rate in line with other prison work.
- Mandate that all women regardless of their security rating can vote.
- Mandate the free movement of the chair within the institution.
- Mandate a staff training module on prisoner committees.
- Permit the committee to have external representatives to resource and meet with them as a committee as well as to attend joint management meetings at the women's request.
- Mandate that committees be provided with a prison rule manual and its updates.
- Mandate that external prison policy development bodies consult with committees.
- Permit large population meetings between the committee and the constituency without prison staff being present.
- Mandate that external policy and accountability bodies and women's policy divisions of corrections head office be sent minutes of committee meetings with management.³⁴⁹

Recommendation 103 of the Royal Commission into Aboriginal Deaths in Custody also provided:

That Corrective Services authorities should make a formal commitment to allow Aboriginal prisoners to establish and maintain Aboriginal support groups within institutions. Such Aboriginal prisoner support groups should be permitted to hold regular meetings in institutions, liaise with Aboriginal service organisations outside the institution and should receive a modest amount of administrative assistance for the production of group materials and services. Corrective service authorities should negotiate with such groups for the provision of educational and cultural services to Aboriginal prisoners and favourably consider the formal recognition of such bodies as capable of representing the interests and viewpoints of Aboriginal prisoners.

I am aware that many of the women's prisons to which the above study refers are very much larger than J block and therefore the committees operate in quite a different context. Nevertheless, it is my view that a committee or representative model established in J block would serve a useful role in breaking down communication barriers in the institution and facilitating the resolution of complaints by women prisoners into the future.

I have in mind a committee (or representatives) of two prisoners selected by J block as a whole. At least one should be an Indigenous woman. One representative could come from the main area and one from the Low Security Area. The positions should be treated as part-time jobs and paid accordingly, and be supplied with stationery and copies of relevant documents such as prison rules. The representatives should be able to consult with other prisoners including in the management cell, and meet with the Superintendent at least once per month.

In the medium term, procedures should be developed for the operation of the committee, which include its existence being mandated.

Consideration should also be given to establishing prisoner committees or representative structures for all blocks in ASCC and DCC, not only J block.

Many of the recommendations of this investigation involve consultation with women prisoners as part of the implementation process. I believe that the establishment of a representative or committee model in J block would greatly facilitate this consultation. Such a structure would also be able to monitor and provide suggestions for the implementation of the recommendations.

³⁴⁹ Id at 60-61

Recommendation:

64. That a prisoner committee or representative structure be established in J block within six months of the release of this report to serve the following functions:

- a) providing a conduit for information from prisoners to management and vice versa**
- b) providing a forum for management to consult with prisoners**
- c) hearing prisoner concerns, advocating for individual prisoners and providing a unified voice to management**
- d) resolving/mediating disputes between inmates**

The Department of Justice states that this Recommendation (64) is:

Supported in part. The rules are currently being developed with the women and individual concerns and disputes may not be within the scope of the committee.

In following the implementation of this recommendation, my attitude is that the exact scope of the prisoner committee's activities is a matter for prison management but it should substantially conform with the recommendation and the evidence set out in this report.

Recommendation:

65. That the representatives be supported in their work including receiving basic training, reasonable access to information, to areas of the block, and to stationery, and receive a meeting with the Superintendent once per month.

The Department of Justice states that this Recommendation (65) is:

Supported in part. It may not be necessary for the Superintendent, rather than a delegate, to meet with representatives every month.

In my view, the Superintendent at DCC should meet with the women's representative to keep women prisoners' welfare squarely within his/her focus. Given this view, and the qualified support for Recommendation 63, I am unable to justify amending this recommendation.

The following recommendations are supported by the Department of Justice.

Recommendations:

66. That representatives be selected by J block prisoners and paid for their work.

67. That an NTCS Directive mandating the existence of the committee/ representative structure and setting out its functions and processes be developed within one year of the release of this report.



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CAROLYN RICHARDS
Ombudsman

11 April 2008

references

INTERNATIONAL INSTRUMENTS

Basic Principles for the Treatment of Prisoners, (Adopted and proclaimed by UN General Assembly resolution 45/111 of 14 December 1990)

European Prison Rules (Adopted by the Council of Europe Committee of Ministers on 11 January 2006)

General Comment No 21, UN Human Rights Committee, 44th Session (1992)

General Comment No 28, UN Human Rights Committee, 68th Session (2000)

Standard Minimum Rules for the Treatment of Prisoners
(ADOPTED BY THE FIRST UNITED NATIONS CONGRESS ON THE PREVENTION OF CRIME AND THE TREATMENT OF OFFENDERS, GENEVA 1955, AND APPROVED BY THE ECONOMIC AND SOCIAL COUNCIL BY ITS RESOLUTION 663 C (XXIV) OF 31 JULY 1957 AND 2076 (LXII) OF 13 MAY 1977)

The CPT Standards, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment and Punishment (2004)
<<http://www.cpt.coe.int/en/documents/eng-standards.doc>>

United Nations Committee Against Torture (2000), *Summary record of the first part (public) of the 444th meeting : Australia. 21/11/2000. CAT/C/SR.444*
<<http://www.unhcr.ch/tbs/doc.nsf/0/2788144c3f4aef0cc12569a100574b51?OpenDocument>>

NATIONAL STANDARDS

Australian Medical Association Position Statement on Health Care of Prisoners and Detainees (1998)
<<http://www.ama.com.au/web.nsf/doc/SHED-5G4V6U>>

National Statement of Principles for Forensic Mental Health (2002)
<http://www.health.wa.gov.au/mhareview/resources/documents/FINAL_VERSION_OF_NATIONAL_PRINCIPLES_FOR_FMH-Aug_2002.pdf>

Standard Guidelines for Corrections in Australia (Revised) (2004)
<<http://www.aic.gov.au/research/corrections/standards/aust-stand.html>>

Recommendations of the Royal Commission into Aboriginal Deaths in Custody (1991)

NT LEGISLATION AND REGULATIONS

Prisons (Correctional Services) Act & Regulations

Mental Health and Related Services Act

Criminal Code Act

NTCS DIRECTIVES

1.7.6 Incident Reporting

2.2.3 Use of Restraints

2.2.9 Searches

2.4.2 Separate Confinement, Management of Disruptive Prisoners and the Non Entitlement to Prescribed Privileges

2.4.6 Accommodation of Infants in Custody

2.4.7 Supervised Persons – Part IIA Criminal Code

2.6.1 Classification and Security Assessment Manual

2.7.1 Leave of Absence

2.8.3 “At Risk” Procedures / Procedures Manual

2.8.10 Duties of Primary Health Care Provider

2.15.4 Prisoner Visits

DCC SUPERINTENDENT’S INSTRUCTIONS

9.12 Reporting of Use of Force, Chemical Agents, Restraints, Dogs, Firearms and Separate Confinement

13.4 ‘At Risk’ Prisoners

13.5 Management of Prisoners Admitted or Treated at Joan Ridley Unit (RDH)

STATISTICAL SUMMARIES

Australian Bureau of Statistics (2004), *Australian Social Trends: Women in Prison*, Cat no 4102.0, AGPS, Canberra

Australian Bureau of Statistics (2006), *Prisoners in Australia 2006*, Cat no 4517.0
<[http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/21A1C193CFD3E93CCA257243001B6036/\\$File/45170_2006.pdf](http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/21A1C193CFD3E93CCA257243001B6036/$File/45170_2006.pdf)>

NT Department of Justice - Correctional Services Annual Statistics 2005-2006
<http://www.nt.gov.au/justice/ocp/docs/statistics/20061127_ntcs_stat_summary.pdf>

POLICY DOCUMENTS

Commonwealth Department of Education and Training (2001), *National Strategy for Vocational Education & Training for Adult Prisoners and Offenders in Australia*

Correctional Service Canada (2002), *The 2002 Mental Health Strategy for Women Offenders*

<http://www.csc-scc.gc.ca/text/prgrm/fsw/mhealth/mhealth_e.rtf>

Northern Territory Department of Health and Community Services, *Community Services Divisional Business Plan 2005-2009: Building Healthier Communities*
<http://www.nt.gov.au/health/corporate/business_plans/2005_06/community_chc_plan.doc>

Northern Territory Department of Justice, *Strategic Plan 2005-2009*
<http://www.nt.gov.au/justice/graphpages/general/strategic_plan_1.shtml>

Queensland Department of Corrective Services (2003), *Addressing the Needs of Female Offenders: Policy and Action Plan 2003-2008*
<<http://www.dcs.qld.gov.au>>

Western Australia Department of Corrective Services, *Women in Prison*
<<http://www.correctiveservices.wa.gov.au>>

REPORTS, ARTICLES, SUBMISSIONS AND BOOKS

ABC News Online, "NT jails not equipped to deal with mentally ill: officers", 3 March 2006
<<http://www.abc.net.au/news/australia/nt/alice/200603/s1582801.htm>>

Aboriginal and Torres Strait Islander Social Justice Commissioner, "Citizens Inside", paper presented at the Human Rights and Equal Opportunity Commission workshop *Prisoners as Citizens*, Sydney 27 November 2000
<http://www.hreoc.gov.au/human_rights/prisoners/keynote.html>

Aboriginal and Torres Strait Islander Social Justice Commissioner (2003), *Social Justice Report 2002*, Human Rights and Equal Opportunity Commission
<http://www.hreoc.gov.au/Social_Justice/sjreport_02/chapter5.html#129>

Aboriginal and Torres Strait Islander Social Justice Commissioner (2005), *Social Justice Report 2004*, Human Rights and Equal Opportunity Commission
<http://www.hreoc.gov.au/social%5Fjustice/sjreport04/social_justice_report_2004.pdf>

ACT Department of Justice & Community Safety (2005), *Plan for Delivery of Vocational Education and Training and Rehabilitative programs in the Alexander Maconochie Centre*
<http://www.cs.act.gov.au/__data/assets/pdf_file/36634/VETPrograms2006.pdf>

Anti-Discrimination Commission Queensland (2006), *Women in Prison*
<http://www.adcq.qld.gov.au/pubs/WIP_report.pdf>

Armstrong, K., Chartrand, V., Baldry, Dr E. (2005), *Submission to the Anti Discrimination Commissioner for an Inquiry into the Discrimination Experienced by Women Prisoners within the Criminal Justice System in New South Wales*, Beyond Bars Alliance NSW

Australian Institute of Criminology (2005), *Interventions for Prisoners Returning to the Community*, Australian Government Attorney-General's Department
<<http://www.ag.gov.au/agd/WWW/ncphome.nsf/AIIDocs/DAD69C1C8D3D5F28CA256FDB001DD4B4?OpenDocument>>

Banscott Health Consulting Pty Ltd (2003), *Report of the Review of the Northern Territory Department of Health and Community Services*
<http://www.nt.gov.au/health/dept_review/index.shtml>

BearingPoint (2003), *The Review of Education and Training Provision in Victorian Prisons – The Way Forward*
<[http://www.opp.vic.gov.au/CA256902000FE154/Lookup/DoJ_Corrections/\\$file/Review_of_Education_and_Training_Provision_in_Victorian_Prisons.pdf](http://www.opp.vic.gov.au/CA256902000FE154/Lookup/DoJ_Corrections/$file/Review_of_Education_and_Training_Provision_in_Victorian_Prisons.pdf)>

Bloom, B. (1999), "Gender-responsive programming for women offenders: Guiding principles and practices" *Forum in Corrections Research*, Vol 11, No. 3, p22-27

<http://www.csc-scc.gc.ca/text/pblct/forum/e113/e113f_e.shtml>

Bloom, B., Owen, B. & Covington, S (2003), *Gender-Responsive Strategies: Research, Practice and Guiding Principles for Women Offenders*, National Institute of Corrections, US Department of Justice
<<http://www.nicic.org/pubs/2003/018017.pdf>>

Borzycski, Dr M. (2005), *Interventions for Prisoners Returning to the Community*, Australian Institute of Criminology for the Community Safety and Justice Branch of the Australian Government Attorney-General's Department, Canberra

Butler, T. & Allnut, S. (2003), *Mental Illness among New South Wales' Prisoners*, NSW Corrections Health Service

Byrne, M. & Howells, K. (2002), "The Psychological Needs of Women Prisoners: Implications for Rehabilitation and Management", *Psychiatry, Psychology and Law*, Vol 9, No. 1, pp34-43

Cameron, M. (2001), "Women Prisoners and Correctional Programs", *Trends and Issues in Crime and Criminal Justice*, No. 194, Australian Institute of Criminology
<<http://www.aic.gov.au/publications/tandi/index.html>>

Camilleri, P., McArthur, M. & Webb, H. (1999) *Suicidal Behaviour in Prisons: A Literature Review*, Australian Catholic University for ACT Corrections, Canberra

CAYA Management Consulting International (2004), *A Path to Good Corrections: A Review of the NT Correctional Services – Adult custodial operations*, CAYA Management Consulting International for NT Correctional Services
<http://www.nt.gov.au/justice/docs/corrsevs/news_events/caya_good_corrections.pdf>

Commonwealth Office of the Status of Women (2003), "The Health and Wellbeing of Women in Prison: The Profile of Female Offenders", *Focus on Women*, Issue 7
<<http://ofw.facs.gov.au/publications/focusonwomen/2003.htm>>

Commonwealth Office of the Status of Women (2003), "The Health and Wellbeing of Women in Prison: Issues Impacting on Health and Wellbeing", *Focus on Women*, Issue 8
<<http://ofw.facs.gov.au/publications/focusonwomen/2003.htm>>

Community Visitor Program, *Annual Report 2004/2005*
<http://www.nt.gov.au/justice/docs/depart/annualreports/adc_cvp_annrep_0405.pdf>

Coyle, A (2002), *A Human Rights Approach to Prison Management: Handbook for Prison Staff*, International Centre for Prison Studies, London

Danby, Dr S., Farrell, Dr A., Skoien, P. & Quadrelli, C., "Inmate Women as Participants in Education in Queensland Correctional Centres", Paper presented at the Women in Corrections: Staff and Clients Conference, Australian Institute of Criminology and Department for Correctional Services SA, Adelaide, 31 October – 1 November 2000
<<http://www.aic.gov.au/conferences/womencorrections/index.html>>

Davies, S. and Cook, S., "Dying Outside: Women, imprisonment and post-release mortality", Paper presented at the Women in Corrections: Staff and Clients Conference, Australian Institute of Criminology and Department for Correctional Services SA, Adelaide, 31 October – 1 November 2000
<<http://www.aic.gov.au/conferences/womencorrections/cookdavi.pdf>>
Department of Health and Human Services Tasmania, "The Wilfred Lopes Centre for Forensic Mental Health" (website)
<<http://www.dhhs.tas.gov.au/agency/pro/correctionalhealth/wilfredlopes/index.php>>

Fitzgerald, C., Manners, C. & Hunter, W., "Vocational Education and Training in Northern Territory Correctional Centres", Paper presented at the Best Practice Interventions in Corrections for Indigenous People Conference, Australian Institute of Criminology and Department for Correctional Services SA, Adelaide, 13-15 October 1999

Forensicare (Victorian Institute of Forensic Mental Health) (2005), *Review of Top End Forensic Mental Health Service of the Northern Territory: Final Report*, Forensicare for NT Department of Health and Community Services

George, A. (2006), *Prisoner Committees in Women's Prisons: A Report on Women's Prisoner Committees in California, Canada and South Africa*, Deakin University, Geelong
<<http://www.awipn.org.au/media/AmandaGeorge.pdf>>

Giles, M. et al (2004), *To Train or Not to Train: The Role of Education and Training in Prison to Work transitions*, National Centre for Vocational Education Research, Adelaide
<www.ncver.edu.au/research/proj/nr3022b.pdf>

Groves, M., "International Law and Australian Prisoners" [2001] UNSWLJ 11

Healthcare Management Advisors and Northern Territory Department of Health and Community Services (2003), *Mental Health Service System Development Strategy for the Northern Territory – Final Report*
<http://www.nt.gov.au/health/comm_svs/mental_health/Mental_Health_Final_Report.pdf>

Henderson, S. (2003), *Mental Illness and the Criminal Justice System*, Mental Health Coordinating Council <http://www.mhcc.org.au/projects/Criminal_Justice/forensic.html>

Hopcroft, R., "Prison Health Issues", paper presented at the ANZ Council of Health Complaints Commissioners' Meeting, Alice Springs, 23 March 2006

Howells, K., "Treatment, Management and Rehabilitation of Women in Prison: Relevance of Rehabilitation Principles", Paper presented at the *Women in Corrections: Staff and Clients Conference*, Australian Institute of Criminology and Department for Correctional Services SA, Adelaide, 31 October – 1 November 2000
<<http://www.aic.gov.au/conferences/womencorrections/index.html>>

Howells, K., Hall, G. & Day, A. (1999), "The Management of Suicide and Self-harm in Prisons: Recommendations for Good Practice", *Australian Psychologist* 34(3) pp 157-165

Human Rights and Equal Opportunity Commission, "The Human Rights of Mentally Ill People: the HREOC inquiry and after", Paper presented by Dr Sev Ozdowski at the Mental Health, Criminal Justice and Corrections Conference, Marrickville, 19 October 2001
<http://www.hreoc.gov.au/disability_rights/speeches/2001/mental01.htm>

Human Rights and Equal Opportunity Commission (2006), Written submission to the NSW Coroner's Inquest into the Death of Scott Simpson, File No. 988/04
<<http://www.humanrights.gov.au/legal/intervention/simpson.html#fn25>>

International Centre for Criminal Law Reform and Criminal Justice Policy (2001), *International Prison Policy Development Instrument*, Vancouver Canada
<http://www.icclr.law.ubc.ca/Site%20Map/Programs/Prison_Policy.htm>

J block prisoners (2006), *Women Behind Bars: Passage to a Brighter Future*, unpublished paper prepared for the Office of Women's Policy (NT)

Johnson, H. (2004) *Drugs and crime : a study of incarcerated female offenders*, Australian Institute of Criminology, Canberra.

Lahm, K. (2000), "Equal or Equitable: An Exploration of Educational and Program Availability for Male and Female Prisoners", *Federal Probation*, Vol 64, No. 2, pp 39-46

Lawrence, S., Mears, D. P., Dubin, G. & Travis, J. (2002) "The Practice and Promise of Prison Programming", *Research Report*, The Urban Institute, Washington DC

Lawrie, R. (2003), *Speak out speak strong : researching the needs of Aboriginal Women in Custody*, Aboriginal Justice Advisory Council
<[http://www.lawlink.nsw.gov.au/lawlink/ajac/ll_ajac.nsf/vwFiles/speak_out_speak_strong_rowena_lawrie_ajac_2003.doc/\\$file/speak_out_speak_strong_rowena_lawrie_ajac_2003.doc](http://www.lawlink.nsw.gov.au/lawlink/ajac/ll_ajac.nsf/vwFiles/speak_out_speak_strong_rowena_lawrie_ajac_2003.doc/$file/speak_out_speak_strong_rowena_lawrie_ajac_2003.doc)>

Mental Health Council of Australia and the Brain and Mind Research Institute (University of Sydney) (2005), *Not for Service: Experiences of Injustice and Despair in Mental Health Care in Australia*, Mental Health Council of Australia, Canberra

Morash, M., Bynum, T.S. & Koons, B. A. (1998) "Women Offenders: Programming Needs and Promising Approaches", *Research in Brief*, National Institute of Justice, US Department of Justice
<<http://www.ncjrs.gov/pdffiles/171668.pdf>>

NT Jails Not Equipped to Deal with Mentally Ill: Officers", ABC News Online, 3 March 2006
<<http://abc.net.au/news/australia/nt/alice/200603/s1582801.htm>>

Northern Territory Legal Aid Commission (2006), "Options for Managing Prisoner Growth in the NT" (unpublished paper)

Northern Territory Department of Health and Community Services, *Annual Report 2004/2005*
<http://www.health.nt.gov.au/org_supp/public_affairs/anrep04_05/dhcs_annual_report.pdf>

Northern Territory Department of Health and Community Services, Mental Health Program, *Divisional Business Plan 2005-2006*
<http://www.health.nt.gov.au/corporate/business_plans/2005_06/mh_program_plan.pdf>

Northern Territory Department of Health and Community Services, Aged and Disability Program, *Divisional Business Plan 2005-2006*
<http://www.health.nt.gov.au/corporate/business_plans/2005_06/a_d_program_plan.pdf>

NSW Select Committee on the Increase in Prisoner Population (2000), *Interim Report: Issues Relating to Women*
<[http://www.parliament.nsw.gov.au/prod/PARLMENT/Committee.nsf/0/e0f03efd3f66d460ca256cf4002183ed/\\$FILE/Committee%20Report%2019%20July%202000%20-%20Inquiry%20into%20Increase%20in%20Prisoner%20Population.pdf](http://www.parliament.nsw.gov.au/prod/PARLMENT/Committee.nsf/0/e0f03efd3f66d460ca256cf4002183ed/$FILE/Committee%20Report%2019%20July%202000%20-%20Inquiry%20into%20Increase%20in%20Prisoner%20Population.pdf)>

Office of the Inspector of Custodial Services, Western Australia (2001), *Report of an Unannounced Inspection of the Induction and Orientation Unit and the Special Handling Unit at Casuarina Prison*, Report No/1
<http://www.custodialinspector.wa.gov.au/pdfs/insp_reports/rp01-CasuarinaPrisSpecialUnit.pdf>

Office of the Inspector of Custodial Services, Western Australia (2002), *Report of an Announced Inspection of Casuarina Prison October 2001*, Report No/11
<http://www.custodialinspector.wa.gov.au/documents/resource/00130_rp11-CasuarinaPrisOct2001.pdf>

Office of the Ombudsman Tasmania (2001), *Report on an Inquiry into Risdon Prison, Vol 1: Risdon Prison Hospital and Forensic Mental Health Services*, Office of the Ombudsman, Tasmania

Office of the Ombudsman Tasmania (2001), *Report on an Inquiry into Risdon Prison, Vol 2: Risdon Prison Complex*, Office of the Ombudsman, Tasmania

Office of the Public Advocate Queensland (2005), *Issues for People with a Cognitive Disability in the Corrections System*
<http://www.justice.qld.gov.au/guardian/pa/discussion/ip_0505.pdf>

Office of the United Nations High Commissioner for Human Rights (2005), *Human Rights and Prisons: A Manual on Human Rights Training for Prison Officials*, Professional Training Series No. 11
<http://www.ohchr.org/english/about/publications/docs/pts11_En.pdf>

Ogilvie, E. (2001), *Post-Release: The current predicament and the potential strategies*, Criminology Research Council
<<http://www.aic.gov.au/crc/reports/ogilvie.html>>

Ogloff, J. (2002) "Identifying and Accommodating the Needs of Mentally Ill People in Gaols and Prisons", *Psychiatry, Psychology and Law*, Vol 9, No. 1

Ombudsman Victoria & Office of Police Integrity Victoria (2006), *Conditions for Persons in Custody*, Victorian Government Printer
<[http://www.ombudsman.vic.gov.au/CA256F2D00228847/Lookup/Custodyreport/\\$file/CustodyReport.pdf](http://www.ombudsman.vic.gov.au/CA256F2D00228847/Lookup/Custodyreport/$file/CustodyReport.pdf)>

Pollack, S. (2005), "Taming the Shrew: Regulating Prisoners Through Women-Centred Mental Health Programming", *Critical Criminology*, Volume 13, pp 71-87
Prisoners Legal Service & Sisters Inside (2000), *There's more to it: A Response to the Women's Policy Unit Needs Analysis: The Needs of Women Offenders*

Queensland Department of Corrective Services (2004), "Separation Consultation Paper", *Legislation Review: Corrective Services Act 2000*, Queensland Department of Corrective Services, Brisbane

Re-Entry Policy Council, *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community*, Re-Entry Policy Council, New York
<http://www.re-entrypolicy.org/documents/rpc_report.pdf>

Royal College of Physicians (2002), *Suicide in Prisons*, Council Report CR99, RCP, London
<<http://www.rcpsych.ac.uk/files/pdfversion/cr99.pdf> >

Royal Commission into Aboriginal Deaths in Custody (1991), *National Report*, AGPS, Canberra

Senate Select Committee on Mental Health (2006), First Report, *A National Approach to Mental Health – From Crisis to Community*
<http://www.aph.gov.au/Senate/committee/mentalhealth_ctte/report/index.htm>

Senate Select Committee on Mental Health (2006), Final Report, *A National Approach to Mental Health – From Crisis to Community*
<http://www.aph.gov.au/senate/committee/mentalhealth_ctte/report02/index.htm>

Shaw, B., "The Management of Female Offenders: Achieving Strategic Change", Paper presented at the Women in Corrections: Staff and Clients Conference, Australian Institute of Criminology and Department for Correctional Services SA, Adelaide, 31 October – 1 November 2000
<<http://www.aic.gov.au/conferences/womencorrections/index.html>>

Simpson, J. & Sotiri, M. (2004), *Criminal Justice and Indigenous People with Cognitive Disabilities: A discussion paper*, Aboriginal and Torres Strait Islander Services, Australian Government

Sisters Inside Inc. & Aboriginal Family Violence Prevention and Legal Service (2005), *Building on Women's Strength: Developing community-based service models for women in prison and released from prison in Victoria*
<<http://www.sistersinside.com.au/media/BOWSRreichstein.pdf>>

Sorbello, L., Eccleston, L., Ward, T. & Jones, R. (2002), "Treatment Needs of Female Offenders: A Review", *Australian Psychologist*, vol 37, no. 3, pp198-205

Steering Committee for the Review of Government Service Provision (2006), *Report on Government Services 2006*, Productivity Commission, Canberra, ACT
<<http://www.pc.gov.au/gsp/reports/rogs/2006/justice/index.html>>

Suter, J. & Byrne, M., "Female Offenders are Different from Male Offenders: Anger as an Example", Paper presented at the Women in Corrections: Staff and Clients Conference, Australian Institute of Criminology and Department for Correctional Services SA, Adelaide, 31 October – 1 November 2000
<<http://www.aic.gov.au/conferences/womencorrections/index.html>>

Western Australian Department of Justice (2002), *Profile of Women in Prison – Executive Summary*

<http://www.correctiveservices.wa.gov.au/_files/summary_profile_women_in_prison.pdf>

White, P. & Whiteford, H. (2006), "Prisons: mental health institutions of the 21st century?", *Medical Journal of Australia* 185 (6): 302-303

World Health Organisation (2005), *Information Sheet: Mental Health and Prisons*

<http://www.who.int/mental_health/policy/mh_in_prison.pdf>

2005 SUBMISSIONS TO THE SENATE SELECT COMMITTEE ON MENTAL HEALTH

Full text of all submissions was sourced from:

<http://www.aph.gov.au/senate/committee/mentalhealth_ctte/submissions/sublist.htm>

- Central Australian Aboriginal Congress
- Northern Territory Government
- Northern Territory Legal Aid Commission and Community Visitor Program
- Northern Territory Mental Health Coalition
- Probation and Community Corrections Officers' Association Incorporated
- Victorian Institute of Forensic Mental Health (Forensicare)
- Legal Aid Commission of NSW
- Mental Health Legal Centre
- Combined Community Legal Centres' Group (NSW) Inc
- Health Services Union
- Puplick, Prof. C.
- Sister's Inside
- Mental Health Coordinating Council
- Schrader, Dr T.

interviews & consultations held

Interviews or consultations were held with the following individuals for the purpose of this investigation:

- Tricia Ross, Anglicare NT (8 June 2006)
- Judy Clisby, Manager Community Visitor Program (14 June 2006)
- Peter Mals, Forensic Mental Health Team Leader, Royal Darwin Hospital (14 June 2006)
- Chris Howse, Aboriginal Justice Advocacy Committee, Charles Darwin University (15 June 2006)
- Fiona Hussin and Melinda Schroeder, NT Legal Aid (15 June 2006)
- Natalie Hunter, Kimberley Hunter, James Dawson, Eddie Cubillo & Sharon Payne, North Australian Aboriginal Justice Agency (15 June 2006)
- Justine Mickle, Senior Project Officer, NT Correctional Services (16 June 2006)
- Pru Gell, Domestic Violence Community Development and Training Project, Dawn House (12 September 2006)
- Elizabeth Grant, Lecturer, School of Architecture, Landscape Architecture and Urban Design, University of Adelaide (30 October 2006)
- Bronwyn Hendry, Director Mental Health Services, NT Department of Health and Community Services (14 November 2006)
- Wendy Hunter, Director Strategic Initiatives and Executive Support, NT Correctional Services (14 November 2006)
- Bill Somerville, CEO, Offenders Aid and Rehabilitation Service NT (14 November 2006)

- Kevin Raby, Superintendent, Darwin Correctional Centre (15 November 2006)
- Bill Munro, Manager Prison Services, Darwin Correctional Centre (15 November 2006)
- Peter Warner, Manager Research and Evaluation, NT Correctional Services (16 November 2006)
- Jens Tolstrup, Director NT Correctional Services (7 December 2006)
- Female prisoners, Darwin Correctional Centre (15 December 2005, 16 December 2006, 17 March 2006, 21 March 2006, 15 November 2006, in addition to telephone contact)
- Recently released female prisoner (6 December 2006)

glossary

ADC	NT Anti-Discrimination Commission
ASCC	Alice Springs Correctional Centre
CDU	Charles Darwin University
CSP	Community Support Program (prisoner work party)
DCC	Darwin Correctional Centre
DHCS	NT Department of Health and Community Services
DoJ	NT Department of Justice
FMH	Forensic Mental Health, NT Department of Health and Community Services
IOMS	Integrated Offender Management System
NTCS	NT Correctional Services
NTOEC	NT Open Education Centre
OARS NT	Offenders Aid and Rehabilitation Services NT Incorporated

“Women Behind Bars: Passage to a brighter future”

On 22 September 2006 the Office of Women’s Policy, Department of the Chief Minister, held a meeting with female prisoners in J Block

The women prisoners, on their own initiative, prepared this comprehensive report which they presented to the Office of Women’s Policy at the meeting. All women in the block were involved in the discussion and consultation leading up to the writing of the report.

The report was handwritten but was later transcribed by the Office of Women’s Policy.

The *Women Behind Bars* report discusses many issues central to this investigation from the perspective of the women themselves, and for this reason it is attached as an appendix to this report. As it was received after much of the investigation had already been conducted, a number of the specific allegations contained in it have not been checked with the Department of Justice or Department of Health and Community Services.

By attaching a copy of this report, the Ombudsman’s office is not asserting the truth of those allegations. The report is merely presented as further background of the views of the women of J block.

Women Behind Bars: Passage to a Brighter Future by the women of J block, DCC, September 2006

Debbie’s Story

I started an eight month prison sentence in July 2000, at this time I was five months pregnant. During the following four months I was scared for my own and my unborn’s safety, other inmates threatened me and one in particular, who was mentally unstable, was jealous of my pregnancy and threatened to harm me. I never felt safe during unlock times. Also during this time, I refused to take my medication. I felt drugged up all the time and realised that the medication could harm my baby, my punishment for refusing was three days in B Block under 24 hour camera surveillance, all movements monitored, including showering. This was followed by another four days in C Block.

Back in J Block, I was constantly harassed with cell searches and this combined with my fellow inmates hostility and apparent lack of concern from the officers and medical staff added to my stressed condition.

I was taken to Royal Darwin Hospital on a monthly basis for checkups, but that was all the medical support offered. In October, at eight months pregnant, I started to pass blood clots.

The prison doctor told me to 'Go back to your cell and lay down,' which I did but the clots persisted. On voicing my concern on numerous occasions, I was told the same thing, 'Go back to your cell and lay down!'

On November 18th, I was not feeling well but put it down to being tired. I had a family visit and at about 11am, just as my visitors were departing, my baby kicked. I did not know at the time but this was to be the final movement I felt. At about 7pm on this same day, I started to have pains, the severity of them nearly making me pass out. The officers were called on the intercom and about ½ hour later, two officers arrived to take me to hospital. No ambulance had been called and I had to walk about 150m to the prison vehicle where I was instructed to lay on the back seat. On the trip, I was in such pain that I was moaning, much to the amusement of the female officer accompanying me.

On arrival at Royal Darwin Hospital, I had to walk to the elevator and support myself on the hand rail on the way up to the sixth floor. After being there for a short while, an ultrasound was performed and a doctor informed me that my baby had died. This baby was full term.

Because I was bleeding severely, a caesarean could not be performed and I had to endure all the stages of a normal labour and my stillborn baby was born on the following morning, November 19th.

I was in hospital for two days, left in a room by myself to deal with my loss. The only help given was a pamphlet on the loss of a child.

On 21st November, I returned to prison, I was given anti-depressants and then forgotten about. I received no counselling, no offer of help, so I just hid my emotions and learnt to switch off, suffering my emotional pain in silence.

I was released in March 2001. After this, with my emotions still in turmoil, I returned to my previous lifestyle and eventually re-offended. I was sent back to jail in February 2006, this time, as part of my sentence conditions, I am receiving counselling.

Counselling should have been an automatic response to my trauma in 2000. Re-offending would not have been an option if my emotions had been dealt with then. Pregnant women charged with petty crimes should not be jailed.

* * * * *

Opening Statement

Having been given your flyer last week (this refers to the flyer advertising a visit from the Office of Women's Policy, attached as Appendix Three), we as a group of incarcerated women are taking this rare opportunity of presenting you with this paper, titled, *Women Behind Bars – Passage to a Brighter Future*. This paper encapsulates all of our issues and concerns about our passages through incarceration, and what we believe is lacking which is possible to address and change.

We hope in presenting the following paper that you will hear our collective voice and leave here wanting to pass the message on to those who uphold the ideas for a better world, just as we do.

Prisons are universities of crime – no matter how well they are run.

Helping inmates to make the move from 'cell to sidewalk' is an investment for the benefit of both the individual and society as a whole. Prisons should give inmates the opportunity to revise their behaviour and attitudes, and the encouragement to change.

As a teenager, you wish for someone to talk to, about (your) loss of confidence, fear of failure, how your intelligence deserts you, how you think you'll fail your subjects at school, you want to express what a lost and frightened little girl you really are.

You learn the art of repression and can't let it loose. Low in confidence, you become impulsive and need instant results. You feel like there's a void inside of you, and you don't know what to put in there to fill it. You become restless, you may turn to drugs and alcohol, or perhaps get into an abusive relationship.

Drugs (and) alcohol never fix problems, never overcome depression, they just put it (or) them off. They never make your future perfect, they don't make you stronger, they make you weaker to face an imperfect future. No one has a perfect life, but with determination and optimism you can achieve worthwhile things and have happiness and contentment most of the time. People need to be taught these skills to survive.

The 'problem' inside of you, that's what must be addressed before you can rise above the ups and downs of life. You must find an inner strength to survive with, and more importantly success in spite of everything else. And no matter what the 'system' does or fails to do, your relationship can never be taken away. You must focus on the positives in your life and not on the negative (like drug or alcohol dependencies, abuse etc). You need to be happy with yourself, then children and relationships become a bonus. If you have that inner strength when other things go bad, you can go on. You cannot compensate for that lack of self-esteem by filling or trying to fill your life with relationships or dependencies.

In a long sentence, the goal is to stay sane and you do what is necessary to achieve it. This process can be called institutionalisation.

You become desensitised, but that means you become good at tucking away the different parts of yourself, particularly feelings. The many techniques that you devise to survive in such a controlled yet emotionally deprived environment certainly don't contribute to the development of an integrated personality.

Some, that don't deal with the humiliation and powerlessness in a way that you can barely survive; become angry and abusive at officers, the system, family and friends, showing their frustrations outwardly, but outbursts can be followed by punishment.

You must find simple ways of coping. Perhaps avoidance, steering clear of officers, as much as possible, so that you are not subjected to pettiness and non-understanding.

Initially, visits are a lifeline to the outside world to all that was once precious and you try to cling on to those relationships. As time passes, you become more ingrained in the microcosm that prison is, you become less interested in the outside world. It can be like going shopping with no money. Why go looking at items you can't buy? In the same way, why see and hear about people from a world that you can't be a part of.

While experiencing the difficulties, pain and frustration at being in jail, at times overcrowding and generally punitive and or insensitive custodial officers, you build hopes and fears about life after prison that include (among other things) freedom to do what you want, when you want without having to fill out a form: getting kids back, housing, getting possessions back, having people glad to see you, having a good time to make up for all that bad time that you've put up with.

Survival mechanisms you used in jail during your sentence would still operate when you get out and indeed interfere with your ability to get on with your life.

It's necessary to discuss your jail experience, to at least get it off your chest, but it's unlikely that anyone wanted to know. Family and friends will believe that the worst is behind you and that perhaps you have caused them enough grief inconvenience and so on. If you're trying to re-establish your relationships, you will encounter along with the love and joy, bitterness, anger and resentment.

The best of ex-inmates intentions tend to wither when confronted by a post-release world which is largely uninterested and disbelieving. You have the stigma of being an ex-prisoner to complete your sense of isolation. Being released is no reward when you have been branded for life and have nothing or no one to get out to.

When leaving jail, it's a huge challenge to try and reintegrate into the broader community and our own lives. We have roles to reclaim; that of mother, wife, partner, of daughter, sister and friend. Jail impacts hard and usually negatively on family – long-termers especially need to renegotiate the relationships that were abruptly curtailed when imprisoned. Even if family members have been regular visitors, imprisonment effectively removes a woman from her place amongst them.

Resuming that place and role can require delicate negotiations and for women who have spent time desensitising themselves to pain and fear, and sometimes love, the process can be long and complicated. Even practical steps to resuming outside life can be fraught with difficulty; everything is mined with problems when you have a prison record, finding accommodation, finding work, accessing social security, banking, mountainous obstacles to your best intentions to lead a blameless life, for many women, the seemingly insurmountable difficulties can make the path to reoffending or drug use look very attractive indeed.

A transition program, at its best, would aim to stop women going back to jail because they resorted to the easy path.

Prisons must be held to account for the treatment of women behind bars and made to fulfil the meaning of their names: corrections. If women and men are to be ostracised from their communities and families as punishment, then the time away must be used to ensure their lives are improved, that their chances of returning to prison are minimised and their children's lives left intact.

As developed in a strategy by Corrections Victoria (*Better Pathway: An integrated response to women offending and reoffending*) we see the following as relevant to our visions and goals.

'Primarily [we] aim to stem the increasing number of women entering prison custody in Victoria, by ensuring that prevention, early intervention, diversion, rehabilitation and transitional support interventions are responsive to the distinct needs and life experiences of women at risk of offending or reoffending.'

Issues Affecting Women in Prison

I. Health and Wellbeing

a. Physical aspects

i. The first issue is that there is currently no induction process specifically aimed at female inmates, therefore no explanations about procedures, rules, allowances, services available and so on. There is a prison 'handbook' but this is currently outdated.

ii. Although there is a medical 'check-up' for all new inmates this is limited to physical aspects of wellbeing and is limited in nature. There is currently no psychiatric assessment done by qualified personnel even for 'at risk' inmates (or alcohol or other drug abuse? – Ed).

iii. Basic clothing is provided upon entry together with very basic personal care items (toothbrush, toothpaste, soap). There is no access to shampoo, combs and other personal care items until the first 'buy day' and then only if money is available.

iv. Access to other medical services is very limited and is not explained to inmates. Knowledge of available services comes via word of mouth from other inmates.

b. Upon entry into the prison system – emotional aspects

i. Lack of knowledge (induction) creates a feeling of hopelessness, frustrations and negativity. This creates disharmony on the block, thus affecting all inmates.

ii. There is no psychiatric follow up for 'at risk' inmates, who are left to their own devices.

iii. The ability to contact family during the first week is severely limited (phone account not open and so on). When given a phone call inmates have not been prepared and don't know what to ask for (e.g. money, phone numbers, visits and so on).

iv. No counselling is provided to help inmates deal with separation issues, fear of being incarcerated, other family issues.

v. Swinging lockdowns are not explained to inmates which creates further disharmony and frustration.

vi. No account is taken of the emotional impact of the forced living conditions.

vii. If it is deemed necessary to incarcerate a pregnant woman particular care (over and above the normal) needs to be taken with the individual at all times.

c. Upon entry into the prison system – external aspects

i. Family members are at a loss as to what to do, how to help and get support.

ii. No help available regarding separation issues for family.

iii. Visitor information brochure is outdated.

d. During incarceration – physical aspects

i. Due to the use of agency doctors, better record-keeping is needed so inmates don't have to explain ongoing problems each visit.

ii. Lack of exercise creates frustration and motivational problems.

iii. Food/dietary requirements need a review as they are currently very basic and outdated. There is no recognition of the particular dietary needs of women.

iv. No rehabilitation support for affected inmates, problems regarding withdrawal (from addictive drugs) are attended to by other inmates.

v. No real protection against internal violence between inmates which creates internal tensions.

e. During incarceration – emotional aspects

i. Due to the issues raised above, the emotional wellbeing of inmates is severely affected by tension, frustrations, stress and so on.

ii. Lack of feedback and flow of information creates further frustrations.

iii. Mentally ill inmates housed in the same environment cause friction, tension and stress from unpredictable violent episodes. Disruption throughout the day and night causes sleep deprivation, also the extra stress on officers transmits in their treatment of inmates.

f. External aspects

i. Family visits are lacking due to isolation issues (especially for inmates from Alice Springs). Also, there is a lack of understanding around booking requirements for visits.

ii. Wellbeing of family members on the outside is difficult to resolve, the ability to 'mother' your child is taken away (through procedures).

g. Upon release – physical aspects

i. No reintegration program makes it hard for inmates to understand problems that may arise upon release (e.g. income/housing/acceptance).

ii. No follow through with medical issues.

h. Upon release – emotional aspects

i. No reintegration program available.

ii. No program in place to teach long term inmates how to 'look after' themselves, like budgeting or resume writing skills.

iii. Halfway houses or transitional homes are not available.

i. Upon release – external aspects

i. Family acceptance.

ii. Community acceptance.

II. Mental Health

On this particular subject, we would like to quote Professor Paul Mullen (Clinical Director of the Victorian Institute of Forensic Mental Health).

‘There is always a problem with providing mental health care within the context of a prison. The culture of prisons inevitably is a culture of observation and control. The culture of therapy for mental disorder is a culture – or should be – of communication and enablement of people to begin to stretch their capacities and begin to move. You see it very clearly when you come across suicide risk. The response of a prison to suicide risk is to restrict the possibilities of suicide. At the grossest end, you put people in a plastic bubble, take all their clothes away and watch them.

That does prevent suicide, but it also, in my view, produces enormous destruction to the psychological and human aspects of that individual, and it is not the way to go. So whenever you are trying to provide mental health care to severely distressed and disabled people within a prison, you are running up against a clash of cultures, the result of which can lead to abuse. The only solution is not to try to treat severely mentally ill people and acutely suicidal people in prison. But that does not mean a radical rethinking of priorities. Also, it is not just that we do not have the beds and the resources. Sometimes the beds and the resources are there, but they are not available to our patients.’

We currently have two women that are mentally ill, one in the Joan Ridley Unit in Royal Darwin Hospital for a short time and one isolated in the main prison (men’s side – Ed.).

III. Accommodation

The women’s prison is in need of major capital works. Areas of concern are:

Main area

This area can currently hold nineteen prisoners. This includes one ‘loss of privileges’ cell, which should not be in the same area as it is not conducive to the wellbeing of the other inmates, nor is this a human manner in which to house an inmate with ‘loss of privileges.’

Due to insufficient room, inmates on medium security classification are being fast tracked to a lower security rating which enables a move to the Low Security Area, simply to provide more room. This is unacceptable.

Low Security Area

This area can currently hold twelve inmates who are housed in inadequate donga (demountable) accommodation. Where else in Australia are dongas used to secure prisoners?

Living Skills Units

Currently there are no Living Skills Units available to females. These are essential for pre-release preparation and also to be used as a separate entity, to house women and their children.

Alice Springs

Currently there is no dedicated female jail in Alice Springs, though female inmates are held there for short terms.

IV. Programs

During various discussions held between inmates the following suggestions were raised:

- acknowledging the different relevancies of indigenous and non-indigenous inmates

Life Skills course

- building self-esteem, challenging entrenched behaviour
- decision making
- responsibility of our decisions/choices
- budgeting

High and low hopes course

- Women desensitised to fear might benefit from the challenges of a program which is based on participation, safety, respect, trust and justice, many of the notions women have completely given up on.
- Generic questionnaire/observations for assessing of an individuals needs and status at the onset of their incarceration period.

Below is a list of programs that are provided by 'Sisters Inside' being used by both Queensland and Victoria Corrections:

- sexual assault and counselling (including a dedicated indigenous sexual assault counsellor)
- support for homeless young people or those at risk of homelessness because their mother is in prison
- early intervention for mothers in prison and their children focusing on pre and post release support for re-unification

Below is a list of activities that are suggested by the women of J Block:

- more sport options
- personal support to assist women released from prison through counselling, personal support, guidance, referral and advocacy
- intensive support for women who are being released from prison who are primary care givers and their children
- to help with opportunities for women to undertake accredited training after they have been released from prison.

Summary

A general consensus amongst the women is that there is a need for 'common' based, independent, culturally appropriate and effective advocacy and support services for indigenous and non-indigenous women in prison (e.g. AA, NA, Anglicare, Salvation Army, Tamarind Centre and also using ex-prisoners as examples of reintegration in the community). What is required is a continuum of support – from the support that women in prison give to each other, to community support and inclusion on the outside.

'After all, it is only possible to be re-integrated into a community if you had been integrated in it in the first place.'

V. Education

During various discussions held among inmates, the following areas of concern were raised:

Literacy and Numeracy

Although being currently offered literacy and numeracy education, the program is not working. We suggest a change to accelerated literacy and numeracy courses as offered through Charles Darwin University.

English as a second language

The language programs need to be specifically targeted to adult indigenous persons for those people to learn English. An identified benefit is that there are already established programs in the community.

Skills training

Other educational opportunities should be pertinent to inmates' release plans, relating to potential employment and taking into account convictions. Suggested educational programs are:

- trade qualifications
- expand the agricultural section within the prison
- incorporate nursery work experience (less strenuous, can be unskilled)
- ranger, conservation and 'Caring for Country' training
- deckhand course
- crocodile management (this is currently available to male prisoners)
- facilitators course
- counselling services (to incorporate help for wayward kids and so on)
- Certificate 4 – workplace training and assessing
- Bush medicine and tucker, tracking skills
- Traditional weaving

Suggestions

In offering these courses, consideration must be given to work release availability upon suitable classification, with the view of leaving the prison with suitable employment to help with reintegration into the community.

Go to communities and see what genuine opportunities are available for indigenous women. Some opportunities may be:

- Ranger/conservation worker
- Health worker
- CDEP
- Shop assistant
- Carer
- Interpreter
- Cleaner
- Teacher's assistant

Education and programs need to be taken off J Block to ensure everyone participates regularly and there are no distractions from other inmates.

Taken from a 'Letter to the editor' in the NT News 2005

'Cheaper options to prisons should be available. For example, there used to be a prison farm at Gunn Point and it became nearly self-sufficient but was closed in 1996 because of proposed redevelopment. This facility held 100 minimum security prisoners. Inmates built all the accommodation and oversaw cattle herds that provided meat to three NT prisons. There were a slaughterhouse, butchery, bakery, mechanical workshops, all overseen by qualified tradesmen. In 1996, the cost of an inmate was \$70 per day. The escape rate at this facility was minimal. There was

'wider' involvement of the Aboriginal community and culturally appropriate facilities in Aboriginal communities.'

Although current attempts are being made for changes, access is still highly restrictive. It appears most educational options are stagnant, short-sighted and still continually assessed on a gender-based platform. The education unit appears to be cutting back on all areas due to loss of staff, funding and officer availability whilst at the same time the Department is talking up expansion.

Women are being restricted from most if not all current retraining options which are offered to male inmates.

Unless the issue of electronic access is addressed, it is possible that no CDU courses will be available next year.

Summary

The educational, employment and rehabilitation programs at the Darwin Correctional Centre are insufficiently matched to the needs of J Block inmates.

1. No meaningful assessment process
2. Key programs areas are neglected
3. Limited employment opportunities
4. Lack of pre-release planning or support
5. No non-indigenous support after release for non-indigenous inmates
6. Numeracy and literacy programs completely based on indigenous needs only.

The existing courses are substantially limited or under-supported and therefore not delivering genuine outcomes due to:

1. Limitations in program delivery (including frequent cancellations)
2. Limited facilities on J Block
3. Certain course availability restricted
4. Little or no support for women undertaking external studies.

Education, employment and rehabilitation programs for women at Darwin Correction Centre are unreasonably limited by out-of-date and gender-based policies. Discriminations in access to education are evident when compared to access for male inmates. Women have no access to the manager of Prison Services. There is no entitlement to educational assistance while on remand (some inmates can serve long remand periods). There is limited support for peer education. There are limited out of cell hours available for study (women are locked down for 18 out of 24 hours). Finally, there is the discriminatory impact of enforcing the rule that disallows mixed gender escorts.

VI. Pre and Post Release

We believe that the establishment of a Women's Support Service is vital in the pre and post release phases of our incarceration. This support service needs to encompass programs already highlighted in this paper, plus education about accommodation, income, parole, social opportunities and counselling. These activities would be run with the ultimate hope of being able to establish a 'halfway house' that would offer a start for those that don't have a suitable family and friends infrastructure for a 6-9 month period of time post release.

We have relevant information of two support groups that could be the model for this program as follows:

Ruah Women's Support Service (WA)
PO Box 584
Mt Hawthorn WA 6915

Flat Out Inc. (Vic)
PH: 03 9417 6984

VII. Family Visits

The visits area in the women's jail needs to be improved. A new shade roof needs to be erected to protect from both sun and rain. The area needs to be secured off, so children don't run outside the area. The play area for children needs to be enhanced to help provide meaningful interaction between parent and child. We suggest a play gym.

Two hour long visits each week may not be sufficient time to assist effectively with interaction between family members and so on. Women have proposed a bi-monthly 'family day' that includes activities for families to enjoy together.

A reduction in call costs for mobile phone or STD calls would also assist in ensuring family interaction.

Photographs should be allowed to be taken during visits without current restrictions and delays. At the moment, prisoners aren't allowed to have a photo taken unless there are serving a sentence of more than eighteen months.

There should also be improved provisions for young children to be housed with their incarcerated mother.

One option is to make visits and family contact a programs responsibility (refer to CAYA Review).

VIII. Aboriginal Needs

This section outlines needs as identified by Aboriginal women inmates. After consultation with these women, they have highlighted the following as areas of concern:

- Learning the skills and tools needed to be able to walk away from confrontations.
- Due to the majority of women having children placed with family in remote communities, contact with their children is very limited. A suggested solution to this could be providing phone access to the children whilst they are at school during lunch or recess hours.
- Endeavouring to work with communities to see about the viability of bringing children of incarcerated parents to visit during school holidays. This would be beneficial for the long term inmates.
- Video linkup with families needs to be expanded (perhaps if inmates have been involuntarily transferred the prison should look at paying the cost as per the CAYA review).

- Darwin Correctional Centre should look at the feasibility of setting aside a few acres of land (within the prison confines) with a view to establishing an area where bush tucker and bush medicines could be grown. An area could also be incorporated where 'sorry business,' women's business, traditional learning and education could take place. The benefits to be gained from this space will be many, in that the inmates would be out, establishing and maintaining the area and it would give a sense of ownership and wellbeing.

IX. General

Committees

Committees should be established and made up of prison management, staff and inmates to discuss health, education, rehabilitation, sport and recreation, families, indigenous issues, food, complaints, community work, reintegration and any other issues.

Buysheets

Food options need to be updated to have available 'healthier options.' This would enable us to purchase different potential food means, offer us additional food quantity and provide us with choice and variety. The hygiene items available to women should be updated to better suit needs.

Access to information

We require easier access to information that is readily available under the Freedom of Information Act.

Strip searching

We recommend that routine strip searching of women in prisons should be ceased or at least restricted to use where there is a demonstrable security issue.

Women's Policy at Darwin Correctional Centre

It is imperative that work commences on a Policy and Procedure document for female inmates in the NT. Currently no such policy exists.

Closing Statement

It can be very hard to let go of your perceptions of an inmate's guilt, when you know that by every standard of ethics, morality or integrity, you're right to find fault with them. But ask yourself, do you prefer that you be right or happy? Remember, unless you have all the facts, it is wrong to judge, so if you're judging another, you're wrong even if you are right!

There have been many times when I have had a hard time giving up my judgement of another, protesting 'But, I'm right.' I felt as though giving up my judgment amounted to condoning the other's behaviour. I believed somebody should uphold the principle! But I was wrong.

I now realise that shaking our finger at someone doesn't help them change. If anything, our perception of someone's guilt only keeps them stuck in it. Treating inmates with compassion and dignity is much more likely to elicit a healed response; inmates are less likely to be defensive and more likely to be open to correction. We don't need condemnation at this point, we need help. To condemn is simply a

reminder of guilt, in choosing to affirm someone's guilt we are choosing to experience more of it. By letting go of the past we make room for a brighter future.

Together, as a community we can forge a new context, one dedicated to correction, not merely punishment, one in which inmates can more easily change and hopefully also reduce the incidence of recidivism.

This paper put forward by the women of J Block is asking you to help us create an environment encouraging change, growth and self-respect. We don't claim to have all the answers; these are merely suggestions from 'the inside,' from those of us who live in the current environment.

All we ask is when you leave here today, and yes, you can leave, that you ask yourself, do you have the ability to put aside judgment, to instead stand up and be counted and help encourage correction, not punishment.

If each of you who read our paper achieves one change, imagine the difference a united community could achieve.

Lastly, remember, people have a way of living up or down to your opinion of them.



DEPARTMENT OF JUSTICE

Executive Office

31 December 2007

Our Ref: CS2006/81
Your Ref: A060200000

Ms Carolyn Richards
Ombudsman for the Northern Territory
GPO Box 1344
DARWIN NT 0801

Dear Ms Richards

RE: DRAFT 'WOMEN IN PRISON NORTHERN TERRITORY' REPORT OF THE INVESTIGATION INTO COMPLAINTS FROM WOMEN PRISONERS AT DARWIN CORRECTIONAL CENTRE 2007.

On 12 April 2007 I received your correspondence seeking a response to the draft report regarding complaints from women prisoners at Darwin Correctional Centre. The Department of Justice (DoJ) comments in relation to each of the recommendations are attached to this letter.

Your report has focused attention on a number of important issues of which the department is aware and has been pursuing as part of its planning process. Many of these issues are complex and cannot be looked at in isolation. Expert consultant views, internal reviews, consideration of experience and information from national and international counterparts as well as your report, will form the basis of future NT Correctional Services (NTCS) capital works and project priorities well into the future.

A number of the recommendations relate to services provided by the Department of Health and Community Services (DHCS) and have been responded to by that agency. DoJ officers have liaised with DHCS to ensure your Office receives a coherent response regarding recommendations that relate to both agencies.

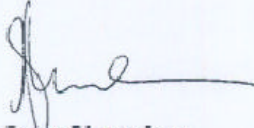
Some recommendations are accepted and are able to be implemented within existing resources. A number of others are very much of an aspirational nature and would require an enormous injection of additional resources (both capital and recurrent) to implement and to sustain.

Notwithstanding these constraints, I am satisfied that NTCS is currently applying its funding in a fair and prudent manner having regard to its overall responsibilities and has made some significant advancements, particularly in the last 12 months, in improving conditions for women prisoners. Examples of these advancements (some of which are a result of recommendations in your draft report) include:

- \$370K allocated from within the DoJ budget to upgrade the facilities and services in J Block. There will be an increase in bed capacity for the low security prisoners, conversion of two cells as management cells with access to secure yards for exercise, increased camera surveillance and the construction of a dedicated program facility.
- The prisoner handbook was finalised and introduced and is currently under review. In addition to the handbook there is a brief induction leaflet which is provided to all new female prisoners on reception.
- The formation of the prisoner consultative group, the 'Female Prisoner Block Committee' which meets on a monthly basis. The meetings are chaired by the Deputy Superintendent and minutes recorded by one of the delegates.
- A laptop computer has been made available to those female prisoners engaged in computer related studies. Additional computers will be available when the new program space is completed.
- A second prisoner telephone has been installed giving greater access to the female prisoners in the low security accommodation.
- The Prisoner Services Team have developed a summary of the services provided in a hard copy which is provided to prisoners on reception and in general there has been an increase in the programs and recreational activities for the women.
- Recently 6 female and 6 male prisoners successfully completed a 5 day 'Life Skills Program' at the CDU Palmerston Campus, and there is a greater level of participation by the women in the Community Work Parties.
- International research indicates that intervention services are best targeted to those with the highest risk /need. With the implementation of IOMS, NTCS will have available risk assessment tools which will indicate the level of intervention required.

Whilst any new initiative that improves opportunities and access to practical rehabilitation programs is keenly supported by the department, any activity must be balanced with considerations of safety, security and community expectation as well as available resources.

Yours sincerely



Greg Shanahan
Chief Executive Officer

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