



Ombudsman NT Investigation Report

Women in Prison II - Alice Springs Women's Correctional Facility

Volume 1 of 2

May 2017

Abbreviated references

ASCC	Alice Springs Correctional Centre
ASWCF	Alice Springs Women's Correctional Facility
Bangkok Rules	United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders
Corrections, Correctional Services, DCS, NTCS, NTDCS	The entity responsible for correctional services functions
CPT	Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
DCC, DCP	Darwin Correctional Centre
Department, AGD	Department of the Attorney-General and Justice
Hamburger Report	A safer Northern Territory through correctional interventions: Report of the review of the Northern Territory Department of Correctional Services (2016)
Nelson Mandela Rules	United Nations Standard Minimum Rules for the Treatment of Prisoners
OPCAT	Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
Standard Guidelines	Standard Guidelines for Corrections in Australia
Tokyo Rules	United Nations Standard Minimum Rules for Non-custodial Measures
Women in Prison I	Women in prison: Report of the investigation into complaints from women prisoners at Darwin Correctional Centre, NT Ombudsman (2008)
Women in Prison II	This investigation and report
European CPT Standards	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) Standards (revised 2015)

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EXECUTIVE SUMMARY

1. At its heart, this report is about why it is in our best interests, as a community, to do everything in our power to equip and encourage people at the margins to meet the challenges of life and conflict and community expectations.
2. And it is about the need for us to profoundly change the way we approach the justice system and corrections if we are to have any hope of achieving this goal.
3. It arises in the context of an investigation of conditions faced by women in prison in Alice Springs but many of the comments have broader application. The problems and solutions are by no means confined to female prisoners or to the Northern Territory.
4. The comments in the report are not criticisms of the many dedicated staff who work within Corrections. They are rather a recognition that existing structures and systems are not working in the best interests of anyone.

It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones.

Nelson Mandela, *Long Walk to Freedom*, 1995

5. The typical female prisoner at the Alice Springs Women's Correctional Facility (ASWCF) is a young Indigenous woman, around 30 years old. They are likely to be in prison for less than one year. Many have caring responsibilities for children or relatives. Many face problems with alcohol and other drug misuse. Many have mental health or other health issues.
6. They have many decades, indeed the greater part of their lives, ahead of them on their release from prison. They have the potential to raise their children and contribute to their families and the Territory community for many years to come.
7. Alternatively, a significant number have the potential to succumb to the worst aspects of drug/alcohol dependence, to develop or exacerbate physical or mental health issues and to commit crimes in the future.
8. If their time in custody is not spent with an intensive focus on rehabilitation and preparing them for their future lives, these are likely outcomes that will continue to weigh on the community and require ongoing commitment of substantial public resources in the justice and health systems well into the 2070s.
9. For some people, investment in rehabilitation will be a natural result of recognising the human rights of prisoners. Others may be persuaded by the urge to help those who have been subject to disadvantage, dislocation and possibly violence for much of their lives. Some will consider that, even if an individual has done wrong, it is important to invest in rehabilitation in fairness to the children and family members who rely on the offender for support.

10. For others, the initial approach may be *'Why should I or the community as a whole do anything to assist with a problem of the offenders own making? I did not cause this problem and it should not be up to me to fix it.'*
11. Yet the reality is that, if their problems are not squarely addressed now, experience shows that there is likely to be a lifetime of ongoing cost and harm to the community. In the absence of effective rehabilitation now, these are not problems that will go away.
12. Whatever view one may take of the prisoners who spend time in the ASWCF, it is in the best interests of the NT community that everything possible is done to facilitate their rehabilitation.

Rehabilitation

Rehabilitation in this context takes on a broad meaning. It is about laying the groundwork for a prisoner to re-enter the community with the capacity and the conviction to play a constructive role in the care of their family and the life of the community — to deal with conflict and temptation appropriately — to act in line with community laws and expectations.

This starts with the way a prisoner is treated in prison. It involves fair and respectful treatment which exemplifies the behaviour that will be expected of the prisoner in the community. It shows that authorities are committed to fair and appropriate conduct. It leads by example.

It involves providing the basic facilities and necessities of life in prison along with activities and programs that help build capacity and conviction. Among these are a safe environment, shelter, food, clothing, health care, and the opportunity to observe religious and cultural forms, along with the facilities and space necessary to reflect, learn and develop.

It includes providing behavioural and educational programs as well as providing options for recreational and work-related activities that will constructively occupy and hopefully lead to personal development of the prisoner — that will build capacity and self-esteem.

If efforts at rehabilitation are to have the best prospects for success, it will also include support after the prisoner leaves the prison in order to provide for transition and reintegration.

Ultimately, it entails creating an environment which is geared towards developing the capabilities, willingness and post-release circumstances for the prisoner to provide the best chance for reintegration into the community with a greatly reduced potential to offend further. It is about preparing the prisoner for a future in which they do not offend.

13. The need for an emphasis on rehabilitation is recognised in the strategic documentation of Corrections. However, strategic goals and aspirations are not currently being matched by reality. The system is suffering under an enormous burden and the ultimate goal of rehabilitation has succumbed to the bare need for subsistence in an incredibly costly penal system.

14. The extent of the general problem can be seen in the following comments in the recent *Hamburger Report*:¹

Clearly the Northern Territory's imprisonment rate indicates a social, economic, and law and order crisis of devastating proportions for the Territory as a whole and for Indigenous people in particular. It has been a longstanding crisis.

It is clear that the excessive number of prisoners, the high recidivism rate and the gross over-representation of Indigenous people in contact with the criminal justice and correctional systems are the greatest drivers of inefficient and ineffective outcomes in NTDCS, and in the Territory's criminal justice system and human service delivery agencies generally, incurring huge costs to the taxpayer.

15. The problem is not confined to the Northern Territory. In a recent report, the Victorian Ombudsman asked:²

What is the correctional system doing to rehabilitate offenders – to improve public safety and reduce the number of repeat offenders? Plainly, not enough. It is captured in a spiral of rising crime rates and increasing prisoner numbers, resulting in more and more victims and exponential budget growth simply to hold the line. Building more prisons is not making us safer as a community. For such enormous public investment, we should be seeing much better returns.

Debate about the effectiveness of prisons in reducing crime and contributing to community safety has raged since the days when prisons were seen as a more civilised alternative to hangings or transportation to the colonies. ...

The statistics are compelling: the average prisoner, male or female, did not complete high school, was unemployed at the time of committing the crime and had a history of substance abuse. Many female prisoners are victims of some form of abuse, and over 40 per cent are homeless upon release. The children of prisoners are six times more likely to be imprisoned themselves – so it's not just this generation where the impact is hard felt. How do you address recidivism when prison is the place some people feel safest? And how can we reintegrate former prisoners into a society where many have always been marginalised?

16. As in Victoria, the problem is rapidly growing in the Northern Territory, particularly for women prisoners. In 2008/09, females represented only 4.7% of the NT prison population. By 2014/15, that proportion had increased to 8% and at 30 June 2015, the proportion stood at 9.2%. In the same timeframe, the average daily number of female prisoners grew by 167%. This represents a huge structural change confronting the justice system generally and Corrections in particular.
17. The situation is made more complex by the extraordinary overrepresentation of Indigenous women and men in the prison system. This is a problem across Australia but creates additional challenges for the NT because of the high proportion of the NT population that is Indigenous (about 30%).

¹ Hamburger K, Ferris A, Downes L, Hocken J, Ellis-Smith T & McAllister N (2016). *A safer Northern Territory through correctional interventions: Report of the review of the Northern Territory Department of Correctional Services*. BDO. Perth / Knowledge Consulting. Brisbane, page 6.

² *Investigation into the rehabilitation and reintegration of prisoners in Victoria*, Victorian Ombudsman (2015), page 2.

18. This is not a problem that can be solved by pouring an endlessly increasing stream of resources into existing justice and correctional systems. There are simply not enough public resources available to make a substantial difference working within traditional correctional models. There must, as the *Hamburger Report* framed it, be a paradigm shift.
19. There must be a shift away from stone walls and iron bars towards an environment that will promote rehabilitation and reintegration. This is in the interests of the prisoners but it is also very much in the interests of the community.
20. We need a system that will help prisoners to become valuable members of their communities and society and in doing so, minimise the prospects for future crime.
21. Over time this will free up resources that are currently committed to a horrendously expensive detention model. However, there is no doubt that, initially, there will be a need for additional resources to implement re-engineering of the system. To adapt the enduring truism, 'it takes money to save money'. Investing in better practice now will pay off for society as a whole in the long run.
22. That is not to say that existing approaches to custody are not a necessary measure for offenders who show themselves to require treatment as higher security prisoners. For them, there should still be an emphasis on rehabilitation but the form that takes will be tempered by the need to ensure security of custody and the length of the sentence they are serving. However, for the majority of prisoners, there must be change and that change must be fundamental.
23. Female prisoners in the Northern Territory provide an ideal target group to trial a new approach. The many problems with current conditions in Alice Springs (discussed at length in Chapter 8 and Volume 2 of this Report) cry out for immediate and substantial change.
24. They are relatively few (although growing) in number and broadly speaking present a lower security risk than male prisoners. They present opportunity as well as challenge.
25. It is important for the NT Government to explore a broad range of avenues for change – change to correctional systems but also to the justice system generally. Many more options for diversion and non-custodial treatment of female offenders must be identified and resourced, again with the emphasis on rehabilitation. Prisoners, Indigenous representatives and other stakeholders can all play a substantive and constructive role in identifying and developing alternatives.
26. Custody should always be a last resort but where a period in custody is considered essential, the custodial environment must be modified to present real opportunities for personal development, rehabilitation and reintegration.
27. Time in custody should be fully utilised to address mental and other health issues, disabilities, alcohol and other drug dependency and a raft of other hurdles that may limit the capacity and willingness of the offender to reintegrate.
28. Again, it must be stressed that this will be in the prisoner's interests but also very much in the long term interests of the community.
29. The NT Government must be at the forefront of community debate around criminal justice issues, explaining why change is necessary and supporting innovative and effective approaches to crime reduction, including rehabilitation.

30. Government must be steadfast in its support of new approaches, recognising the realities discussed in the following table— realities that are often overlooked in the turmoil of spontaneous reaction to newsworthy events.

Program reality checks

No program solves every problem.	Anyone can point to a theoretical gap or snag.	'Better' is a big step forward. Don't expect a panacea.
No program gets it right from the start.	No battle plan survives contact with the enemy.	Improving a program over time due to experience is a positive step, not a concession of failure.
We all make mistakes, prisoners and staff.	Individual failings may make a juicy story but they don't mean a program is failing.	Expect the best programs to be challenging and expect people to falter from time to time.
No program works overnight.	Monitor and evaluate but don't dismiss a program until it has had time to work.	Don't expect results today.

31. In 2008, a report by my predecessor on *Women in Prison* was tabled in the Legislative Assembly. It made a broad range of recommendations which were supported by Corrections. Despite considerable goodwill and much effort on the part of Corrections staff, it is evident that very limited progress has been made in improving conditions for female prisoners since that time.
32. In some cases, initiatives have commenced but fallen by the wayside. In others, plans have been made but not come to fruition. The challenges of meeting the incessant demands of an ever growing prison population within a traditional custodial structure have largely overwhelmed efforts to introduce or maintain system improvements. Hence the need to revisit the problems in this Report, many of which have only grown in scope in the intervening years.
33. Volume 1 of this Report sets the scene by looking at the prisoners, the prison and the growing problem of incarceration rates, particularly for women. It then discusses the need to differentiate between prisoners and assess and address their needs separately, particularly in this case in relation to female prisoners.
34. It goes on to talk about the need for fundamental change to the system and the changes that are needed. It wraps up with a synopsis of particular issues identified for women at the Alice Springs prison that mean change is an unavoidable necessity.
35. Volume 2 of the Report discusses the specific issues raised by prisoners and stakeholders in detail, providing background in the form of international and national standards and other references and information about current practices in the NT. It also suggests that many current strategies, policies and practices require review and raises numerous issues for consideration by the NT Government and Corrections in the course of those reviews.

**Peter Shoyer
Ombudsman**

RECOMMENDATIONS

I set out below a number of recommendations to the NT Government, the Department of the Attorney-General and Justice (the Department) and Corrections arising from this investigation. As Corrections now falls under the aegis of the Department, I will seek regular updates from the Chief Executive of the Department on the consideration and implementation of all recommendations.

1. The NT Government adopt a whole-of-government approach to reduce offending and recidivism and to promote rehabilitation of offenders, to include:
 - a. a common intent and set of shared objectives to reduce offending and recidivism;
 - b. appropriate governance arrangements, both at ministerial and departmental levels;
 - c. creation and publication of targets and performance measures common across justice, education, health and human service system agencies; and
 - d. improved collection, sharing and use of data across agencies to drive evidence based reforms and improved service delivery.
2. Using justice reinvestment methodology, the NT Government pilot and evaluate local approaches to crime prevention and community safety in disadvantaged communities with the aim of reducing reoffending and increasing community safety.³
3. The NT Government, the Department and Corrections acknowledge and publicly promote rehabilitation and reintegration as the primary focus of the correctional system, in the best interests of the whole community in minimising future offending.
4. The NT Government, the Department and Corrections acknowledge the importance of differentiating between the needs and characteristics of female prisoners compared with male prisoners in facility, policy and program development, as well as the importance of addressing the needs and characteristics of individual prisoners.
5. The NT Government and the Department place strategic emphasis on further development of non-custodial options for dealing with female offenders by way of diversion and other programs both prior to entry into the justice system and by providing viable, well-resourced and timely program options for consideration by courts when dealing with offenders.
6. The NT Government, the Department and Corrections fundamentally reconsider the approach to custody of female prisoners, with an emphasis on decentralisation, community and family support, ensuring that security matches the actual risk they present and providing an environment that facilitates rehabilitation and reintegration, including viable, well-resourced and timely accommodation and program options.

³ The first two recommendations mirror recommendations made by the Victorian Ombudsman in her report *Investigation into the rehabilitation and reintegration of prisoners in Victoria* (2015). Although the approaches adopted in the two jurisdictions will vary to meet differing needs and circumstances, the overall challenges faced are common in nature.

7. Corrections develop, in consultation with the Ombudsman, a detailed plan to pursue and address all of the issues raised in Chapter 8 and Volume 2 of this report. The plan should set out an initial response to each issue, a description of proposed actions to address the issue, the resource implications of those actions, the source of any additional funding required, measurable outcomes and a timeline for action. The plan should provide for action on priority issues within a matter of weeks or months but in any event should provide for implementation of all actions within two years of finalisation of this report. The broad topics covered by the plan will include:
 - a. overcrowding;
 - b. housing and facility issues;
 - c. education and rehabilitation programs;
 - d. employment opportunities;
 - e. health care;
 - f. the basics (clothing, hygiene, food, and recreational activities);
 - g. underlying supports (induction, legal assistance, making complaints and using interpreters); and
 - h. children in prison.
8. Corrections provide the Ombudsman with a copy of the initial plan within three months of the finalisation of this report, and updates on progress every three months thereafter. Corrections meet with the Ombudsman staff to discuss progress on each occasion.
9. Given the overwhelming proportion of Indigenous female prisoners, consideration and implementation of all recommendations be conducted in consultation with Indigenous communities and elders as well as prisoners and other stakeholders.

CHAPTER 1 - THE INVESTIGATION

1. NT correctional services functions have at different times been carried by a separate Department of Correctional Services, as a unit within the Department of Justice and most recently as a unit within the Department of the Attorney-General and Justice. The text and quotes in this report may refer to DCS, NTDCS, Corrections or Correctional Services. Unless otherwise stated in a particular case, there is no essential distinction between these terms.

Women in Prison I

2. In early 2006 an investigation was commenced 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 received from women at Darwin Correctional Centre (the old correctional facility). I will refer to that investigation and report as *Women in Prison 1*⁴.
3. The central issues of complaint explored in *Women in Prison 1* were:
 - Access to programs, education and employment for women prisoners;
 - The management of and support for women prisoners with mental illness, cognitive disability and acquired brain injury; and
 - The prison's response to self-harm and attempted suicide.
4. The complaints were primarily against Corrections (then within the Department of Justice) but also concerned the mental health care and disability services provided by the then NT Department of Health and Community Services.
5. The investigation sought to establish the 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.
6. The investigation, finalised in April 2008, identified key problems, suggested a framework for action, and put forward 67 recommendations. Corrections advised on 13 March 2009 that the Department supported all of the recommendations.
7. On reviewing progress against implementation in January 2010, the Ombudsman's Office was satisfied that the Department would consider outstanding recommendations as part of planning for the new Darwin Correctional Centre.

⁴ *Women in prison: Report of the investigation into complaints from women prisoners at Darwin Correctional Centre*, NT Ombudsman (2008).

Women in Prison II

8. In late 2015, my Office was advised of a number of concerns from stakeholders about the conditions and facilities of the Alice Springs Women's Correctional Facility (the ASWCF) which is situated within the Alice Springs Correctional Centre (ASCC).
9. Issues raised related to overcrowding, lack of education/rehabilitation programs, lack of meaningful employment opportunities and lack of recreational activities available to the female prisoners.
10. Preliminary enquiries were undertaken with the Professional Standards Unit of Corrections and an initial visit to the ASWCF was undertaken by Ombudsman staff in January 2016. Following consideration of information received from Corrections and observations made by Ombudsman staff, I determined to launch an own motion investigation into a number of systemic issues under section 14(1)(b) of the *Ombudsman Act*.

Investigative process

11. The *Women in Prison II* investigation involved:
 - interviews with female prisoners within ASWCF;
 - consultations with various stakeholders;
 - visits to the ASWCF;
 - extensive enquiries with Corrections;
 - research into relevant national and international instruments and standards and a broad range of relevant investigative and statistical reports and academic sources.
12. Female prisoners were randomly selected to participate in interviews. On the date of interview, Corrections staff provided a list of all female prisoners then incarcerated. The list indicated there were 59 female prisoners within the ASWCF. Of that total, 20 were interviewed, representing 34% of the total female prisoner population of ASWCF at that time. As the investigation was targeted at the ASWCF, the interviews did not include any women prisoners from Darwin Correctional Centre.
13. I wish to thank the female prisoners and stakeholders who took the time to contribute to the investigation. I also wish to thank the various Corrections staff who responded to the many requests from my Office for information. Their help and positive attitude is much appreciated. In particular, I would like to thank the staff of the Professional Standards Unit and Ms Suzanne Wilks of the ASCC for their assistance.

Consultation

14. A consultation draft of this report was provided to Corrections for comment with draft recommendations. Corrections responded by letter from the Commissioner dated 11 April 2017. The following general comment was provided in relation to the draft recommendations:

I am pleased to advise that NTCS, without exception, accepts the Report findings and agrees in principle with those recommendations that fall within the span of control of NTCS. These recommendations have been considered within the context of NTCS strategic priorities and the many synergies with directions defined by the 'NTCS Purpose and Direction Strategy 2016-2020'. It should be acknowledged, however, that additional planning will need to be

undertaken to develop action plans to deliver each of the outcomes identified in Report recommendations. To achieve this end, I am in the process of forming a Continuous Improvement Program within NTCS to plan, develop, manage and deliver a range of reform initiatives. It is my intention that this capacity will not only address those matters raised in the Report, but will bring together action to address similar themes identified in the 'Hamburger Review Report' and the 'Prison to Work Report'.

To achieve these outcomes, NTCS will commence a consultation process with our key stakeholders including women prisoners, Indigenous providers and other organisations, to ensure a united commitment. I envisage that a proposed NTCS Reform Advisory Group, as an element of the Continuous Improvement Program and with membership from across Government and the NGO sector, will be instrumental to this process.

It is also important to note that recommendations 1, 2, 5 and parts of recommendations 3, 6 and 9 require consultation with other NT Government agencies, including those agencies that will be taking a leadership role. These include the Department of the Attorney-General and Justice, the Department of the Chief Minister, NT Police, Fire and Emergency Services (Police) and the Department of Treasury and Finance, amongst others. Again it will be my intention to use the NTCS Reform Advisory Group as an agent to facilitate these discussions and to gain commitment to a unified approach.

As such a more detailed 'Whole-of-Government' response to the Report cannot be advanced at this time, however I am pleased to provide NTCS commentary (Attachment A) in advance of the more holistic response. [Attachment A is reproduced as Appendix B to this Volume.]

15. The Chief Executive of the Department was also provided with a consultation draft of the report and made the following general comments by letter received on 8 May 2017:

- *I acknowledge many of the issues raised in the Draft Report, which raised similar issues to other recent reports, including the Hamburger Report released in 2016.*
- *You will be aware of the Government's commitment to address recidivism and reduce incarceration rates. The Government is currently working to update a whole-of-government approach to address these objectives.*
- *Many of the matters and objectives raised in the Draft Report are supported by the Department.*
- *I note your observations about the positive response you have received from NT Correctional Services who are already working on strategies to implement or consider responding to some aspects of the Draft Report prior to it having been finalised. I also note your comment about the positive work of Corrections officers / administrative staff who were faced with a burden of increasing prisoner numbers with insufficient resources.*
- *Many of the recommendations, or the degree to which they can be adopted, will be subject to budgetary constraints.*
- *The Department supports the need to ensure that female prisoners are not treated less favourably than their male counterparts.*
- *Chapter 5 of the Draft Report, which addresses the need for differentiation of the female prison population, appears to establish a basis for further consideration of this issue by the Department once the Report is released.*

- *Chapter 7 of the Draft Report discusses, with reliance on the Tokyo and Bangkok Rules, the need to take female gender, pregnancy/child care status into account in sentencing and applying diversionary options to Courts and relevant authorities. This would require significant stakeholder consultation as well as requiring legislative amendment because family hardship upon imprisonment is not ordinarily a factor in sentencing save in exceptional circumstances in the NT or across most jurisdictions in Australia. Nor is gender (in itself) such a factor.*
 - *Recommendation 8 requires Corrections to provide the Ombudsman with a copy of the initial plan within 3 months then updates on progress every 3 months. However, once the initial plan is completed, moving to 6 monthly progress reports may provide more realistic time frames.*
16. With regard to the comment on Chapter 7, I strongly support the need for stakeholder engagement, as noted in many instances throughout this report. I also acknowledge that there will be a need for statutory change. As I have indicated, there is a need for fundamental changes to the way society deals with these issues.
17. With regard to the suggestion that updates to my Office be provided on a 6 monthly basis, I consider that, at least initially, it is preferable to obtain quarterly updates, so I have left the recommendation in those terms. Once a comprehensive plan has been developed, I do not consider that quarterly reporting should present an onerous obligation on the Department or Corrections. As progress is made with implementation, timing of updates can be discussed further.
18. The Chief Executive of the Department also noted a number of proposed corrections or updates to statistics contained in the draft report. In that regard, he made the following general comments:

The Draft Report contains many identified justice policy issues that stem from or are exacerbated by the reported inadequacy of the existing physical environment which appears to be a result of having to house increasing numbers of both male and female prisoners at the Alice Springs Correctional Facility (ASCF).

The Draft Report raises significant issues for overcrowding in terms of cell size and flow on effects of that overcrowding, being the absence of any classroom, learning or study space in the women's facility and women having to be escorted into a classroom only once per week through the male prison. The Draft Report noted that the overcrowding with respect to the male facility has also meant that a number of improvements that had been planned or were very close to completion had not been commissioned. For example, the Women's Cottage as it was required to house a significant number of male prisoners.

Given the significant impact of prisoner numbers and that some of the key statistics contained in the Draft Report were in data sets with a range ending in 2015, I had officers in the Department obtain advice from the Criminal Justice Research and Statistics Unit. Specifically, they sought information as to whether the situation has deteriorated or improved.

The statistical corrections and updates provided by the Criminal Justice Research and Statistics Unit generally demonstrate that, while the ASCF is overcrowded and the educational rates are lower than they could be, they are not currently as acute as they are reflected in the Draft Report. Rather, there have been meaningful improvements in the areas of education and overcrowding which do not appear to be reflected in the Draft Report.

19. Updates and corrected figures are welcome. The task of undertaking a comprehensive investigation of this nature with limited resources and allowing considerable periods of time for agency action, consideration and response to questions and drafts means that timeframes for finalisation can be extended. In these circumstances, statistical analysis cannot constantly be updated to reflect the most recent figures and there may be positive or negative fluctuations in population figures over time. In such cases, it is a question of whether that analysis remains relevant in establishing a problem, whether or not the precise extent of the problem has grown better or worse in the instant the report is delivered.
20. It is gratifying that female prisoner numbers in ASWCF are currently lower than at the time of the analysis in the report. I do not know whether this equates to an overall drop in female prisoner numbers in the NT, although I hope that is the case.
21. This may well represent a welcome easing in pressure on ASWCF facilities. However, it does not lead me to resile from or modify my comment that there is extraordinary overcrowding. The analysis I have made of overcrowding in ASWCF in Volume 2 already rests on extremely generous assumptions. The fact that overcrowding is currently less dire than it was at the time of the analysis is good news but does not alter the underlying conclusions of this report. In any event, given the trend figures that have developed over a number of years, I maintain the view that the proportion and number of female prisoners is more likely than not to continue to grow over time.
22. Where appropriate, updates and corrections provided by the Department have been incorporated or referred to in the body of the report.

CHAPTER 2: THE PRISONERS

23. This chapter develops a profile of female prisoners in the NT and at the ASWCF. It draws a picture of a typical prisoner at ASWCF.
24. It then goes on to look at the makeup of male and female prisoners in Australian and NT correctional centres, to give a sense of where and how women prisoners fit into the picture.

Profile of female prisoners at ASWCF

Indigeneity and Language

25. The female prisoners located at the ASWCF are overwhelmingly of Indigenous background, making up over 85% of inmates. English is often their second, third or fourth language.
26. However, to make these simple statements understates the many differences in culture and language between Indigenous inmates.
27. There are a large number of different tribal and cultural groups within the NT. There are over 100 Indigenous languages and dialects.
28. The languages and dialects spoken by the female prisoners at ASWCF include Luritja, Eastern Arrernte, Arrernte, Anmatyerre, Alawarr, Pitjanjarra, Pintupi, Walpiri, Warlmanoa, Mudburra and Warumunga.
29. It is important to recognise the diversity of Indigenous inmates when considering problems and solutions to the issues discussed in this report.

Home and Country

30. Prisoners in ASWCF are more often than not from communities in Central Australia. However, this is also worthy of elaboration.
31. Central Australia comprises a huge land area. The nearest alternate prison facility for women is 1,500km away in Darwin. It is therefore legitimate to consider the Barkly Tableland area as falling within the watershed of the ASWCF.
32. Given this, we are talking about a region that covers 830,000 km². To give some sense of that area, this part of the NT is 3½ times the size of the State of Victoria. Alternatively, it is larger than the combined area of the United Kingdom and metropolitan France.
33. This huge region has a population of under 70,000 many of whom live in small, remote communities. For example, Kintore on the Western Australian border is 521km by road from Alice Springs. Mutitjulu, near Uluru, is 434km away and Tennant Creek, 504km.
34. These figures become particularly relevant when one is considering how far away from home, family and community support prisoners can be even when in the closest prison.

A typical female prisoner at ASWCF



- Around 30 years old^a
- Indigenous^b
- From Central Australia but far from home
- Cannot speak English well^c
- Cannot read or write English well
- Has children
- Has been subject to violence or abuse
- Has offended before
- Has been convicted and sentenced^d
- In prison for an 'Act intended to cause injury'^e
- Will be in prison for less than 6 months^f

Notes

- a. A majority are in the 20 to 34 year range.⁵
- b. Consistently, over 85% of female inmates are Indigenous. The Department advises that the figure was 93% on 30 June 2016.
- c. For many, English is a second, third or fourth language.
- d. Although a substantial minority are still on remand awaiting trial or sentencing.
- e. This is the most serious offence for 38% of inmates. Breach of a justice order, e.g. breach of bail, parole, suspended sentence or restraining order is also common (22%).
- f. The median aggregate sentence length for female prisoners sentenced in 2014/15 was 121 days. Over 82% of female prisoners sentenced in that period were sentenced to less than one year in prison.⁶

⁵ 4517.0 - Prisoners in Australia, 2016, Australian Bureau of Statistics, Table 20. The Department advises that on 30 June 2016, the median age was 30.5.

⁶ Northern Territory Department of Correctional Services Annual Statistics 2014 – 2015, Table 22.

35. These distances, however, understate the access problems involved, given the state of roads that must be traversed from these communities even when roads are passable. To give some sense of 'real' distance, *Google Maps* indicates that a road trip from Melbourne to Byron Bay, Adelaide to Armidale or Brisbane to Bendigo is likely to take the same or less time as a trek from Kintore to Alice Springs.
36. Alice Springs itself has a relatively small population of 28,000. This must be borne in mind when considering the availability of suitably qualified staff and support services.

Socio-economic conditions

37. Many women enter the prison with disadvantaged backgrounds including low levels of education, limited employment skills and opportunities, poor housing, inadequate income and often backgrounds of trauma and abuse.
38. Many also have issues with drug or alcohol misuse, mental or other health issues and some may suffer from cognitive disability.

Incarceration period

39. In 2014/15, 82% of sentenced female prisoners had an aggregate sentence of less than one year while 89% had an aggregate sentence of less than two years.⁷
40. The mean aggregate sentence length for female prisoners sentenced in that period was 262 days and the median was 121 days. In other words, the aggregate sentence for half of the sentenced prisoners was four months or less.
41. This gives a sense of the turnover in prison and the fact that most prisoners will only stay in prison for a relatively short time.
42. It does not reflect the makeup of the prison population on any given day as prisoners with longer sentences will naturally comprise a larger proportion of the population as they move through their sentence.

Offences

43. Corrections statistics for 2014/15 show the following most serious offences for women for sentences commenced during the period:
 - Acts intended to cause injury (38%, males 47%)
 - Breach of a justice order, e.g., breach of bail, parole, suspended sentence or restraining order (22%, males 22%)
 - Drink driving (10%, males 6%)
 - Drivers licence offences (6%, males 3%)
 - Unlawful entry with intent, burglary, break and enter (4%, males 6%)
 - Illicit drug offences (4%, males 3%).
44. Offences against the person made up 42% of the most serious offences for women and 52% for men.

⁷ Incarceration and Offence statistics on this page are from *Northern Territory Department of Correctional Services Annual Statistics 2014 – 2015*, Table 22.

Previous imprisonment rates

45. In recent years, the proportion of female prisoners in NT prisons who have previously been in prison for one or more other offences has ranged between 52.5% and 57.5%. This is an extraordinary figure.⁸
46. Corrections suggests that the high previous imprisonment rate is caused by a small number of female prisoners who repeatedly re-offend, pushing the rate up and it is not the case that over 50% of women prisoners re-offend. While this might account for a small increase in the previous imprisonment rate, it still represents a very substantial proportion of female NT prisoners returning to prison.
47. This figure raises fundamental questions about the effectiveness of current systems as a deterrent to re-offending.

Security classification

48. It is important to recognise that the security level of a prisoner is not assessed simply on the basis of the crimes they have committed but on their conduct in prison. An offender who has committed a serious crime may be able to show over time that their conduct warrants a particular classification.
49. Female prisoners within the ASWCF are all assigned a security classification which may vary over time. The security classifications are as follows:
 - High Security – Prisoners wear a red shirt and are housed within the high security unit. They have limited access to education and programs.
 - Medium Security – Prisoners wear a blue shirt and are housed in the Medium / Low Security Area. These prisoners have access to employment, education and programs.
 - Low Security – Prisoners wear a green shirt and are housed in the Low Security and Overflow Units. They are generally free to move around the female sector and have access to employment, education and programs.
 - Open Security – Prisoners wear a yellow shirt and are housed in the Demountable. They are generally free to move around the female sector. These prisoners are eligible to participate in external employment through the Paid Employment Program (PEP) and the Voluntary Employment Program (VEP).
 - Remand - Prisoners wear an orange shirt. Remandees may be classified High, Medium or Low security. They have limited access to education and programs.

⁸ 4517.0 - Prisoners in Australia 2016, Australian Bureau of Statistics, Table 29. The Department states that previous imprisonment is not directly comparable with recidivism. It states that recidivism is calculated as sentenced prisoners returning to prison under sentence within 2 years, whereas previous imprisonment is considering any previous adult sentenced imprisonment. It advises that females generally have lower recidivism rates than males, although it only reports a rate for total prisoners. Prisoners in Australia 2016 shows that 73.1% of males have prior imprisonment, while only 52.8% of females have prior imprisonment. The overall prisoner prior imprisonment rate is 71.7%, which is much larger than the overall prisoner recidivism rate.

50. In 2015/16, utilising a three point scale, the ABS recorded no female NT prisoners rated at Maximum security, 42% at Medium security and 54% at Minimum security.⁹
51. While separate figures for escapes or attempted escapes from custody by women prisoners in the NT were not identified, anecdotal evidence suggests that they are minimal.

Limited availability of data

52. The above analysis is somewhat constrained because of the limited availability of specific data on women prisoners. While high level statistics were available for Australia and the NT, there was limited breakdown of information beyond the basics.
53. For example, my investigators requested statistical information for female prisoners associated with each region to indicate where female prisoners came from and statistical data for crimes committed by male and female prisoners for individual correctional facilities. Corrections advised statistical information in relation to the origin of female prisoners is not collected and statistical data relevant to crimes committed by prisoners are not collected for individual centres but for the whole of NT.¹⁰
54. Better recording and collation of detailed information about the profile of women prisoners would assist Corrections in developing an effective, targeted approach to management of women prisoners in its custody.
55. Where detailed information about NT women prisoners is not available, I have relied on comparable information from other jurisdictions where it can be found. While figures for the NT may not necessarily be identical, that detail points to likely problem areas that should be considered.

Induction process

56. All female prisoners have an Initial Risk and Needs Assessment (IRNA) facilitated on reception to assess their immediate risk/needs and assigned a security classification.
57. The IRNA identifies their individual risk/needs i.e. At Risk status, history of offences, whether there are cultural or payback issues, medical or psychological issues, physical and intellectual ability and any substance abuse issues.
58. Prior to being escorted to the female sector, every female prisoner is assessed by a registered nurse and waitlisted to have a doctor's consult within 24 hours. Once in the female sector, every female is spoken to by staff, accommodated with family or friends (if practicable), provided with a notebook and overview of the Block and given a bed-pack, clothing and cup etc.
59. Within a week of incarceration, a member of the Sentence Management Team (SMT) assesses each prisoner on an individual basis. Remand prisoners have a SCATE (Security Classification and Transfer Eligibility) assessment — used to assign or review the prisoner's security level and assign or review the prisoner's placement in the ASWCF — within two weeks. Sentenced prisoners have their initial SCATE facilitated within 7 days.

⁹ Ibid, Table 32.

¹⁰ The Department's Criminal Justice Research and Statistics Unit subsequently advised that they do have data reports of prisoners when they are imprisoned by suburb of last known address and that special reports can be produced on request.

Prisoner support

60. There are two volunteer Prisoners Aides who attend the ASCC every week on Saturday to provide *ad hoc* assistance to both male and female prisoners. They may provide assistance to prisoners and their families in areas such as clothing and accommodation. Prisoners can request to have access to a Prisoners Aide by advising the Block Officer.
61. Prisoners Aides also provide a bus service on Saturday and Sunday for the general public to come out to visit their family members in prison as there is no public transport to ASCC. This is on a volunteer basis.
62. There are three Indigenous Support Officers who provide a range of services to prisoners. Prisoners can submit a request form to speak with an Indigenous Support Officer.
63. There is a prison Chaplain available to speak and listen to prisoners and offer pastoral care. Prisoners can attend services held on weekends.

CHAPTER 3: A GROWING PROBLEM

Australian prisoners

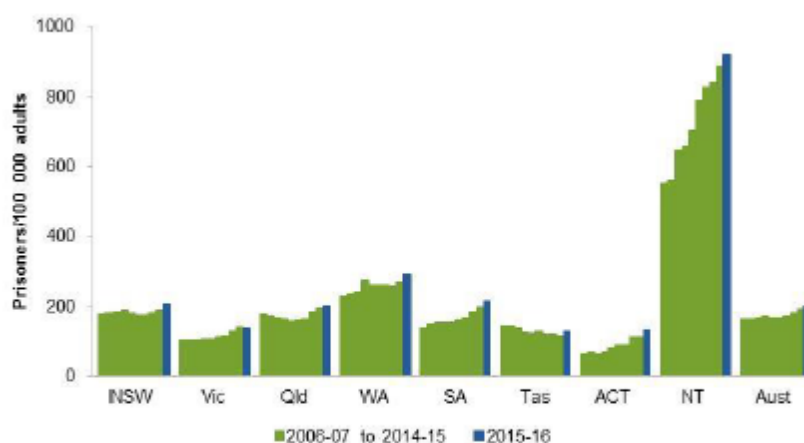
64. The Productivity Commission's annual *Report on Government Services* (RoGS) provides many useful statistics on government operations throughout Australia, including correctional services. The figures included in RoGS are supplied by the Government agencies involved.
65. *RoGS 2017* sets out average daily prisoner numbers in each jurisdiction for 2015/16 and preceding years:

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Aust
2015-16 (b)									
Male (c)	11 404	5 892	6 849	5 301	2 693	480	379	1 528	34 526
Female	901	428	673	548	177	44	23	136	2 930
% female	7.3	6.8	8.9	9.4	6.2	8.4	5.7	8.2	7.8
Aboriginal and Torres Strait Islander	2 987	503	2 444	2 220	652	88	92	1 396	10 382
Non-Indigenous	9 220	5 703	5 078	3 629	2 153	433	300	268	26 784
Indigenous status unknown	99	114	–	–	65	3	10	–	291
% Aboriginal and Torres Strait Islander	24.3	8.0	32.5	38.0	22.7	16.8	22.9	83.9	27.7
Held in open custody	4 424	872	664	1 050	304	12	10	750	8 086
Held in secure custody	7 881	5 448	6 858	4 800	2 566	512	392	914	29 371
% held in secure custody	64.0	86.2	91.2	82.1	89.4	97.7	97.6	54.9	78.4
Held in privately operated prisons	1 779	1 822	1 465	1 468	455	–	–	–	6 989
% held in privately operated prisons	14.5	28.8	19.5	25.1	15.9	–	–	–	18.7
Total daily average population (d)									
2015-16	12 305	6 320	7 522	5 850	2 870	524	402	1 664	37 456
2014-15	11 011	6 350	7 167	5 402	2 644	468	342	1 599	34 982
2013-14	10 447	5 800	6 693	5 030	2 409	472	331	1 501	32 683
2012-13	9 808	5 120	5 849	4 951	2 177	473	266	1 438	30 082
2011-12	9 752	4 831	5 650	4 795	2 078	510	259	1 337	29 213
2010-11	10 094	4 586	5 537	4 633	1 987	474	228	1 172	28 711
2009-10	10 352	4 492	5 631	4 759	1 963	489	189	1 081	28 956
2008-09 (e)	10 068	4 299	5 629	4 012	1 935	522	117	1 030	27 612
2007-08	9 634	4 177	5 491	3 802	1 855	539	82	875	26 455
2006-07 (f)	9 468	4 044	5 649	3 622	1 686	534	64	834	25 901

66. The national crude imprisonment rate for all prisoners in Australia in 2015/16 was 201 per 100,000 people in the relevant adult population. This represents a 20% growth in per capita imprisonment rate since 2011/12. Over the same period the daily average prisoner population increased by 28%.¹¹
67. In the NT, the daily average prisoner population increased by 24% over the same period.
68. The following graph from *RoGS 2017* presents a comparison of imprisonment rates and increases in imprisonment rates by jurisdiction. It shows the growth in NT imprisonment rates in recent years and the order of magnitude by which the proportion of Territorians sent to prison exceeds that in other states.

¹¹ *Report on Government Services 2017* – Corrective Services Table 8A.5.

Figure 8.1 Imprisonment rates, total prisoners^a



^a See table 8A.5 for detailed footnotes and caveats.

Source: ABS (unpublished) *Australian Demographic Statistics*, as at December of each year, Cat. no. 3101.0; State and Territory governments (unpublished); table 8A.5.

69. The Department has expressed concern that the graph and statistics in this section have the potential to mislead readers. It points to an Australia-wide overrepresentation of Indigenous people in prisons, which is proportionally similar in the NT to other jurisdictions but is reflected in much higher incarceration rates in the NT due to the much higher proportion of the NT population that is Indigenous.
70. In 2015/16, the percentage of NT prisoners who were Indigenous was 83.9%, by far the highest in Australia (the second highest being Western Australia at 38%). The national average was 27.7%.¹²
71. With regard to the Department's submission, I note that approximately 30% of the NT population are Indigenous. In only two other Australian jurisdictions does the proportion exceed 4% and in those states, it does not exceed 5%.¹³
72. In 2015/16, the rate of Indigenous imprisonment in Australia exceeded the rate of non-Indigenous imprisonment by a factor of 15.8 to 1. In the NT for the same period, the ratio was 14.7 to 1.¹⁴
73. I accept that the rate of Indigenous overrepresentation is just as bad in other parts of Australia. Sadly, this makes it no better in human terms and the proportion by itself marks an extraordinary overrepresentation of Indigenous adults in prison.
74. Further, there are factors that make the NT situation worse compared with other Australian jurisdictions. First, while the rate per 100,000 adults of Indigenous prisoners is second highest in the nation (at 2,954.9), the rate for non-Indigenous prisoners is the highest (at 201.1).¹⁵

¹² RoGS 2017, Table 8A.4 –Prisoner Population (average daily number).

¹³ 3238.0.55.001 - Estimates of Aboriginal and Torres Strait Islander Australians, ABS, June 2011.

¹⁴ RoGS 2017, Table 8A.5.

¹⁵ RoGS 2017, Table 8A.5.

75. Secondly, the situation in the NT is in many regards more dire precisely because Indigenous people make up such a large proportion of the population.
76. One consequence of this is that, where a problem involves such a large segment of society (almost a third of the population) it is inevitable that social dislocation will permeate the community. Where a group is a small subsection of the community, the problems it faces are less likely to have a substantive impact on the community as a whole. The very size of the Indigenous population in the NT means that no part of the NT community remains unaffected.
77. Another consequence is on the ability of the NT community to adequately address the problem. Where a problem impacts a small segment of the population, it will be easier to focus a greater proportion of time and resources on addressing the issue. So for example, in Victoria, where the proportion of the population who are Indigenous is around 1%, it is realistic to expect that substantial additional resources can be allocated to addressing the issues behind overrepresentation.
78. However, in the NT, a similar overrepresentation of Indigenous prisoners, when combined with the large proportion of the population who are Indigenous, means that addressing the problem from within its internal resources places a huge and, in truth, overwhelming burden on the Territory.
79. An overrepresentation in the Indigenous imprisonment rate that approximates the national average therefore raises many more problems for the NT.
80. In brief then, imprisonment rates across Australia are rising, the rate of imprisonment in the NT is high and the rate of Indigenous imprisonment in the NT far exceeds the rate of non-Indigenous imprisonment.
81. This all adds up to an enormous challenge for the NT Government and the justice and correctional systems across the board.

Female prisoners

82. Women constitute a small but growing part of the national prisoner population. Nationally, in 2014/15 the daily average number of prisoners comprised 32,238 males (92.2%) and 2,744 females (7.8 %).
83. In the NT, the daily average number of adult females in custody during 2014/15 was 128. This represented 8% of the total NT prison population. On 30 June 2015, there were 145 female prisoners in custody (9.2% of the NT prison population).¹⁶
84. The NT female imprisonment rate for 2014/15 was 151 per 100,000 adult females, an increase of 13% from the previous year. This was five times the Australian rate for the same period (30 per 100,000).¹⁷

¹⁶ Northern Territory Correctional Services Annual Statistics 2014-2015 page 6. Estimates based on ABS Corrective Services Australia – June Quarter 2015

¹⁷ Northern Territory Correctional Services Annual Statistics 2014-2015 page 7.

85. The following table sets out a range of figures that show the trend towards rapidly increasing female prisoner numbers and proportions over recent years. The figures are NT-wide unless otherwise stated:¹⁸

Year	Av daily female prisoner pop	% av daily of total prisoner pop	No. at EoY	No. at EoY ASWCF	No. per 100,000 pop	No. not sentenced
08/09	48	4.7	44	16	64	7
09/10	47	na	na	na	na	na
10/11	53	na	na	na	na	na
11/12	68	na	80	na	na	30
12/13	91	6.2	106	63	111	27
13/14	111	7.4	108	50	133	39
14/15	128	8.0	145	65	151	52

86. Both in absolute terms and as a proportion of the prison population, female representation has grown rapidly over the period covered in the table.
87. In the NT, there are two correctional facilities for women, one in Darwin and the other being the ASWCF. As at 30 June 2015, there were 65 female prisoners at the ASWCF: 46 were sentenced and 19 were unsentenced. In the Darwin facility on the same date, there were 80 female prisoners, 47 sentenced and 33 unsentenced.¹⁹
88. The Department advises that figures for 2014/15 showed an Indigenous rate of 97% based on receptions and monthly averages from 92% to 96%. At 30 June 2015, there were only four non-Indigenous women at the ASWCF, up from three on the same date in 2014.
89. Even though the population of Indigenous people in the NT is much higher than in other Australian Jurisdictions (around 30%) this, as for the total adult prison population discussed above, is an extraordinary overrepresentation.

¹⁸ Northern Territory Correctional Services Annual Statistics, various years.

¹⁹ Northern Territory Correctional Services Annual Statistics 2014-2015 page 15 as per Table 5 – Census of prisoners by correctional institution, sentence status, Indigenous status and sex.

CHAPTER 4: THE PRISON

90. As noted above, there are two correctional facilities in the NT that hold adult female prisoners.
91. The Alice Springs Correctional Centre (ASCC) was officially opened on 17 July 1996 and is located 25kms south of Alice Springs along the Stuart Highway. ASCC holds prisoners of all security levels. ASCC has a total capacity of 400 inmates in a variety of security classifications. Within a secure compound, up to 316 inmates are accommodated. In a low security environment, located outside the main perimeter fence, approximately 84 prisoners are accommodated.
92. The Darwin Correctional Centre (DCC) was commissioned on 8 September 2014 and is located in Holtze approximately 30km from Darwin CBD. The DCC was the fruition of a number of years of planning and construction with the final prisoners transferring on 28 November 2014 from the Berrimah Correctional Centre, which was decommissioned on 22 December 2014. The new facility has 1,048 beds, with 30 allocated to the secure Mental Health and Behavioural Management Facility and 48 to the Pre-Release Work Village.

Alice Springs Women Correctional Facility

93. Currently at the ASCC, female prisoners are held in H Block.
94. H Block is part of the main prison within the management zone (MZ) but has been fenced off from the male section of the prison and is surrounded by medium and maximum security male prisoners.

Accommodation

95. The original female/juvenile section at the ASCC was commissioned in 1996 but has not always been utilised for female prisoner accommodation. ASCC historically held female prisoners on a very short term basis and generally only on remand.
96. In 2000, there were a number of Indonesian fishermen incarcerated within the NT. They were accommodated in the female section at the ASCC. After the Indonesian prisoners left, the female section was utilised for accommodating life sentenced prisoners.
97. In 2004, due to increases in female prisoner population, the female sector was reinstated.
98. Additional infrastructure was subsequently added, including a demountable installed in 2009 to house open security prisoners. Further capital works have included a new accommodation block commissioned in 2010 and the female industry workshop (commissioned in 2015).
99. The four accommodation areas within the ASWCF consist of:
 1. The Original Female Block commissioned in 1996 which consists of:
 - a) The South Overflow, which houses medium security sentenced and remand prisoners.
 - b) The North Overflow, which houses medium, low and open security sentenced and remand prisoners.

2. The Demountable, which houses open security female prisoners.
3. Low Security, which has both dormitory and cell accommodation. It houses low security, open security, pregnant women and mothers and babies. Sometimes it houses medium security women if the female prisoner is pregnant.
4. Medium/High Security, which has both dormitory and cell accommodation. It houses only medium and high security female prisoners. However, there have been instances where a female prisoner from low security has been placed in this area due to behavioural issues.



Image: South Overflow beds



Image: South Overflow showers

100. To be considered for the North or South Overflow accommodation, female prisoners require a low or medium security rating and must be compliant with block routines.
101. If female prisoners are compliant with block routines and are classified as open security, they may have the opportunity to be housed in the open security Demountable. In the demountable female prisoners are not secured, they share toilet and shower facilities, are expected to adhere to block routines, must be employed and may have the opportunity to participate in the volunteer employment program (VET), the paid employment program (PET) or a pre-release program.



Image: Demountable accommodation

102. The Demountable is the only accommodation area within the ASWCF which is air-conditioned. According to the *Standard Operating Procedure – Female Sector (Post Orders)*²⁰, the air conditioning in the Demountable is approved for use between 4pm and 7am, Monday to Friday. On weekends, it is approved for use between 10pm and 7am.
103. There was a short period when the air-conditioner was removed but as a result of concerns raised in September 2014, the air-conditioner was made operational mid-September 2014 and usage is monitored by staff.
104. During the investigation, Corrections advised:

Whenever female prisoner numbers fluctuate because of intrastate transfers or low crime rates, different accommodation areas have been opened or closed and utilised for general purposes areas as required.

²⁰ Alice Springs Correctional Centre – Standard Operating Procedure – Female Sector – Post Orders (SOP Number 9.28.9), date issued 25 September 2015, clause 10 at page 10.

Garden / Industry Shed

105. There is a gate next to Medium/High security which gives access to the industry shed and the garden area. The garden area consists of two garden beds with various plants. Within the garden area, there are a few chickens.
106. Generally, female prisoners are not allowed inside the garden area except for prisoners housed in the Demountable who are allowed in to look after the chickens and the garden. Until well into the course of this investigation, productive plantings in the garden beds were sparse or non-existent.



Image: Garden beds

107. The industry shed consists of two parts. One side of the industry shed is designated for breakfast packing. This area has a small office and a kitchenette.
108. There is a passageway between the two areas. In the passageway there are 3 toilets.
109. In the second area of the industry shed, the room has been set up as a textile/painting area. There are approximately eight sewing machines on tables pushed to one side of the wall covered with a sheet. There are also several tables displaying paintings and other art and craft items. There is a small office and a small program/education room.

Education Room/Library

110. North Overflow was originally a general purpose/library/education room (general purpose room). Whenever there was a temporary increase in female prisoner numbers, the general purpose room would be used as living space.

111. During the investigation, Corrections advised that *“for the past 5 years that the education/library room changed being utilised for accommodation. At different times it was still used for education/library, this might have happened once in the last 12 months but unfortunately the number of female prisoners has increased so it cannot be used for education/library. There are 6 females accommodated in that area; and six single beds. It is only a small area and not as large as the other side as it has the female sector laundry next to it”*.
112. Predominantly, the general purpose room is now used as living space for female prisoners. It is unlikely that female prisoner numbers will decrease in the near future, consequently North Overflow will not be utilised for its originally intended purpose as an educational multi-purpose area.
113. At this stage there is only the small education/programs room in the industry shed. The education room in the industry shed is not accessible by female prisoners at all times due to it being used for program delivery.
114. An education room is available to female prisoners every Wednesday in Q Block. This block is located within the male sector and as such women need to be escorted to and from this section. Female prisoners undertake education/programs in this education room but this is clearly very restricted.
115. Apart from this, the female prisoners accommodated in the Demountable and North and South Overflow do not have a separate place where they can study or read. They are limited to use of their living area or outside. The female prisoners accommodated in Low Security and Medium/High Security have a shared living/TV area and a small outside undercover sitting area.
116. Information printed in ASCC documents such as the *Female Induction Handbook* suggests that there is a library available within the ASCC. However, Corrections staff advise that there is no physical library accessible to inmates located within the ASWCF or ASCC. ASCC has a library system whereby prisoners can order books from the library catalogue. These are provided to the library worker (prisoner) who locates the books ordered and allocates the books to the prisoner. There is a small room within Q Block that holds the books.

Computer Room

117. There is no computer room or computers available to female prisoners within the female sector.
118. There is one computer in the industry shed inside the education/program room. However, this computer only has the Quick Smart literacy and numeracy program installed. There is nothing else on the computer and it is only used for Quick Smart.²¹
119. There is a computer room located in Q Block (male sector). Corrections staff advise that the computer room/computers have not been in use and have not been accessible to prisoners for many years.

²¹ Quick Smart is a literacy and numeracy strategy for Aboriginal and Torres Strait Islander and other students at or below the National Minimum Standard in literacy and numeracy in years 4-8.
<http://scoutle.edu.au/eu/viewing/S7079/index.html>

General rules in relation to accommodation

120. Within the ASWCF there are some areas where female prisoner access is restricted. These include places like the prison officer's offices, storage areas, the female industry shed and other prisoner's accommodation unless the prisoner is given a direction to enter or is accompanied by an officer.
121. Female prisoners are responsible for the accommodation area allocated to them and it is their responsibility to ensure they keep it clean and in good order. Prisoners cannot stick photos or pictures onto the walls. Any item of equipment which becomes defective or broken is to be reported to an officer who will arrange for repair or replacement. However, if a prisoner purposely damages anything, they will be subject to prison misconduct charges.
122. If a prisoner's belongings are broken or damaged, the prisoner must pay for replacement herself.
123. If a prisoner wants to move accommodation, the prisoner must ask an officer. Decisions are made based on availability, compatibility, compliance and good behaviour.

CHAPTER 5: THE NEED FOR DIFFERENTIATION

Why differentiate?

124. In submissions to a review of Corrections in 2016, I made the following comments:

The prison environment is not homogenous. The Territory has distinct variations but the fundamental approach must be to recognise diversity in the development and review of all facilities, policies, procedures and programs. Particularly in the Territory, the Department cannot effectively perform its functions by taking a standardised approach to its work.

125. In that submission I went on to discuss three categories of prisoner, Indigenous prisoners, those with mental health issues and women prisoners. The focus was, however, on the great diversity of prisoners and the importance of considering their individual characteristics and needs.

126. In this report the focus is on female prisoners but it is vital not to lose sight of the fact that prisons are made up of individuals with a wide variety of characteristics, whatever their gender or cultural background.

127. Particular regard must be had to the overwhelming proportion of prisoners in the NT system who are Indigenous. In that regard, the *Hamburger Report* noted:²²

The review draws attention to the uniqueness of the offender population where Indigenous people represent the great majority of people under the control and supervision of NTDCS in adult and youth corrections. This over representation of Indigenous people is not reflected in either the staffing of Head Office or in correctional centres or community corrections, or even in NTDCS' policies, publications or procedures.

A paradigm shift is required in NTDCS to recognise that the services NTDCS delivers in its correctional centres, community corrections and in youth justice are essentially for a majority of Indigenous people and a non-Indigenous minority population, rather than the opposite. To support this paradigm shift, Indigenous considerations must be mainstreamed within NTDCS including the need for culturally appropriate services across the agency.

128. There are also many other commonly arising characteristics that need to be considered. For example, figures established by the Victorian Ombudsman show just some of the challenges facing women prisoners in Victoria:²³

- 83% reported previous illicit drug use (compared to 75% of male prisoners);
- 40% have been assessed as having a mental health condition, ranging from psychotic disorders to depression and anxiety; and
- 33% show evidence of an acquired brain injury (ABI) even though Corrections Victoria does not systematically record ABI status (42% of males).

²² Opcit, pages 6-7.

²³ *Investigation into the rehabilitation and reintegration of prisoners in Victoria*, Victorian Ombudsman (2015), page 7.

129. While similar figures for the NT are not available, the Victorian figures are illustrative of the need to address issues of drug abuse, mental health, cognitive disability and ABI with individual prisoners if there is to be any realistic chance of rehabilitation.

Different approaches for women

130. The call for differentiated consideration and treatment of female prisoners is nothing new. In the NT Ombudsman's *Women In Prison 1* report, my predecessor noted:

On the one hand, [women] 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 population. This usually results in female prisoners losing out on both accounts. There is neither equal treatment and nor is there differential treatment on the basis of differing needs.²⁴

131. The need for differentiation has been well recognised in international instruments. For example, the *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* (the Bangkok Rules) state:

1. The Standard Minimum Rules for the Treatment of Prisoners apply to all prisoners without discrimination; therefore, the specific needs and realities of all prisoners, including of women prisoners, should be taken into account in their application. The Rules, adopted more than 50 years ago, did not, however, draw sufficient attention to women's particular needs. With the increase in the number of women prisoners worldwide, the need to bring more clarity to considerations that should apply to the treatment of women prisoners has acquired importance and urgency.

2. Recognizing the need to provide global standards with regard to the distinct considerations that should apply to women prisoners and offenders and taking into account a number of relevant resolutions adopted by different United Nations bodies, in which Member States were called on to respond appropriately to the needs of women offenders and prisoners, the present rules have been developed to complement and supplement, as appropriate, the Standard Minimum Rules for the Treatment of Prisoners and the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) in connection with the treatment of women prisoners and alternatives to imprisonment for women offenders.

132. Rule 1 of the *Bangkok Rules* sets out the following basic principle:

In order for the principle of non-discrimination, embodied in rule 6 of the Standard Minimum Rules for the Treatment of Prisoners to be put into practice, account shall be taken of the distinctive needs of women prisoners in the application of the Rules. Providing for such needs in order to accomplish substantial gender equality shall not be regarded as discriminatory.

²⁴ Page 30.

133. The *Standard Guidelines for Corrections in Australia* also provides some recognition of the need for differentiation, for example:

1.43 The management and classification 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.

134. There is also considerable academic literature on the subject that supports differentiation, for example:

*Carlsen (2007) argues that due to the difference in need and life experience, there is a need for parity of provision for female prisoners. Recognising women's differences can inform regime and programmes design therefore creating an effective gender centred approach.*²⁵

*A women-specific approach is crucial if women's offending and recidivism are to be effectively addressed. Simply 'warehousing' prisoners without attending to who they are and to the underlying causes of their offending does little to prevent or reduce offending and reoffending or to protect the community from crime in the long term.*²⁶

135. The last quoted passage is apposite. If detention is to be a mechanism for reducing the prospect of re-offending in the future, attention must be paid to the varied circumstances of individual prisoners.

Relevant standards

136. The balance of this Chapter will provide a brief overview of current international, national and NT standards, instruments, reports and other literature relevant to offenders and prisoners generally and those specific to women. In doing so, the need to differentiate between male and female prisoners is highlighted.

137. While the Territory must find its own solutions given its particular environment, international and national standards and commentary form an invaluable basis for consideration of the approaches that need to be taken in the Territory context.

138. There are a number of international standards that touch on or deal directly with the treatment of offenders. Article 10 of the United Nations *International Covenant on Civil and Political Rights* (ICCPR) provides in relation to adult offenders:

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2. (a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;

...

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

²⁵ *Women in Prison: A Forgotten Population?*, Brogan Currie Internet Journal of Criminology, 2012, page 9.

²⁶ *Towards Best Practice in Women's Corrections: The Western Australian Low Security Prison for Women*, Joanna Salomone, Department of Justice Western Australia, page 4.

Nelson Mandela Rules

139. The overarching international standard relevant in providing guidance for treatment of prisoners is the *United Nations Standard Minimum Rules for the Treatment of Prisoners*. These rules provide guidelines for the state and prison authorities on the minimum standards of compliance with international human rights law in Australia. The Standard Minimum Rules have been relied upon to interpret and apply Article 10 of the ICCPR.²⁷
140. Revised *Standard Minimum Rules* were approved on 17 December 2015, and are now known as the 'Nelson Mandela Rules' to honour the legacy of the late President of South Africa who spent many years of his life in prison.

Tokyo Rules

141. Another relevant set of standards which focusses on alternatives to prison is the *United Nations Standard Minimum Rules for Non-custodial Measures* (the Tokyo Rules). A fundamental aim of the *Tokyo Rules* is:
- 1.5 Member States shall develop non-custodial measures within their legal systems to provide other options, thus reducing the use of imprisonment, and to rationalize criminal justice policies, taking into account the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender.*

Bangkok Rules

142. In 2010, general recognition of the need for specific rules relating to women offenders led to the development of the *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders* (the Bangkok Rules). There are 70 rules which give guidance to policy makers, legislators, sentencing authorities and prison staff.
143. The preliminary observations to the *Bangkok Rules* set out some of the history and rationale of development of international instruments relating to the treatment of female offenders. They make it clear that the rules are in addition to general rules discussed above.
144. Guidance is also provided by the 151 page, *Handbook on Women and Imprisonment* (2nd edition, 2014), produced by the United Nations Office on Drugs and Crime with reference to the *Bangkok Rules*.
145. While international instruments and publications such as these might seem to some as remote from the NT experience, the reality is that they provide a wealth of guidance to be considered, applied and adapted to suit the Territory environment. As the preliminary observations to the *Bangkok Rules* note:
- 11. As with the [Nelson Mandela Rules], in view of the great variety of legal, social, economic and geographical conditions worldwide, it is evident that not all of the following rules can be equally applied in all places and at all times. They should, however, serve to stimulate a constant endeavour to overcome practical difficulties in how they are applied, in the knowledge that they represent, as a whole, the global aspirations considered by the United Nations as leading to the common goal of improving outcomes for women prisoners, their children and their communities.*

²⁷ Camille Giffard, 'International Human Rights Law Applicable to Prisoners' in David Brown and Meredith Wilkies (eds), *Prisoners as Citizens: Human Rights in Australia Prisons* (2002).

Convention against Torture & Other Cruel, Inhuman or Degrading Treatment or Punishment

146. The United Nations *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* requires State parties to undertake to prevent torture and other acts of cruel, inhuman or degrading treatment or punishment when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity (Articles 2 and 16).

147. The *Convention* includes requirements to ensure that:

- education and information regarding the prohibition against torture and other ill-treatment are fully included in rules and instructions issued in regard to officials and the training of officials;
- there is systematic review of arrangements for the custody and treatment of persons in custody, with a view to preventing torture and ill-treatment;
- competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture or ill-treatment has occurred; and
- any individual who alleges torture or ill-treatment has the right to complain and is protected against all ill-treatment or intimidation as a consequence of a complaint or any evidence given (Articles 10-13 and 16).

148. Ongoing scrutiny of compliance with obligations under the Convention is facilitated by the Optional Protocol to the Convention (OPCAT). Measures under OPCAT include creation of a general Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the CPT) and National Preventative Mechanisms for each country.

149. The CPT has a broad remit. Its guiding principles include:²⁸

5. (d) Detention conditions not only raise issues of cruel, inhuman or degrading treatment or punishment but in some circumstances can also be a means of torture, if used in a manner which accords with the provisions of article 1 of the Convention. Therefore, recommendations regarding conditions of detention play a critical role in effective prevention and will touch on a wide variety of issues, including matters relating to physical conditions, the reasons for, and levels of, occupancy and the provision of, and access to, a wide range of facilities and services. [my emphasis]

150. The CPT has produced a report on *Prevention of torture and ill-treatment of women deprived of their liberty* (December 2015), which undertakes “*the task of analysing how the particular risks of torture and ill-treatment faced by women deprived of their liberty have been addressed during its visits and how it might set about incorporating a gender-sensitive approach into its efforts to prevent torture.*”²⁹ The report covers a broad range of topics including violence, health, relations with family members and partners, work, educational and recreational activities, separation of men and women and multiple discrimination.

²⁸ *The approach of the Subcommittee on Prevention of Torture to the concept of prevention of torture and other cruel, inhuman or degrading treatment or punishment under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (2010).

²⁹ Page 2.

151. The Australian Government has announced that it intends to ratify OPCAT by December 2017,³⁰ adding additional levels to the scrutiny of conditions of detention throughout Australia.

152. Also of relevance are the *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) Standards* (revised 2015), which are essentially a compendium of relevant CPT resolutions over time. They include a substantial Chapter on Prisons. I will refer to them as the European CPT Standards.

Standard Guidelines for Australia

153. Australia has produced *Standard Guidelines for Corrections in Australia* taking into account the Nelson Mandela Rules. The Preface to the revised 2012 version states:

The guidelines and the accompanying principles constitute outcomes or goals to be achieved by correctional services rather than a set of absolute standards or laws to be enforced. They represent a statement of national intent, around which each Australian State and Territory jurisdiction must continue to develop its own range of relevant legislative, policy and performance standards that can be expected to be amended from time to time to reflect 'best practice' and community demands at the state and territory level.

154. The 36 page document is of general application to all prisoners. It makes four specific references to women:

1.43 The management and classification 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.

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

...

2.45 Pre-natal and post-natal treatment and accommodation should be made available to female prisoners, where practicable.

...

3.14 Programmes and services provided to prisoners, especially women, Indigenous prisoners and prisoners from culturally and linguistically diverse backgrounds, should be established following close consultation with the appropriate community groups and experts.

155. There are no Australia-wide standards specifically for female prisoners although there are some state-based instruments, for example, *Standards for the Management of Women Prisoners in Victoria*.

³⁰ *Improving oversight and conditions in detention*, Joint press release, Minister for Foreign Affairs and Attorney-General, 9 February 2017.

Other references

156. The need for a different approach to management of women prisoners is also apparent in a number of recent investigative reports and articles.

157. In 2016, a detailed review of Corrections was finalised with the production of the *Hamburger Report*.³¹ The report dealt with many aspects of Corrections' functions but made specific and generally negative comments on the quality of women's facilities in Darwin and Alice Springs.

158. Encouragingly, the *Hamburger Report* said:³²

The review has found that NTCC is well positioned to lead the development of supervisory strategies for Indigenous offenders in Australia by utilising local knowledge and expertise within, so as to introduce operational initiatives purposely designed to meet the needs of its offender population. The stand-out ingredient identified in NTCC is its capacity and willingness to tailor services to the individual offender.

159. In September 2015, the Victorian Ombudsman tabled a report entitled *Investigation into the rehabilitation and reintegration of prisoners in Victoria*. The report made a number of salient comments about the different profiles of male and female prisoners in Victoria and the need for different treatment. There is no reason to doubt that the points made are broadly true for the Northern Territory. The Ombudsman noted:

33. *Women prisoners have a distinctly different profile from their male counterparts; for example:*

- *women are generally serving shorter sentences for less serious crimes*
- *many women are victims of sexual, physical and/or emotional abuse*
- *women are more likely to have caring responsibilities.*

587. *As described by the Human Rights Law Centre, women's needs for rehabilitation and reintegration programs differ distinctly from those of men. A number of submissions to my investigation supported this view. While research on the backgrounds of female offenders in Victoria is limited, national research conducted in 2004 by the Australian Institute of Criminology found that 87 per cent female prisoners were victims of sexual, physical or emotional abuse, with the majority being victims of multiple forms of abuse.*

588. *This research was supported by a 2014 report commissioned by Corrections Victoria, in which it was noted:*

It is the case that very few women held in custody are serious violent offenders and that generally they are categorised as 'low risk offenders'. Many are single parents with dependent children. They experience multiple disadvantages with high levels of poverty, low levels of educational attainment and poor employment histories. Many offenders have a history of sexual and physical abuse and violence is common among female prisoners. Female prisoners are much more likely than their male counterparts to have sought help for mental or emotional problems prior to incarceration and more female prisoners have drug dependencies at that time.

³¹ Hamburger K, Ferris A, Downes L, Hocken J, Ellis-Smith T & McAllister N (2016). *A safer Northern Territory through correctional interventions: Report of the review of the Northern Territory Department of Correctional Services*. BDO. Perth / Knowledge Consulting. Brisbane.

³² Page 12.

589. *The report also noted that women are more likely than men to have:*
- *committed their offences under the influence of drugs and/or to support drug use, with a 117.1 per cent increase in women imprisoned for drug offences between 2008 and 2013*
 - *been diagnosed with a mental illness, including depression*
 - *experienced childhood sexual abuse and multiple violent relationships*
 - *dependent care responsibilities, yet are less likely than men to have a partner to look after their children while in prison.*
590. *Due to the greater likelihood of having parental and other carer responsibilities, the imprisonment of women can have wide impact on their family, particularly children, and communities.*
695. *One study of women exiting prison in Victoria conducted between 2011 and 2013 found that:*
- *substance abuse, mental health problems, victimisation, social isolation, unstable housing and poor engagement with employment or vocational activity continued to characterise the lives of women post-release*
 - *the most significant factor affecting return to prison outcomes was unstable housing*
 - *women who reported being homeless at any point after leaving prison were more than twice as likely to have returned to prison over the period of the study*
 - *access to programs post-release was associated with lower return to prison outcomes.*
698. *Several community organisations and witnesses told my investigation that there is an additional risk for women who are unable to find suitable housing and may have no other choice but to return to violent and abusive relationships. For example, Jesuit Social Services, in its submission said:*

We also note the very real difficulties people experience as they transition from prison back to community and struggle to navigate health, housing and welfare services that often lack the resources and expertise to meet their needs. This gap is most acute for women exiting prison who very frequently return to living environments in which they are at risk of violence, because there are no appropriate and affordable housing options. When combined with social isolation and stigma this creates a recipe for reoffending, not only for women but for all people leaving prison.

699. *In a recent article, Monash University researchers in criminology noted:*

It is well known that women are disproportionately affected by post-release homelessness and that the majority have dependent children. Imprisonment exacerbates multiple challenges – including mental health instability, inaccessible secure long-term accommodation and a limited likelihood of post-release employment – that significantly affect women and their children. Those problems often disrupt family reunions and the return of children to their mother's custody. The result is that imprisonment can have devastating long-term impacts on women's lives and the lives of their family members.

160. Even as far afield as Norway, the need for differentiation and problems with existing systems are apparent, as evidenced by a recent report of the Norwegian Parliamentary Ombudsman:³³

International research shows that the low number of women in prison compared with men often leads to the prison administration and prisons in general being organised on the basis of the needs of male inmates. This is reflected in prison architecture, security, available activities and health services, among other things. In addition, an even higher percentage of women in prison come from disadvantaged backgrounds than men do. They have more often been victims of abuse in childhood, have untreated mental health problems and substance abuse problems.

...

This report addresses key issues relating to women's prison conditions, including the physical environment, sense of security, activities, health services and contact with family. The report largely confirms that women in prison are a particularly vulnerable group. In many cases, they risk serving under worse conditions than men.

...

Overall, the Parliamentary Ombudsman's findings show that women serve under worse conditions than men. These are some of the reasons for this:

- *Several women's prisons are located in old and unsuitable buildings.*
- *Many women have significantly poorer access to outdoor areas and physical activities than men.*
- *Women consistently have poorer access to real work training than men.*
- *Female inmates often have other health problems than men, and therefore need different health services. Mental health care for women in prison should be improved.*
- *The substance abuse rehabilitation services offered to women in prison are inferior to those offered to men.*
- *Women serving in mixed-sex prisons have an increased risk of unwanted attention or sexual harassment by male inmates.*
- *Some women risk having to serve in prisons with a higher level of security than their case indicates due to the limited number of prison places for women.*
- *Female inmates risk having to serve their sentence in prisons far away from their families and their own children because of the low number of suitable prison places. This can be particularly challenging for mothers who want visits from children who cannot travel alone.*

161. Other literature that has informed this investigation includes:

- *Human Rights Audit on the Conditions of Detention of Women at the Alexander Maconochie Centre, ACT Human Rights and Discrimination Commissioner (2014), <http://www.hrc.act.gov.au/res/HRC%20Womens%20Audit%202014.pdf>*

³³ *Women in Prison: A thematic report about the conditions for female prisoners in Norway*, Norwegian Parliamentary Ombudsman, December 2016, pages 8, 10 and 13.

- Bartels L & Gaffney A, *Good practice in women's prisons: A literature review*, Technical and Background Paper, Australian Institute of Criminology (2011) http://www.aic.gov.au/media_library/publications/tbp/tbp041/tbp041.pdf
- Mackay A, *Women in Australian prisons and why they need human rights protections*, Regarding Rights website (2013), <http://asiapacific.anu.edu.au/regarding-rights/2013/10/04/women-in-australian-prisons-and-why-they-need-human-rights-protections/>
- Carter S A, *Leadership in the Design of Women's Prisons: A Case Study*, *Advancing Corrections Journal*, International Corrections and Prisons Association, 2-2016, pages 38-53.

Northern Territory law

162. The applicable legislation governing correctional services in the NT is the *Correctional Services Act*. The Act is of general application but makes a small number of references to women, particularly with regard to keeping children in prison.

Corrections strategic and policy instruments

163. Corrections has published an *NTCS Purpose and Direction Strategy 2016-2020* which identifies five strategic priorities for corrections. The instrument is of general application to all prisoners. It makes two references to women but these would appear to relate to female staff.

164. In the course of the *Women in Prison 1* investigation, DCS was asked what measures had been implemented to address the unique characteristics of women. DCS was only able to identify one directive, titled *Accommodation of infants in Custody*.³⁴

165. One of the Ombudsman's recommendations in *Women in Prison 1* was that a Women's Policy be drafted. DCS supported the recommendation and prepared a female-specific policy titled *Addressing the needs of female offenders in prison Policy and Action Plan 2007-2012*.

166. However, after that policy ran its course, it was not revised or replaced with another female-specific policy. DCS has confirmed that no-one relied on the policy after 2012. This failure to review or renew was ascribed to conflicting priorities.

167. It was suggested that, from May 2014, Corrections relied on its *Philosophy for Working with Clients* policy to replace the Female Offenders Policy. However, this is clearly not a female-specific policy. It is also noted that it was due for review in May 2015 but this was not undertaken.

168. In March 2016, Corrections approved *Standard Operating Procedure – Female Sector - Post Orders* which is a female-specific policy.

³⁴ Page 32.

CHAPTER 6: THE NEED FOR CHANGE

169. This investigation has established that there are many challenges faced in the ASWCF that require immediate action. A number of specific issues are discussed in Chapter 8.
170. This Chapter takes a broader view of the current situation and discusses the need for fundamental changes in the approach the NT takes to female offenders.
171. There are two core problems with ASWCF. One is the chronic and growing overcrowding in an area which has had 'band-aid' solution after 'band-aid' solution forced upon it.
172. The other is that the women's area has been squeezed into a small space within the men's prison.
173. There is no obvious solution to these problems in the medium to long term that is consistent to maintaining a women's prison within the existing structure.
174. The challenges and opportunities for the Government to take a substantially different approach to the management of women prisoners must be explored as a matter of priority.
175. It is necessary for Government to consider sweeping departures from current correctional practices if these issues are to be addressed. Adopting the terminology of the *Hamburger Report*, there must be a paradigm shift.
176. In doing so, Government must pay careful attention to relevant international standards and publications and fully reconsider its approach to imposition of custodial and non-custodial measures in relation to female offenders.
177. This is not to say that Government must allocate huge amounts of additional resources to these solutions. Changing approaches away from traditional custodial mechanisms may well result in cost savings over time. There must nevertheless be upfront investment in ensuring that new approaches are well planned, implemented and evaluated.
178. To facilitate this consideration, Government needs to reflect on the underlying purposes of imprisonment and reframe the public debate on correctional services with regard to female prisoners.

What purpose does prison serve?

179. The *Sentencing Act* sets out the only purposes for which a sentence may be imposed on an offender (section 5(1)).
180. I do not purport to undertake an analysis of the *Sentencing Act* or of the particular provision. However, section 5(1) does provide a neat list of the underlying rationales for taking action in relation to offenders which I will draw on for the purposes of this discussion. Each is discussed below in the context of sentences involving imprisonment or other detention.

181. **Punishment.** There is an age-old imperative that an offender must be punished. The concept of an eye for an eye and a life for a life has permeated most societies for millennia.³⁵ Fortunately the manner of punishment has moderated in many societies in more recent times. A need for revenge, retaliation, retribution has permeated individual and community approaches to crime, even though it provides no tangible reparation to the victim.
182. **Rehabilitation.** In this context, I give rehabilitation a broad meaning. It is about laying the groundwork for a prisoner to re-enter the community with the capacity and the conviction to play a constructive role in the care of their family and the life of the community — to deal with conflict and temptation appropriately — to act in line with community laws and expectations. Ultimately, it entails creating an environment which is geared towards developing the capabilities, willingness and post-release circumstances for the prisoner to provide the best chance for reintegration into the community with a greatly reduced potential to offend further. It is about preparing the prisoner for a future in which they do not offend. I have expanded on this definition in the Executive Summary.
183. **Specific deterrence.** *Discouraging the offender from committing the same or similar offence.* This is still geared to the individual prisoner but is more aligned to the experience of detention and the threat of further punishment encouraging compliance. The very high recidivism rates discussed earlier must throw into question whether imprisonment, at least under the conditions that now subsist, has any significant impact from the point of view of specific deterrence. Despite the ‘gut-feeling’ of many people who have never committed a serious offence, being sentenced to prison does not appear to have a major impact in terms of reducing reoffending by people who actually do commit offences.
184. **General deterrence.** *Discouraging others from committing the same or similar offence.* This is again aligned to the threat of punishment encouraging compliance but is aimed at compliance by community members in general. The fact that they can see one person being punished is meant to deter them from doing the same act because they are afraid of being punished. This might have some impact when calmly considered by a person weighing up their options but the reality is that a large proportion of offences are committed in the heat of the moment with the offender often subject to outside influences and without careful reflection of the pros and cons of a course of action.
185. **Sending a message.** *Making it clear that the community does not approve of the sort of conduct in which the offender was involved.* This would appear to be closely related to General deterrence but the focus is on compliance through awareness and acceptance of community values — the community thinks this is wrong so I should not do it. Public reporting of a sentence imposed for a novel or unusual offence may have some impact on public awareness of what the community, through the Government, considers as right or wrong. However, it is hard to see how this adds greatly to General deterrence for well-established and recognised crimes.

³⁵ “If people are fighting and hit a pregnant woman and she gives birth prematurely but there is no serious injury, the offender must be fined whatever the woman’s husband demands and the court allows. But if there is serious injury, you are to take life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, bruise for bruise.” (Exodus 21)

186. **Community protection.** While a person is in prison they are not committing offences in the community. However, most prison sentences are not lengthy. For women in the NT, sentences of under one year predominate. Where a sentence is not for an extended term, steps taken to this end serve only to briefly delay reoffending unless other measures are taken to reduce the prospect. This is more relevant for the most serious crimes than for the average offender.

Does the current system achieve those purposes?

187. It is fair to say that imprisonment, deprivation of liberty, achieves a level of punishment. However, there is constant public debate about whether, under the present system, the punishment fits the crime. There is seemingly endless discussion about the leniency of prison sentences, even in a jurisdiction like the NT, where people are sent to prison at a rate three times more frequently than any other place in Australia.

188. There is also regular commentary about the comparatively 'luxurious' conditions enjoyed by prisoners. While the findings of this report are substantially at odds with such a conclusion, it is one that persists in the minds of many.

189. The community demands punishment but is quick to question whether it is severe enough. At the end of the day, punishment by itself provides no substantive benefit to the victim or the community if offences continue to be committed in the future.

190. All the other sentencing purposes discussed above have the fundamental aim of minimising offences in the future. That is clearly an unobjectionable goal.

191. However, as discussed above, there is little to show that imprisonment currently works to achieve substantial, positive, long-term results in terms of specific deterrence, general deterrence and community protection. And there is nothing to suggest that extending the length of prison terms (the only option that might be advanced to make them more effective) would have any substantial positive impact.

192. This then leaves Rehabilitation. Notwithstanding the stated strategic emphasis on rehabilitation, the system is not currently achieving the desired outcomes. Rehabilitation is however, the one purpose that can be advanced by a substantial change in approach.

Limits on effective rehabilitation

193. The reality is that Corrections is being distracted from its stated strategic emphasis on rehabilitation by the enormous resource burden of maintaining its basic operations within a traditional custodial structure. A traditional prison is by far the most expensive option for keeping people in custody. Corrections is therefore operating in an environment where the considerable enthusiasm for positive change is regularly stymied by the limits of available facilities and resources.

194. The *Hamburger Report* describes the problem in the following terms:

It is clear that the excessive number of prisoners, the high recidivism rate and the gross over-representation of Indigenous people in contact with the criminal justice and correctional systems are the greatest drivers of inefficient and ineffective outcomes in NTDCS, and in the Territory's criminal justice system and human service delivery agencies generally, incurring huge costs to the taxpayer.

195. Similar problems are faced in Victoria, as these comments by the Victorian Ombudsman show:

What is the correctional system doing to rehabilitate offenders – to improve public safety and reduce the number of repeat offenders? Plainly, not enough. It is captured in a spiral of rising crime rates and increasing prisoner numbers, resulting in more and more victims and exponential budget growth simply to hold the line. Building more prisons is not making us safer as a community. For such enormous public investment, we should be seeing much better returns.

Debate about the effectiveness of prisons in reducing crime and contributing to community safety has raged since the days when prisons were seen as a more civilised alternative to hangings or transportation to the colonies. ...

...

The evidence is plain that heightened pressure on the system has resulted in reduced access to programs and services – unsurprisingly, accompanied by a rise in reoffending.

The public expects violent offenders to serve time, but incarceration is only a temporary solution in over 99 per cent of cases. The corrections system must work better to rehabilitate and reintegrate prisoners.

Prison is also the most expensive response we have to criminal behaviour. We know that some alternatives work – independent evaluations of diversion programs confirm their positive impact both on recidivism and the public purse. This is a strong evidence base on which to improve outcomes for the community, the economy and the convicted.

196. The *Hamburger Report* makes it clear that these issues have had an even greater impact on female prisoners:

As with DCP [Darwin Correctional Precinct], the Review Team considers the female prisoners at Alice Springs to be disadvantaged in comparison with their male counterparts, for the same reasons as at DCP. Further, overcrowding in the female section is considered to be more of a problem than in the male section, due to the limited number of accommodation options for women within the male correctional centre.

...

Finding 45. That accommodation and facilities for female prisoners at Alice Springs Correctional Centre is unsatisfactory.

Finding 46. That programs and employment opportunities for female prisoners at Alice Springs Correctional Centre is inadequate.

Finding 47. That as for DCP, in Alice Springs Correctional Centre it is an unsatisfactory design outcome for a female correctional centre to be located within the perimeter of a male correctional centre.

197. The current system in the NT is not working and Government must fundamentally change its approach to align with its strategic goals.

198. It is in my view, essential for the NT Government to place diversion and rehabilitation at the forefront of its planning and implementation in the corrections area. However, to do so effectively, it needs to engage in significant public education and discussion about the benefits and implications of placing further emphasis on rehabilitation.

Reframing public debate

199. The current reality is that there is a preponderant community focus on punishment as the purpose for sentencing. Public debate and Government consideration of issues surrounding the justice system are frequently overwhelmed by discussion which is centred on punishment.

200. The challenge is neatly exemplified by this extract from a recent ABC news article:

Selling rehab to a community torn over anger about abuse in detention and youth crime

The Northern Territory Government is expected to commit millions of dollars more to youth diversion programs following the scandal over abuse in youth detention.

It is convinced this is a better way to cut youth offending and detention rates, rather than incarcerating children.

But the Government will have a tough argument to make because community concern over detention abuse is matched by anger over youth crime.³⁶

201. There is a widely-shared impulse for victims of crime and members of the community to seek to punish offenders and the most visible manifestation of punishment is imprisonment. There is no denying that visible punishment may give some sense of satisfaction to the person who has been wronged.

202. However, as a community, the more fundamental aim must be to minimise the extent and seriousness of crime in the future. Given the high rates of recidivism that prevail in our current prison system, it is vital that we explore alternatives beyond that system that will effectively contribute to minimising crime in the future.

203. While each individual must be responsible for their own actions, the huge investment of public resources in keeping a person in custody can only be of real benefit if everything is done to minimise the likelihood of reoffending.

204. I do not suggest that punishment and reparation are not valid elements of public debate about the justice system. They have clearly been so for many years and will continue to be so.

205. However, as noted above, it is equally true that many members of the community doubt that, under the present system, the punishment fits the crime. There is seemingly endless debate and discussion about the leniency of prison sentences and treatment of prisoners.

206. In an environment where so much weight is placed by community members on punishment for its own sake (rather than as one of many elements that go towards rehabilitation), there are real challenges for Government in pursuing truly effective rehabilitation.

207. While it may not prove easy, one of the key roles of Government must be to make every effort to moderate the terms of the public debate and place strong emphasis on achievement of the purposes which relate to minimisation of future offences.

³⁶ Jane Bardon, ABC News, 2 /2/17.

208. The Tokyo Rules provide:

18. Public understanding and cooperation

18.1 Government agencies, the private sector and the general public should be encouraged to support voluntary organizations that promote non-custodial measures.

18.2 Conferences, seminars, symposiums and other activities should be regularly organized to stimulate awareness of the need for public participation in the application of non-custodial measures.

18.3 All forms of the mass media should be utilized to help to create a constructive public attitude, leading to activities conducive to a broader application of non-custodial treatment and the social integration of offenders.

18.4 Every effort should be made to inform the public of the importance of its role in the implementation of non-custodial measures.

209. The Hamburger Report stated:³⁷

We believe there is a need to achieve community understanding and support for the appropriate balance between good social policy and the role and outcomes of the criminal justice system This is achieved through factual information being disseminated by governments, elements of the criminal justice system, social/community support agencies and academia concerning the underlying causes of crime. Social breakdown statistics showing what is occurring where, trends and information concerning world's best practice in addressing these issues, including what works and what does not work assists with community understanding.

210. Government must lead the way and challenge the community to consider whether its primary focus should be on punishment (which, in isolation, is inherently negative and unconstructive) or rehabilitation aimed at minimising crime in the future.

211. An approach that focuses primarily on rehabilitation will create challenges. Change is rarely welcome. New approaches bring new risks. Different approaches must be trialled. There will be resistance. Some won't work as planned. Prisoners in whom trust is placed will falter. No initiative will provide all the answers. There will be ample potential for naysayers to question and criticise.

212. The first challenge for Government is therefore to engage the community — to convince members of the public that change can also bring benefits in terms assisting individuals to play a more constructive role in society and at the same time minimise crime in the future.

The ultimate bonus

213. The typical female prisoner at ASWCF is young. They are likely to be in prison for less than one year. Many have caring responsibilities for children or relatives. They are likely to have already faced many challenges in their lives. They may have substance misuse or mental or other health issues.

³⁷ Page 14.

214. Most importantly, they have decades ahead of them. Will their lives be spent raising their children and grandchildren and contributing positively to their families and to the Territory community? Or will they succumb to the worst aspects of drug/alcohol dependence, develop or exacerbate health issues and commit crimes in the future?
215. If their time in custody is not spent with an intensive focus on rehabilitation, the latter is far more likely. And in that case, the community will continue to pay, through commitment of public resources in the justice and health systems and through loss of what might otherwise have been years of productive contribution to society.
216. Whatever view one may take of the actions and responsibilities of the individuals who spend time in the ASWCF, it is in the best interests of the NT community that everything possible is done now to facilitate their rehabilitation.

CHAPTER 7: THE CHANGES NEEDED

Changing society

217. There is no doubt that offending levels are linked closely with socio-economic conditions. Low incomes, poor education, and limited access to facilities and opportunities all contribute to an environment where crime is more likely.

218. The criminal justice system is only one element in addressing the conditions and motivations that give rise to offending. In truth, it should be regarded as a strategy of last resort.

219. The Victorian Ombudsman put it aptly:³⁸

The statistics are compelling: the average prisoner, male or female, did not complete high school, was unemployed at the time of committing the crime and had a history of substance abuse. Many female prisoners are victims of some form of abuse, and over 40 per cent are homeless upon release. The children of prisoners are six times more likely to be imprisoned themselves – so it's not just this generation where the impact is hard felt. How do you address recidivism when prison is the place some people feel safest? And how can we reintegrate former prisoners into a society where many have always been marginalised?

...

... it is patently clear that long-term solutions do not lie within the walls of our prisons or with a single government department. The successful innovations elsewhere have come as a result of a concerted whole-of-government response. The state needs a comprehensive approach – across the justice system, education, health and housing – to focus on the causes of crime rather than its consequences.

220. Given the high number of Territorians with low socio-economic status and the extraordinary dispersal of the population over many small remote communities, the challenges faced by the Territory in addressing these societal issues is overwhelming. The *Hamburger Report* stated:

Clearly the Northern Territory's imprisonment rate indicates a social, economic, and law and order crisis of devastating proportions for the Territory as a whole and for Indigenous people in particular. It has been a longstanding crisis.

...

We have pointed to international experience where a business planning method that takes a whole of community approach and is founded in objective data on the cost of crime, and expected savings and benefits to be achieved over the life of the plan is an effective way to reduce imprisonment rates. This approach has applicability to the Northern Territory and we recommend it is adopted.

221. This report does not (and could not hope to) examine all the steps society needs to take to address these broader problems. However, the unfortunate reality is that, unless and until they are addressed, the changes discussed in the report can only be partially effective.

³⁸ *Investigation into the rehabilitation and reintegration of prisoners in Victoria*, Victorian Ombudsman (2015), page 3.

Changing the justice system

222. There is a need to increase the range of options open to authorities and courts to include less restrictive, potentially more effective and less expensive mechanisms for dealing with offending by women. These will include diversion both prior to and after entry into the traditional criminal justice system.

223. There must be a whole of government approach in which Corrections plays a part.

224. It is important for Government in this regard to consider an appropriate balance between:

- Justice reinvestment and dealing with offenders/potential offenders before they enter the traditional justice and correctional systems;
- Alternative means of dealing with offenders that do not involve detention/imprisonment;
- Less restrictive options for detention/imprisonment that promote rehabilitation;
- More traditional approaches to imprisonment where essential for security purposes.

225. In reviewing approaches to the justice system as it relates to women, it is important that Government take into account the lower risks presented by female inmates. The Victorian Ombudsman has commented:

Few women in custody are serious violent offenders, most have caring responsibilities, many are the victims of violent relationships and offend under the influence of drugs or to support drug use. Specific services within prisons are limited, so the solutions must lie in alternatives to incarceration and greater support, including transitional support and housing.

Exploring non-custodial options

226. In relation to non-custodial measures, the *Tokyo Rules* provide:

1.5 Member States shall develop non-custodial measures within their legal systems to provide other options, thus reducing the use of imprisonment, and to rationalize criminal justice policies, taking into account the observance of human rights, the requirements of social justice and the rehabilitation needs of the offender.

2.3 In order to provide greater flexibility consistent with the nature and gravity of the offence, with the personality and background of the offender and with the protection of society and to avoid unnecessary use of imprisonment, the criminal justice system should provide a wide range of non-custodial measures, from pre-trial to post-sentencing dispositions. The number and types of non-custodial measures available should be determined in such a way that consistent sentencing remains possible.

2.4 The development of new non-custodial measures should be encouraged and closely monitored and their use systematically evaluated.

2.5 Consideration shall be given to dealing with offenders in the community, avoiding as far as possible resort to formal proceedings or trial by a court, in accordance with legal safeguards and the rule of law.

6.1 Pre-trial detention shall be used as a means of last resort in criminal proceedings, with due regard for the investigation of the alleged offence and for the protection of society and the victim.

227. The *Bangkok Rules* state:

Rule 57 The provisions of the Tokyo Rules shall guide the development and implementation of appropriate responses to women offenders. Gender-specific options for diversionary measures and pretrial and sentencing alternatives shall be developed within Member States' legal systems, taking account of the history of victimization of many women offenders and their caretaking responsibilities.

Rule 58 Taking into account the provisions of rule 2.3 of the Tokyo Rules, women offenders shall not be separated from their families and communities without due consideration being given to their backgrounds and family ties. Alternative ways of managing women who commit offences, such as diversionary measures and pretrial and sentencing alternatives, shall be implemented wherever appropriate and possible.

Rule 59 Generally, non-custodial means of protection, for example in shelters managed by independent bodies, non-governmental organizations or other community services, shall be used to protect women who need such protection. Temporary measures involving custody to protect a woman shall only be applied when necessary and expressly requested by the woman concerned and shall in all cases be supervised by judicial or other competent authorities. Such protective measures shall not be continued against the will of the woman concerned.

Rule 60 Appropriate resources shall be made available to devise suitable alternatives for women offenders in order to combine non-custodial measures with interventions to address the most common problems leading to women's contact with the criminal justice system. These may include therapeutic courses and counselling for victims of domestic violence and sexual abuse; suitable treatment for those with mental disability; and educational and training programmes to improve employment prospects. Such programmes shall take account of the need to provide care for children and women-only services.

Rule 61 When sentencing women offenders, courts shall have the power to consider mitigating factors such as lack of criminal history and relative non-severity and nature of the criminal conduct, in the light of women's caretaking responsibilities and typical backgrounds.

Rule 62 The provision of gender-sensitive, trauma-informed, women-only substance abuse treatment programmes in the community and women's access to such treatment shall be improved, for crime prevention as well as for diversion and alternative sentencing purposes.

...

2. Pregnant women and women with dependent children

Rule 64 Non-custodial sentences for pregnant women and women with dependent children shall be preferred where possible and appropriate, with custodial sentences being considered when the offence is serious or violent or the woman represents a continuing danger, and after taking into account the best interests of the child or children, while ensuring that appropriate provision has been made for the care of such children.

228. Even where a custodial term is thought necessary, it is important to consider the potential for early conditional and supported release. For example, *Bangkok Rule 63* states:

Decisions regarding early conditional release (parole) shall favourably take into account women prisoners' caretaking responsibilities, as well as their specific social reintegration needs.

229. It is important for the Government to assess the efficacy of, and necessity for, custodial terms at the lower end of the scale and the alternatives that may be available.

230. Courts and relevant authorities should be given a broad range of non-custodial options to consider in diversion or sentencing of female offenders. These must be reasonably available in locations that present a viable option for the offender and they must be adequately resourced.

Different approaches to custody

231. Where a custodial term is considered necessary, Government should reassess the best options for custody with a view to prioritising rehabilitation and reintegration.

232. This is not to say that some form of custodial sentence is not necessary in more serious cases. Nor is it to say that a more traditional custodial approach is not warranted in some of those cases.

233. However, a fundamental rethinking of the approach to custody, particularly for low and open security prisoners, and potentially for medium security prisoners, is warranted.

234. Adoption of different approaches for lower security prisoners would have the benefit of freeing up existing space and facilities for prisoners with higher classifications.

235. Less restrictive custodial approaches would also be likely to have longer term advantages in terms of reduced capital and security costs, freeing up resources for increased expenditure on rehabilitation initiatives.

236. In so far as accommodation is concerned, the *Bangkok Rules* provide:

Rule 4: Women prisoners shall be allocated, to the extent possible, to prisons close to their home or place of social rehabilitation, taking account of their caretaking responsibilities, as well as the individual woman's preference and the availability of appropriate programmes and services.

237. The *Standard Guidelines for Prison Facilities in Australia* provide a long list of factors relevant to accommodation, including the following:

- *Because of the different security requirements and general behavioural pattern difference between secure prisoners and minimum security prisoners plus particular needs for special accommodation, function and detailing of each level of accommodation will be different. (6.2)*
- *Each cell or room "should cater for the functions of sheltering, sleeping, grooming, studying and relaxing. These functions should be able to occur without the interference of other prisoners". (6.7 and 6.17).*

238. More comprehensive guidance can be found in *Design Principles for Women Prisons: An illustrative design resource for the unique needs of women in correctional facilities*, International Corrections and Prisons Association (ICPA), 2010. It establishes core values and guiding principles for design of women's prisons. Its rationale is explained as follows:

In the last decade, the percentage and actual number of women in remand and sentenced prisons has risen dramatically. Various cultural, judicial, and societal factors have contributed to this increase. In many jurisdictions, the provision of separate, secure, and sanitary accommodations for women has been a low priority, resulting in conditions of

confinement that cannot satisfy even a minority of the [Bangkok Rules]. Women are often incarcerated in male facilities with minimal separation and without regard for biological and emotional differences between the genders.

As the work of the Committee to draft a set of minimum rules is adopted by the United Nations, this document has been prepared to summarize the guiding principles for planning, designing, and constructing prisons, or parts of prisons, that will accommodate women. This document is not intended to specify a design solution, but to offer through a set of principles and accompanying photographic examples, ideas that may be useful in the planning process.

The overarching aim is to use the momentum that resulted from the work to establish and adopt new minimum rules for the treatment of women prisoners to explore the implications for designing purpose-specific environments for incarcerated women. Design solutions will vary based upon cultural and societal attitudes but careful attention to the intent of the Minimum Rules regarding the care of women while incarcerated should result in more humane institutions.

239. The ICPA document sets out a Vision as follows:

Women are biologically and socially unique and respond differently than men to environmental stimuli, social settings, and authoritative communication. Thus the operation of a gender-specific prison for women should embrace these documented differences; address them in the policies and procedures for management; and use them to inform the design process. The overarching vision for incarcerated women is that initiative should replace inertia in both the management and design of every component of the prison. To this end, the following is a vision for the female prisoner:

1. The determination of the security risk and needs using a women-specific assessment tool should be the basis for every operational and design choice. Using one of the several risk and needs assessment tools that are available, the operational and design basis for the new prison should embrace new initiatives and not simply the structures of inertia that have traditionally defined the conditions of incarcerated women.

2. While meeting security levels appropriate to the documented risk and needs, the women's prison should offer a range of programs and spaces that encourage the women to learn the skills of responsible decision-making and the implications of being held accountable for their choices. As security requirements and need levels are different amongst women, so too should living accommodations respect and reflect different degrees of control.

3. Public, staff, and prisoner safety and security are paramount. The external wall, fence, and/or perimeter of buildings that face the surrounding land uses should provide the complex security. Within the buildings, the provision of security barriers and devices should be appropriate to documented levels of risk.

4. The use of normal materials, fixtures, and furnishings appropriate to the security requirements of each space should characterize the design of the women's prison. Selection of building materials will consider the reduction of vandalism equal with security requirements.

5. The daily regime should be based upon the provision of productive activities for 14 hours, or more, each day for women that have exhibited the willingness to be held accountable for their institutional behavior. Willingness to follow established expectations of good order and engage in a range of scheduled activities, and not the anticipated length of stay or security level, should be the determining factor for participation in out-of-cell activities.

6. Upon leaving prison, women should have been offered release-preparation opportunities from qualified case managers with direct links to supportive community-based agencies as an over-arching goal to reduce re-offending.

7. The requirement for any barrier or separation of staff from prisoners should be based upon documented levels of risk for incarcerated women. The design focus throughout all components of the prisoner is the enhancement of communication through direct contact between staff and offenders.

8. The aesthetic and environmental aim is to reflect the uniqueness of this gender-specific prisoner by choosing materials and systems that are sustainable.

240. The ICPA core values are:

- 1 Women should be afforded equal access to the range of correctional services as men, to include alternatives to incarceration, out-of-cell opportunities, family visits, and health care appropriate to their needs.*
- 2 The security, programmatic, and medical needs of women in custody are significantly different from those of men. The management and design response should recognize and accommodate these differences.*
- 3 Many incarcerated women have been subjected to abuse resulting in a loss of self esteem. In all matters relating to the search of women, maintenance of personal dignity is paramount.*
- 4 Women should be accommodated in the least restrictive environment that minimizes the risk for flight, self-harm, or harm to others.*
- 5 Women should be afforded the opportunity to make responsible choices regarding their participation in available services and programs and be held accountable for their choices.*

241. The ICPA guiding principles state:

- 1. Successful reintegration of female offenders into the community following release is the responsibility of many stakeholder groups and should be a focus of the admission and release process.*
- 2. Public, staff, and prisoner safety should be assured through a dynamic security approach to management, control, and design. Evidence-supported risk assessment should be used to define security policies and procedures.*
- 3. An objective, analytically based classification approach should be used to assign women to living units and determine the level of control that should be required.*
- 4. A new prison should be purpose-designed, built, and operated to meet the unique needs of women.*
- 5. Women should be assigned to a living unit utilizing an evidence-based classification of security, medical, mental health, and programmatic needs.*
- 6. Sustaining direct and continuous interaction between staff and offenders should dictate the maximum size of living units.*
- 7. Women should only be assigned to punitive segregation as a short-term sanction for unacceptable behavior.*
- 8. Using a dynamic security approach, the design of living units should promote and sustain normalized communication between staff and prisoners.*

9. *Women who exhibit responsible behavior should be afforded opportunities for observed circulation to scheduled activities in shared spaces.*
10. *Women are entitled to an appropriate degree of personal privacy for sleeping, maintenance of personal hygiene, and the safe-keeping of personal items.*
11. *The time allotted for visits should take into account the time required for travel by family members and the frequency of visits.*
12. *Unless evidence-based security intelligence requires otherwise, all visits should be open with the duration consistent with the travel time for visitors.*
13. *Emphasis should be placed on maintaining the maximum appropriate contact between mothers and babies, commensurate with a woman's security risk and institutional behavior.*
14. *A range of medical and mental health services should be available with opportunities for separate accommodation.*
15. *Prisoner dining should be an opportunity for socialization commensurate with the degree of security risk of the population.*
16. *Release or transfer preparation should be an integral part of the admission process.*
17. *The decisions regarding the care and custody of all women should be evidence-based with a priority given to the use of the least restrictive procedures appropriate to the documented security risk.*

242. The Australian Institute of Criminology's *Good practice in women's prisons: A literature review* (AIC Reports Technical and Background Paper 41) puts forward the following key suggestions for good architectural practice³⁹:

- *building cottage-style accommodation that enables women to replicate healthy family and community responsibilities;*
- *incorporating family-friendly design in dedicated 'mother and child' units (MCUs), as well as playgrounds and visitors' centres;*
- *ensuring prison and cell design are responsive to the cultural needs of Indigenous prisoners; there may be a need to adapt prison design for women from other culturally and linguistically diverse backgrounds;*
- *incorporating features known to promote wellness, with particular reference to the use of natural light, fresh air, colour, space, privacy and access to land;*
- *ensuring facilities are adapted/adaptable for women with disabilities; and*
- *promoting environmentally sustainable design.*

The predominant trend in prison design in recent years, especially for women's prisons, is a move away from the traditional institutional design of prisons, towards self-standing 'cottage' style living units (Ombudsman for the Northern Territory 2008). This has been employed in a number of facilities, including the AMC (Australian Capital Territory), Emu Plains Correctional Centre (New South Wales), the Brisbane Women's Correctional Centre and the Mary Hutchinson Women's Prison (MHWP) (Tasmania).

³⁹ Australian Institute of Criminology *Good practice in women's prisons: A literature review* AIC Reports Technical and Background Paper 41 at Executive Summary x and page 13.

243. With regard to the ASWCF accommodation, the *Hamburger Report* stated:

CAALAS has indicated that the accommodation of women within a male correctional centre is problematic, not only because female prisoners are disadvantaged in a correctional facility, but also because male prisoners are disadvantaged when they have to be locked down when female prisoners are moved through parts of the prison, as happens at Alice Springs.

According to CAALAS, with a predominantly Indigenous population, there is potential for cultural sensitivities to arise regarding gender. As they point out, safety concerns can arise if an ex-partner who has perpetrated violence on a woman prisoner is also in custody at Alice Springs. CAALAS have also reported that the names of pregnant female prisoners are on a noticeboard which can be seen by many male prisoners, a practice which violates the privacy of the women, and publicises what can be a sensitive issue in a relationship.

...

Finding

47. That as for DCP, in Alice Springs Correctional Centre it is an unsatisfactory design outcome for a female correctional centre to be located within the perimeter of a male correctional centre.

Recommendations

115. That suitable accommodation is found for female prisoners, separate from a male correctional centre.

244. I support that recommendation. I do not attempt to list or limit the alternative custodial arrangements that might be suitable in the Territory context. I am aware that Corrections already has a number of initiatives either in train or under consideration. Some of these are discussed later in this report.

245. I would, however, suggest that there is substantial merit in considering a decentralised approach, with smaller facilities that are linked to relevant communities. The benefits of locating accommodation near home and country should not be underestimated. I accept that this will not necessarily be suitable for all prisoners or all security levels.

246. Nor do I attempt to make a comprehensive list of the attributes of suitable accommodation for women prisoners beyond saying that accommodation should:

- be completely separate from male centres;
- reflect the levels of security required for female prisoners;
- be conducive to the cultural needs of Indigenous women prisoners;
- generally provide single or double room/cell sleeping arrangements with some flexibility to accommodate larger family or cultural groups;
- provide for suitable internal and external living space in addition to sleeping space.

Indigenous involvement

247. It is vital that consideration of alternatives be carried out in co-operation with a broad range of stakeholders, with a particular emphasis on Indigenous stakeholders who can inform on culturally appropriate alternatives.

248. Indeed, there is much to be said for seeking to include Indigenous stakeholders from the community and within the ASWCF as drivers for change and implementers of effective solutions.

249. The *Tokyo Rules* state (although in the context of non-custodial options):

17.1 Public participation should be encouraged as it is a major resource and one of the most important factors in improving ties between offenders undergoing non-custodial measures and the family and community. It should complement the efforts of the criminal justice administration.

17.2 Public participation should be regarded as an opportunity for members of the community to contribute to the protection of their society.

250. The following comments from the *Hamburger Report* (although not specifically aimed at female prisoners) are also relevant:⁴⁰

Following interviews with external Indigenous stakeholder organisations and individuals, we are of the view that there is strong desire on the part of many Indigenous leaders in the Northern Territory to be part of the solution to the challenges faced by their communities and people. NTDCS' organisation structure and approach should facilitate greater opportunity for these leaders to contribute to policy, programs and services.

...

In responding to the needs of Indigenous offenders it must be recognised that they often come from disadvantaged families and socially dysfunctional communities and will generally return to those families and communities when released from prison. The best efforts of Corrections to provide training and rehabilitative programs for prisoners, and the best efforts of prisoners to address their offending behaviour, can be thwarted when the offender returns home.

We believe that work with offenders must be supported by work with offenders' families and communities to address disadvantage and the causes of offending, and to build social capital to support offenders to make pro-social choices and maintain a crime-free lifestyle.

Working with communities means empowering communities to help themselves. It means bringing everyone to the table – not just the policy makers or service providers but representatives of all sections of the community. It means working within an appreciative framework, recognising that there is something (or many things) that work well in every community, helping the community to identify and build on those strengths. It also means working with the community and providers of services and programs to achieve a joined up approach to service delivery in, and with, the community.

...

⁴⁰ Pages 7 and 10-12.

Establishment of Work Camps by NTDCS has been a positive initiative which has been favourably commented on by stakeholders interviewed during this review. ... The work camp concept has potential to be developed into a cultural healing and rehabilitation model that could be utilised as a diversionary program to reduce reliance on secure custody and provide a vehicle for Indigenous people to provide rehabilitation services.

However, the foregoing cannot be achieved through the current structures of the criminal justice and human service delivery systems. It requires a new way that is Indigenous owned and led that empowers and rewards them to provide the above culturally appropriate responses and services to their people. ...

CHAPTER 8: SPECIFIC ISSUES

251. In Volume 2 of this Report, I will discuss issues raised by prisoners and stakeholders in detail. I identify relevant components of international and national standards and consider past investigative reports and relevant literature. Information obtained from Corrections about the specific issues is then recorded, followed by my comments and suggested actions.
252. In the present chapter, I provide a synopsis of Volume 2 for the convenience of readers. It summarises the issues raised, challenges facing Corrections and steps needed to address them.

Overcrowding: Present and Projected

253. There is no doubt that the ASWCF is experiencing chronic overcrowding. The fact that it does so within the confines of the existing, already crowded male prison only exacerbates the problems this creates.
254. The substantially higher prison population puts pressure on every aspect of prison operations. Prison administrators have added additional beds and structures over time to cope with increasing demand but the point was rapidly reached when these 'temporary' solutions so far outweighed the design capacity of the prison that they place too much strain on the prison system for it to operate effectively.
255. The above comments should not be taken as a criticism of those prison administrators and officers who are doing their best to deal with an emerging situation. It is more a recognition that 'band-aid' solutions can only work for so long.
256. And there is little doubt that the growth in the female prisoner population will continue. Nor is there any realistic prospect that the problem can be addressed within existing ASWCF or ASCC structures. The situation requires a change in strategic approach within the correctional environment and the criminal justice system generally.
257. In the face of these challenges, there is a need for the NT Government and Corrections to look beyond traditional approaches and fundamentally rethink the way they do business in relation to female offenders. They need to completely reconsider existing approaches to crime and punishment, and to redesign the system and facilities in order to meet the stated strategic goals of the correctional system.
258. This is not a time for incremental change to tweak the system. There must be a mix of short term action and comprehensive planning to address the issues raised by current overcrowding and expected future growth in the number of female prisoners.
259. In the meantime, Corrections must do what it can to ameliorate the overcrowding and its many negative impacts.

Housing and facility issues

260. A number of specific housing and facility issues arise from the overcrowding and the inclusion of the female sector within the male prison.
261. For example, pressure has been put on toilet and shower facilities, causing access issues for women and maintenance problems through additional wear and tear.

262. New structures have been put into the existing area, not only taking up formerly open space but adding additional prisoners to the mix. Existing areas which were designed for other purposes or fewer people have been utilised to provide additional beds.
263. This limits the availability of those other facilities, for example, the general purpose/library/education room is now a sleeping area. It also means that the added sleeping and living areas are not necessarily fit for purpose, for example, the South Overflow has laundry facilities in the sleeping area.
264. One way of limiting the potential for tension and conflict created by enclosing so many people in a small space is providing areas where they can get away from one another. With so many people, internal spaces are very cramped, so prisoners have little choice but to move outside to find some space. However, the climate in Alice Springs is harsh for large parts of the year and some form of protection from the elements is often required. Yet there is very limited undercover seating that might make moving outside a comfortable option.
265. The limited facilities within H Block also mean that female prisoners presently have to move to different parts of the male prison for various reasons. Some sporting activities are carried out on an oval that is adjacent to men's blocks and on the one day each week that women can visit the education block they must travel to Q Block in the men's area.
266. Each time they venture beyond H Block, the female prisoners must be escorted, taking up the time of prison officers. And each time there is potential for contact with male prisoners which may be unwelcome and distressing. In an environment where a female prisoner may have been subject to abuse by a male partner or another offender who is in the men's prison, this may be even more disturbing.
267. One example which is particularly concerning is the practice of transferring and holding 'At Risk' female prisoners in G Block, in the maximum security section of the men's prison. In this case, the potential for contact with male prisoners remains a worrying prospect but is compounded by the isolation of a female prisoner with potential mental health issues being kept quite separately from other female prisoners who might be able to offer some support.

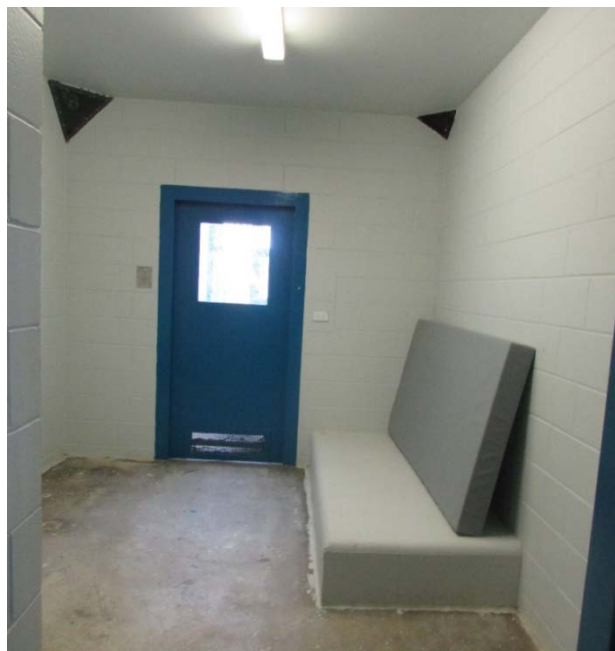


Image: G Block cell

268. Again, staff of Corrections endeavour to do what they can within the existing structure but the available facilities create many issues.
269. Corrections has attempted to pursue a number of positive initiatives with regard to facilities. One involves the establishment of women's cottages in a separate area of the prison. Another is the creation of an Indigenous Cultural Precinct that could be utilised by both male and female prisoners.
270. However, both initiatives, each of which requires relatively modest resourcing commitments, appear to have stalled in the face of growing male prisoner numbers and priorities turning elsewhere. Given the plight of female prisoners in the ASWCF, this failure to launch is extremely disappointing.

Programs – Education and Rehabilitation

271. There are a number of educational and rehabilitation programs in place which can be utilised by women. However, given the importance of rehabilitation and education discussed previously, they are too few in number and do not cover a wide enough range of topics. Many programs have ceased or been transferred to Darwin in recent times.
272. Program accessibility can be of particular importance when program completion is a precursor to grant of parole. As I noted in my submission to the Hamburger inquiry:
- ... one area of concern expressed from time to time is delay in prisoner access to programs that are required to be completed prior to a Parole Board considering eligibility for Parole. It is a matter of great concern if a person's liberty is denied solely because resources are unavailable to provide to them a program they are ready, willing and suited to undertake. Further, continued incarceration of a person merely due to administrative delays or limited availability of programs will inevitably be counterproductive to rehabilitation and reintegration.*
273. Many prisoners said they are unaware or uncertain of program options and of how to secure a place on programs that are available.
274. The facilities currently available to support programs are minimal. Women have access to the education block (in a male part of the prison) on one day per week. There is limited space to study or reflect on learnings in H Block. There are no computer facilities.
275. There is a need for a tailored approach to the design and delivery of programs for women. There should be programs addressed to specific rehabilitative needs and to coping with daily life on release from prison. There must also be a meaningful range of vocational programs, with a focus on achieving accreditation wherever possible. There should also be provision for post-release programs to support prisoners moving back into the community.
276. The availability and requirements for programs should be widely and regularly discussed with prisoners in a variety of formats to ensure that they understand what is available and how to take it up.
277. Corrections and prison staff must do everything they can to encourage prisoners to undertake programs and assist prisoners to successfully complete them.

278. It is important that programs are well designed and adequately resourced. However, they must be supported over time to ensure that they have an opportunity to develop and be fine-tuned to meet the needs of prisoners.

279. Corrections has drawn attention to three existing or potential rehabilitation/reintegration programs which it considers have substantial merit. They are:

- **Women of Worth.** This program provides 6 months pre and 12 months post release support to women offenders. The aim is to support women to re-engage with the community and to reduce reoffending. Training sessions encompass a broad range of social skills, personal development, parenting skills and life skills.

Women of Worth is delivered by YWCA Darwin and funded by the Tim Fairfax Family Foundation until 30 June 2017. It is currently only available in Darwin.

- **Intensive Learning Centres.** Small scale centres in a number of communities would act as a diversion to custody or alternative option for incarcerated females to provide employment and training opportunities that foster holistic wellbeing, education and life skills in woman as the matriarch of the family, particularly in Indigenous culture where they are the primary caregiver and gatekeeper for traditional ways, health care, nutrition, growth and development, education and learning and financial management.

Centres would provide a structured day with the key focus being an all-inclusive program of personal growth and development encompassing a broad range of activities that target both practical and employability skills as well as nurture the wellbeing needs of women as individuals and caregivers. Accredited VET training outcomes alongside a spiritual and emotional growth journey would provide an opportunity for women to return to community with a healed sense of self, personal fulfilment and skills to gain employment.

Participants would develop a clear pathway through which they can gain access to employment or further education opportunities through established partnerships such as Batchelor Institute and other external support providers.

- **Transitional accommodation.** A Transitional Housing Project would be a multi-partisan initiative with the aim of providing short term accommodation options as a means of reducing the numbers of offenders remanded into custody and to facilitate post-release accommodation, parole and other release options, particularly for offenders engaged in employment.

There is a shortage of transitional accommodation for former prisoners in the major centres of the NT. As in other jurisdictions, the shortage of stable post-release transitional accommodation is one of the biggest barriers to successful reintegration. While there are isolated examples where the Department of Housing is working with Throughcare⁴¹ providers to provide supported transitional housing in Alice Springs, demand for services across the NT remains overwhelming. Remand prisoners rarely have access to Throughcare services as most Throughcare providers are primarily resourced to service sentenced prisoners.

280. More detail on the above programs is set out in Appendix A to this Volume. A commitment by the NT Government to programs of this nature in Alice Springs would be welcome.

⁴¹ The North Australian Aboriginal Justice Agency website defines Throughcare as the coordinated provision of support to a person, beginning when they first go into prison and continuing until they are living a safe, fulfilling and trouble free life back out in the community.

281. Whatever programs are put into place, monitoring and evaluation is essential. Progress must be tracked but evaluation must be undertaken over a realistic timeframe. There are few programs that represent a magic bullet. They must be given the chance to mature and produce longer term results. This will mean long term commitment to initiatives, often with the potential for interim evaluation but, in the absence of major concerns, sustained for extended periods.
282. Prisoners undertaking programs must be given adequate support in terms of access to facilities and quiet spaces to study and reflect. The advantages of online and external study options should be fully explored.
283. Essentially, it is important for Corrections to develop an overarching strategy to guide the development and implementation of programs in consultation with prisoners and stakeholders.

Employment opportunities

284. Employment opportunities for women in ASCC are currently much more limited than for males. On the face of it, a majority of women are employed but in reality they are engaged in menial duties which provide no scope for personal development. For example, 22 of 51 women identified as working were engaged in breakfast packing - placing breakfast items into plastic bags. No women were engaged in ASCC Business Units and only five had external employment.
285. There is no issue with women being required to contribute to the running of the prison by performing everyday tasks that need to be done. However, it is not appropriate for these tasks to form the sole basis of a woman's employment. There should be a mix of everyday tasks and substantive employment opportunities.
286. There should be a range of both internal and external employment opportunities open to women which is comparable (but not necessarily identical) in nature and scope to men.
287. As far as possible, they should provide meaningful employment which can lead to some form of accredited qualification and some prospect of employment on release from prison.
288. Employment opportunities should be actively promoted by prison staff in a variety of ways that will maintain awareness and interest on the part of female prisoners.
289. There needs to be a comprehensive review of the internal and external opportunities available for women undertaken in consultation with prisoners and stakeholders.

Health care

290. Health care issues within the prison are predominantly addressed by the Health and Community Services Complaints Commission (HCSCC).
291. However, this Office maintains involvement in this area because Corrections ultimately has responsibility for prisoner welfare and aspects such as arranging for care and implementation of health advice and directions fall to Corrections staff.
292. Prison provides a golden opportunity for authorities to identify and address health issues that may increase the likelihood of re-offending and lead to substantial complications in the future. For example, many prisoners may have issues relating to mental health, cognitive disability, hearing loss or substance misuse.

293. Figures provided by Corrections do not show detection of rates of these conditions anywhere near approaching those identified in other jurisdictions. It is difficult to conceive that rates in the NT would be significantly lower. This suggests that substantially more work needs to be done in identifying and dealing with issues of this nature.
294. Putting additional resources and effort into health promotion, identifying health issues and treatment has the potential to not only increase the longer term prospects for recovery and rehabilitation of prisoners but also to assist Corrections in managing prisoners and better inform other justice authorities about particular circumstances that may impact on how they deal with individual offenders.
295. More generally, given the limited English literacy skills of many of the women, over-reliance by Corrections on written requests and completion of forms to seek medical assistance may well disadvantage them. It is important for prison staff to adopt a flexible and accommodating approach to women raising health problems.
296. Further, if due to security or operational reasons, there is some potential for Corrections staff not to comply with the terms of a medical chit, it is essential that prison staff consult health authorities to devise a solution that will meet the health needs of the prisoner.
297. This is an area which would benefit from closer consideration and consultation with service providers, the HCSCC, prisoners and stakeholders.

The basics

298. Prisoners also raised a range of issues relating to basic matters such as clothing, hygiene, food and recreational activities.
299. With regard to clothing, Corrections should liaise with the female prisoners and replace clothing which is in poor condition, including clothes that are worn out, ripped, have holes or are not fitting properly.
300. Corrections should review its current procedure in relation to issuing sanitary items to female prisoners by a male prison officer and implement a procedure that will allow women prisoners to obtain sanitary items from female prison officers only or consider installing a sanitary vending machine at one or more locations within the female sector.
301. With regard to food, I note the immense challenges that Corrections faces in providing a reasonable range of healthy food for the prisoner population. I suggest that Corrections consult with female prisoners in relation to food issues with a view to identifying simple and affordable measures that might better meet their needs. These might include, a slightly more varied menu rotation, including a different meal from time to time suggested by a prisoner or to mark a special occasion, and allowing women to prepare meals occasionally.
302. I also stress the need for Corrections to continue to provide suitable options to meet the medical and religious requirements of particular prisoners.
303. In relation to recreational activities and facilities, there is no doubt that the options open to female prisoners are very constrained. They appear to be considerably more limited than for male prisoners in terms of choice and frequency. This is, at least in part, a product of the confinement of the ASWCF in a small area within the male prison.

304. Recreational opportunities are essential from the perspective of maintaining a healthy environment in the prison and facilitating the personal development of prisoners.
305. Female prisoners should have the opportunity to choose from a broad range of organised and self-managed recreational activities. Corrections should ensure that all prisoners have a reasonable chance to participate in any given activity. This should extend to fully informing prisoners about available options and supervising activities to ensure equal chance at participation.
306. A substantial review of recreational opportunities is warranted. This should be done in close consultation with women prisoners and stakeholders to ensure that activities and facilities are relevant and likely to be used.

Underlying supports

307. There are a range of underlying supports that can assist a prisoner to constructively navigate the prison environment. These are important in building a base from which the prisoner can move toward rehabilitation and reintegration.

Induction

308. One of these is a comprehensive induction process. If a prisoner is to comply with prison systems and take advantage of opportunities within prison, it is essential that they are aware of the rules and procedures they need to follow.
309. ASCC has recently developed a *Female Induction Handbook* that helps prisoners to understand the processes and procedures they face. An Induction process is also undertaken for each new prisoner. These are both positive steps.
310. However, the *Female Induction Handbook* is currently only produced in English. This is the same for the *Legal Handbook* produced by NT Legal Aid.
311. It is acknowledged that there are major challenges in translating literature into Indigenous languages because of the variety of languages spoken by prisoners. However, prisoners who have limited grasp of English will be disadvantaged unless this can be done. Relying on other prisoners to inform and interpret is far from ideal.
312. Both Handbooks would be of greater value for prisoners if updated and translated into Indigenous languages. Alternatively, audio versions, summary documents and graphic means of informing prisoners could also be explored.

Culture and religion

313. Prisoners can significantly advance towards rehabilitation and reintegration through maintenance of a clear moral and ethical framework. The basis for such a framework is often provided by cultural and religious supports.
314. The ASWCF currently presents only limited facilities and opportunities to further cultural or religious practices. There is a Chaplain and an Elders Visiting Program. There is also the prospect of an Indigenous Cultural Precinct but this appears to have stalled.
315. There would be substantial merit in expanding Indigenous cultural programs in consultation with elders and prisoners.

Legal assistance

316. With regard to legal assistance, it appears that the practice of lawyers meeting with female clients in their accommodation area is not uncommon. This is problematic for female prisoners. It raises privacy and confidentiality issues. It often does not provide the best setting due to cramped spaces, limited lighting, and no table and chairs to sit on. It inconveniences other female prisoners who are forced to move from their living area.
317. While the limits of the existing facilities mean making alternative arrangements may prove difficult, it is important for Corrections to make every effort to explore and implement another strategy that provides suitable facilities and does not compromise the confidentiality of legal communications.

Complaints

318. The majority of women say they have limited knowledge of internal or external complaint processes and limited confidence that complaining will result in any outcome other than reprisal.
319. It is vital that prisoners have a range of avenues for raising a complaint, that they are aware of and understand the various complaint channels, and that they feel comfortable and safe making a complaint.
320. Corrections needs to reconsider its complaint management processes in line with relevant standards and in consultation with prisoners, stakeholders and relevant complaint bodies.
321. In doing so, it should bear in mind that the potential complainant group is drawn from an Indigenous population many of whom have limited language and literacy in English, low levels of education, distinct cultural backgrounds, histories of being subject to violence and a general distrust of authority.
322. It will be essential to focus not only on developing policy but also communicating it effectively to prisoners. It will also be important to communicate to staff to make their role and responsibilities in facilitating complaints clear.

Interpreters

323. The ASCC's policy in relation to interpreters puts an onus on the prisoner to advise correctional staff if they need an interpreter. The lack of knowledge of their rights and an unwillingness to accept help (for whatever reason) by an Indigenous person will hinder access to interpreters.
324. Figures provided by Corrections suggest that the utilisation rate of interpreters is minimal.
325. It is not uncommon for people dealing with non-English-speakers to overestimate their capacity to understand English language and more complex concepts based on the person's efforts to give answers which they perceive the speaker is looking for, rather than a true appreciation of what the speaker is talking about. Simply assuming a prisoner understands a communication because they nod or agree is not sustainable.
326. Effective communication between prison staff and prisoners is essential to understanding prison regime, protocol, decisions and so on.

327. Prison life is so strictly controlled that direction is a daily incident of life. Failure to understand and comply with even a simple instruction or direction can have serious adverse consequences. Reliance on other prisoners to communicate information in language is problematic. There can be no guarantee that information will be translated accurately or without added commentary.
328. To ensure effective communication of information, Corrections needs to take a more proactive approach to identifying the need for interpreter services and not solely rely on the prisoner to make a request. For any communication of significance, it needs to adopt a precautionary principle: when in doubt, get an interpreter.
329. Corrections should review its policies to ensure that staff are made aware of the importance of securing interpreter assistance where there is any doubt about the language abilities of a prisoner. One way of facilitating this would be to arrange for the Aboriginal Interpreter Service to provide information sessions to Corrections staff. Corrections should also regularly provide written and oral information to prisoners on availability of interpreters in a range of languages.

Children in prison

330. Housing children in prison with their mothers is one of the most problematic aspects of current arrangements at ASWCF. While the chance to support a new mother and child will come as a welcome distraction for almost all female prisoners, there is an inherent risk in keeping a child in a situation where a large number of prisoners, some with mental health or behavioural issues, are confined in a small area without close supervision.
331. Yet NT legislation provides for such arrangements and international and national standards make it clear that the primary consideration must be what is in the best interests of the child. There will be a strong presumption that the interests of an infant, particularly one who is breastfeeding, will be best served by being with his or her mother. Living with the mother will remain important but perhaps not as compelling as the child gets older, depending on the particular circumstances.
332. Current arrangements for mothers with infants at ASWCF raise real concerns about risks to the infant. However, it is incumbent on Corrections to maintain accommodation, facilities, practices and procedures that appropriately and safely support children residing with their mother in prison.
333. Corrections needs to urgently consider alternative arrangements that will provide a safe environment for mother and baby. This may well involve holding the mother in another area or at another site but should not result in isolation of the mother from contact, support or services.
334. Once alternative arrangements are settled, it will then be a matter for consideration of the particular circumstances of the mother and child to assess whether housing the child with the mother should be approved. This should include careful assessment of the mother and other prisoners who may come into contact with the child.
335. When such an arrangement is put in place, it is important for Corrections to ensure that mother and child have ready access to appropriate food, medical and ancillary health assistance and other basic needs.
336. While catering for such a situation may not appear to some to fall squarely within the routine administration of a prison, it is important to recognise that it is undertaken with the best interests of the child in mind and is a necessary part of a multi-faceted approach to rehabilitation and reintegration.

APPENDIX A – Corrections programs

Women of Worth Program

BACKGROUND

The Women of Worth is a program that provides 6 months pre and 12 months post release support to women offenders. The aim of this voluntary program is to support women to reengage with the community and to reduce reoffending. Women of Worth is delivered by YWCA Darwin and funded by the Tim Fairfax Family Foundation until 30 June 2017.

The program focuses on providing women with:

- strength-based case management support;
- learning opportunities to raise awareness and promote change; and
- assistance to develop skills and capacity to increase resilience and reduce reoffending.

Since commencement in September 2015, the Women of Worth program has supported 71 clients and received 148 referrals. Women of Worth program staff provided 535 case management sessions resulting in 442.34 hours of face to face case management, contacted clients via phone and email on further 433 occasions and spent 220.67 hours providing advocacy and referrals for clients on a total of 599 occasions.

Between July and December 2016 Women of Worth staff delivered 116 group sessions covering the following topics:

- Cooking on a budget
- Anger Management
- Domestic Violence
- Accredited First Aid Training
- Dealing with Depression and Anxiety
- Tuning in to Teens™ Parenting Program
- Self-Care
- Strong Mental Health
- Cultural Differences
- Volatile Substance Abuse
- Self-Esteem
- Healthy Nutrition

CURRENT SITUATION

The Women of Worth program provides pre and post release case management support to women incarcerated at Darwin Correctional Centre (DCC), released prisoners and women supervised by Community Corrections. Funding to be identified to continue the program and to extend it into the Alice Springs Correctional Centre.

Period of incarceration

Women who are on remand or sentenced and released within six months of engagement with the program, receive pre-release support from Women of Worth program staff members. During fortnightly meetings, each client receives individual case management support to plan for the upcoming release and reduce risks of reoffending.

Staff members further provide a range of psycho-social education and accredited training programs to women incarcerated at DCC. The learning period for each day is divided into four parts: Yarning (group), Education (group), Creative (group) and Case Management (individual). An example is:

0900 -0915 am	Yarning
0915 - 1000 am	Education program as per program schedule
1000 - 1010 am	Break
1010 - 1100 am	Resume education program
1100 - 1200 pm	Art and Craft Session
1200 - 1300 pm	Lunch break
1300 - 1430 pm	Individual Case Management

The yarning and creative sessions have been included to give clients opportunities to debrief and address any arising issues. Participating in psycho-social group learning programs can be challenging, creative activities after education sessions improve client's self-regulation strategies and allow the processing of traumatic experiences in a safe way.

Below is detailed information on training sessions that are delivered in the Darwin Correctional Centre. These training sessions are delivered over a six month period on two days per week to Women of Worth program participants and can be run as needed to outreach clients.

Social Skills

Unit	Aim
Assertive Communication	To improve assertive communication skills, allowing participants to better communicate their perspective and needs whilst respecting the thoughts and needs of others.
Conflict Resolution	To increase participant's ability to deal with conflict and to navigate difficult interpersonal situations with skill.
Relationships	To increase awareness of the difference between healthy and unhealthy relationships, to learn skills to deal with difficult relationships, thus fostering protective factors in participants.
Anger Management	To help participants gain a greater understanding of their triggers and warning signs and give them tools to respond constructively when feelings of anger arise.

Personal Development

Unit	Aim
Self-Care	To provide participants with information about improving self-care, changing thinking patterns and building resilience in the face of adversity.
Stress Management	To help participants recognise stress and learn techniques to manage stress before it becomes toxic.
Anxiety and Depression	To increase the participant's knowledge and skills to cope with anxiety and depression.
Strong Mental Health	To increase awareness of mental health issues as well as allow participants ways to reflect on measures they can take to care for their mental health.
Self- esteem	To help participants reflect on self-esteem and negative thought patterns and to challenge these in order to build and develop healthy self-esteem.

Parenting Skills

Unit	Aim
1-2-3 Magic® Parenting Course	To give participants knowledge and techniques on how to discipline children without arguing, yelling or smacking.
(a) Tuning in to Teens™	To help parents teach and support their teenager to understand and express emotions in appropriate ways and to foster in adolescents both an awareness of and knowledge about emotions and a capacity for controlling and expressing or magnifying them.
11. (b) Tuning in to Kids™	To help parents teach their children how to understand and regulate their emotions and thus develop emotional intelligence.

Life Skills

Unit	Aim
Domestic and Family Violence	To provide the participants with information about Family and Domestic Violence, where to seek help or how to support people experiencing DV.
Alcohol and Other Drugs Awareness	To teach participants about the effects of Alcohol and Other Drug use, to reflect on when use becomes harmful and to minimise associated harms, using brief interventions and motivational interviewing techniques.
Employment Skills	To explore individual preferences for the purpose of career planning. The program will provide strategies to improve employability and to increase confidence for participants entering the workforce.
Shark Cage® Domestic Violence Training	To provide the participants with information about Domestic Violence and to reduce re-victimisation in abused women through learning to recognise boundary violations.
Healthy Nutrition	To educate the participants about healthy and unhealthy eating and to provide participants with practical skills to cook healthy meals on a small budget.
Money Management	To help participants reflect on ways they can budget to stretch funds and ensure basic needs are being met.
External Organisation (Accredited training)	To enlist the expertise of other psychosocial educators in the social sector (First Aid training).

Community Corrections and post-release clients

Upon release, women receive six to twelve months post-release case management support to assist with their reintegration back into the wider community:

- Reconnection with children, family and community
- Advocacy and referrals to a variety of service providers
- Crisis accommodation and long-term housing support
- Domestic and Family Violence support and referral
- Education, training and employment pathways
- Provision of client brokerage and exit packs
- Mental and physical health support
- Transport.

Intensive Learning Centre - Female

OBJECTIVE

To establish intensive learning centres as a diversion to custody or alternative option for incarcerated females to provide employment and training opportunities that foster holistic wellbeing, education and life skills in woman as the matriarch of the family, particularly in Indigenous culture where they are the primary caregiver and gatekeeper for traditional ways, health care, nutrition, growth and development, education and learning and financial management.

BACKGROUND

The program would target a cohort of twenty females at a number of locations including, Katherine, Adelaide River and Alice Springs with two cohorts transitioning through each location annually. Each program would be approximately twenty six weeks in length and provide strong culturally appropriate engagement for participants.

The intensive learning centres would provide a structured day with the key focus being an all-inclusive program of personal growth and development encompassing a broad range of activities that target both practical and employability skills as well as nurture the wellbeing needs of women as individuals and caregivers. Accredited VET training outcomes alongside a spiritual and emotional growth journey would provide an opportunity for women to return to community with a healed sense of self, personal fulfilment and skills to gain employment.

Participants would develop a clear pathway through which they can gain access to employment or further education opportunities through established partnerships such as Batchelor Institute and other external support providers.

CURRENT SITUATION

By incorporating trauma support services for those women who are victims of domestic violence, participation will address one of the five key areas for change within the Domestic and family violence reduction strategy through assisting to rebuild the lives of victims and survivors.

Has the proposal been tested with the sector? If yes, what is the sector's view?

Research suggests community prisons for women work better and this in turn has a positive flow on affect with associated young people.

Are there any features of the proposal which would make it attractive to the Commonwealth to jointly fund (e.g. is there a capital component, does it advance or complement Commonwealth reform priorities?)

Female imprisonment is on the rise particularly where violent offending is concerned and ten percent of the total population incarcerated in the NT are female. This proposal will provide rigorous rehabilitation opportunities to female prisoners who have more limited access to programmes in prison than male prisoners.

How will the proposal be co-designed and / or delivered with the Indigenous community and NGO sector?

Consultation from a variety of community groups and stakeholders will take place to progress strong culturally based and best practice methods of delivery and engagement with;

- Elders Visiting Program
- Parenting Programs
- Overcoming trauma
- Kunga Stopping Violence Program

Intensive literacy and numeracy programs to support the development of literacy and numeracy skills as females generally require higher levels of education as they are less likely than males to seek trade based employment opportunities.

Further VET opportunities as provided by Registered Training Organisations to provide nationally recognised training that supports small business and administration employment opportunities;

- CAT
 - Certificate I in Information, Digital Media and Technology
 - Certificate II in Information, Digital Media and Technology
- BIITE
 - Certificate II in Family Wellbeing
 - Certificate II in Visual Arts
 - Certificate II in Kitchen Operations/Hospitality
- Karen Sheldon - Short Hospitality Courses
- Mentoring Courses
- Non accredited training in the areas of healthy living skills, basic health care and hygiene, financial management skills
- Re-connection with children – Reading Together Program, vocational training possibilities to support parents within classrooms such as Education Support and engagement with community schools to explore volunteer opportunities.
- Italk – a initiative supporting the use of technology to develop animated stories using digital media

Has the program/service/initiative been evaluated previously or successfully implemented in communities? If so, what are the outcomes achieved and/or gaps and deficiencies?

No. The gap of service provision for females is detailed in the recommendations from the Prison to Work Report. Action identified for states and territories to tailor programs for Aboriginal and Torres Strait Islander women.

What other Government resources is currently being committed to this, or related initiatives?

ABSTUDY Lawful Custody Allowance

Prisons to Work reform

Are there any practical or legal elements that would need to be considered?

Through general leave permits, NTCS has the ability to direct prisoners to employment or work camps outside of prison.

Additionally, discussions have recently commenced with the NT judiciary in relation to sentencing options to allow for diversion from custody.

How does the proposal advance or complement Northern Territory Indigenous or other reform priorities?

The proposal will contribute to the advancement of literacy and numeracy skills for adults in line with National Foundation Skills Strategy for Adults 2012 focusing on targeting skill building to a Level 3 or above.

The program will assist the Northern Territory Government's Domestic and Family Violence Reduction Strategy 2014-17 as a way of supporting women who have experienced domestic violence or other related trauma.

The Northern Territory has a strong commitment to reducing incarceration rates for Indigenous people and this proposal provides a strong foundation to reduce incarceration and recidivism rates for women in particular.

Expected commencement (if known):

NTCS is currently exploring funding options to initiate the establishment of the service delivery.

Transitional Accommodation

OBJECTIVE

To establish a Transitional Housing Project as a multi-partisan initiative between Northern Territory Correctional Services, NT Housing and Community Development, NTCOSS and APONT with the aim of providing short term accommodation options as a means of reducing the numbers of offenders remanded into custody and to facilitate post-release accommodation parole and other release options, particularly for offenders engaged in employment.

BACKGROUND

In December 2016 COAG released the *'Prison to Work'* report, which recognises the alarming rates of Indigenous incarceration and recidivism. Leaders indicated a shared commitment to better coordinating government services, especially in-prison training and rehabilitation programs, employment and health and income support services. The report will inform consultations with Indigenous and other stakeholders as governments develop action plans to implement these important reforms. Leaders agreed to provide progress updates at the next COAG meeting (April 2017).⁴²

There is a shortage of transitional accommodation for former prisoners in the major centres of the Northern Territory. As in other jurisdictions, the shortage of stable post-release transitional accommodation is one of the biggest barriers to successful reintegration. While there are isolated examples where the Department of Housing is working with Throughcare providers to provide supported transitional housing in Alice Springs, demand for services across the Northern Territory remains overwhelming. Remand prisoners rarely have access to Throughcare services as most Throughcare providers are primarily resourced to service sentenced prisoners⁴³.

RECENT DEVELOPMENT

In May 2016, the Commonwealth provided the Northern Territory Government with \$10 million in funding to provide transitional accommodation for prisoners leaving custody and who have a job.⁴⁴ Following officer level discussions between NT Correctional Services, Territory Families and NT Housing and Community Development, agreement in principle has been reached to utilise this Commonwealth funding to recommission NT Housing and Community Development properties in a number of major centres around the Northern Territory that have been deemed beyond economic repair (BER).

On 24 February 2017 officers from NT Correctional Services, Territory Families and NT Housing and Community Development met with representatives of North Australian Aboriginal Justice Agency (NAAJA) Through-care, Aboriginal Peak Organisations Northern Territory (APONT) and NT Council of Social Services (NTCOSS) where it was agreed to enter into a joint strategic initiative to establish:

⁴² Australian Government, COAG Communique, December 2016, <http://www.coag.gov.au/meeting-outcomes/coag-meeting-communiqu%C3%A9-9-december-2016>

⁴³ Australian Government, 'Prison to Work Report', ISBN 978-1-925362-05-3 Prison to Work Report (PDF) Commonwealth of Australia 2016, p.126; ; <http://www.coag.gov.au/sites/default/files/reports/prison-to-work-report.pdf>

⁴⁴ Australian Government, 'Prison to Work Report', ISBN 978-1-925362-05-3 Prison to Work Report (PDF) Commonwealth of Australia 2016, p.125; <http://www.coag.gov.au/sites/default/files/reports/prison-to-work-report.pdf>

- Transitional accommodation through the refurbishment of NT Housing and Community Development properties utilising prisoners and offenders where possible (to enable the development of real job skills and participation in on the job training); and
- Support services for adult and youth offenders housed in these transitional accommodation.

BUSINESS NEED

The establishment of a Transitional Accommodation Project will progress and sustain the Corrections reform agenda and the intended outcomes of the NT Correctional Services 'Purpose and Direction Strategy'. The Project will fall within the oversight of the Continuous Improvement Program.

The Transitional Accommodation Project is aligned to Purpose and Direction 'Strategic Priorities' and the intended outcomes of the 'Corrections Reinvestment', 'Reoffending Reduction' and 'Community Engagement' strategies.

The Transitional Accommodation Project provides a vehicle to re-focus the activities of Correctional Industries to further enhance rehabilitative outcomes.

SCOPE

This project covers the establishment and operation of a Transitional Accommodation initiative including:

- The formation of a Governance Group and associated process and reporting arrangements;
- The conduct of an appreciation of external and internal environments, including the authorising environment, organisational capabilities and community expectations;
- The development of a joint Transitional Accommodation Strategy, agreed by the Governance Group;
- The development of the program policy, governance and establishment documents;
- The establishment of the Transitional Accommodation Project Group, including:
 - Structure
 - Work program and deliverables
 - Performance indicators;
- The formulation of action plans for geographic areas of operations;
- The development of reporting and performance monitoring mechanism; and
- The development of Communications Plan.

APPENDIX B – Corrections response to Ombudsman recommendations

Rec no.	Recommendation	Comment	Status
1	<p>The NT Government adopt a whole-of-government approach to reduce offending and recidivism and to promote rehabilitation of offenders, to include:</p> <ul style="list-style-type: none"> a. a common intent and set of shared objectives to reduce offending and recidivism; b. appropriate governance arrangements, both at ministerial and departmental levels; c. creation and publication of targets and performance measures common across justice, education, health and human service system agencies; and d. improved collection, sharing and use of data across agencies to drive evidence based reforms and improved service delivery. 	<p>Whole of Government Justice Reform Framework is currently being development with the aim to launch in October 2017 (AGD Priority Projects Summary Plan).</p> <p>The framework will consider the inclusion of recommendations 1 a, b, c and d.</p>	<p>Information to be provided to AGD to ensure the recommendation is included.</p> <p>Reporting of this recommendation to be provided by AGD as the lead agency.</p> <p>Further consultation required and led by the proposed NTCS Reform Advisory Group.</p>
2	<p>Using justice reinvestment methodology, the NT Government pilot and evaluate local approaches to crime prevention and community safety in disadvantaged communities with the aim of reducing reoffending and increasing community safety.</p>	<p>A commitment has been made into increasing police staffing, increasing youth diversion staffing, increasing funding for intervention services and changes in legislation for monitoring devices. Where other methods are suggested this will require further discussions with executives within NT Government.</p>	<p>Reporting of this recommendation to be provided by AGD as the lead agency.</p> <p>Further consultation required and led by the proposed NTCS Reform Advisory Group.</p>

Rec no.	Recommendation	Comment	Status
3	The NT Government, the Department and Corrections acknowledge and publicly promote rehabilitation and reintegration as the primary focus of the correctional system, in the best interests of the whole community in minimising future offending.	<p>NTCS focus is primarily rehabilitation and reintegration with most public promotional material and service delivery core messages based on addressing criminogenic needs that lead to offending and reducing re-offending. Where further focus is required, this may be explored in the ThroughCare approach and community-based opportunities.</p> <p>NTCS will report progress on the Strategy to the Ombudsman that details priority actions, key deliverables and measures for promoting rehabilitation and reintegration.</p> <p>Through the proposed NTCS Reform Advisory Group, NTCS will influence a whole of Government approach.</p>	<p>NTCS will report to the Ombudsman on its direct rehabilitation and reintegration promotions.</p> <p>The proposed NTCS Reform Advisory Group will lead the approach to NT Government.</p>
4	The NT Government, the Department and Corrections acknowledge the importance of differentiating between the needs and characteristics of female prisoners compared with male prisoners in facility, policy and program development, as well as the importance of addressing the needs and characteristics of individual prisoners.	NTCS will consult with key stakeholders that include NT Female Offenders Working Group, Indigenous Elders and the NTCS Indigenous Strategy and Coordination Unit to address the indifferences and needs and develop a plan to incorporate the findings.	<p>NTCS will report to the Ombudsman.</p> <p>The proposed NTCS Reform Advisory Group will lead the approach to NT Government.</p>
5	The NT Government and the Department place strategic emphasis on further development of non-custodial options for dealing with female offenders by way of diversion and other programs both prior to entry into the justice system and by providing viable, well-resourced and timely program options for consideration by courts when dealing with offenders.	<p>To ensure a strategic emphasis is focused on non-custodial options the Report may require legislative changes or a reform of justice systems this will need to be consulted on with AGD to include the recommendations in planning.</p> <p>The proposed NTCS Reform Advisory Group will lead the approach to NT Government for further consultation and to provide a copy of the draft Report to relevant executive leaders within other agencies.</p>	The proposed NTCS Reform Advisory Group will lead the approach to NT Government.

Rec no.	Recommendation	Comment	Status
6	<p>The NT Government, the Department and Corrections fundamentally reconsider the approach to custody of female prisoners, with an emphasis on decentralisation, community and family support, ensuring that security matches the actual risk they present and providing an environment that facilitates rehabilitation and reintegration, including viable, well-resourced and timely accommodation and program options.</p>	<p>Further investigation and consultation will need to be considered for decentralisation options. NTCS will review security rating and community and family support for women prisoners and review programs specifically targeted for women prisoners this may include extending the YWCA Women of Worth program currently operating at Darwin Correctional Centre to Alice Springs Correctional Centre.</p>	<p>Consultation required for decentralisation emphasis. Security rating and community and family support for women will be included in a plan to the Ombudsman.</p>
7	<p>Corrections develop, in consultation with the Ombudsman, a detailed plan to pursue and address all of the issues raised in Chapter 8 and Volume 2 of this report. The plan should set out an initial response to each issue, a description of proposed actions to address the issue, the resource implications of those actions, the source of any additional funding required, measurable outcomes and a timeline for action. The plan should provide for action on priority issues within a matter of weeks or months but in any event should provide for implementation of all actions within two years of finalisation of this report. The broad topics covered by the plan will include:</p> <ul style="list-style-type: none"> • overcrowding; • housing and facility issues; • education and rehabilitation programs; • employment opportunities; • health care; • the basics (clothing, hygiene, food, and recreational activities); • underlying supports (induction, legal assistance, making complaints and using interpreters); and • children in prison. 	<p>NTCS has been permitted three months to form a working group who will be consulted in the development of the plan while completing the initial plan to the Ombudsman. The plan will require spanning the action points over a longer period of time to allow for potential changes and budgetary constraints.</p>	<p>Working group to be formed and the development of the initial plan to start. Working group to include consideration of budget capacity to deliver actions within the two year timeframe.</p>

Rec no.	Recommendation	Comment	Status
8	Corrections provide the Ombudsman with a copy of the initial plan within three months of the finalisation of this report, and updates on progress every three months thereafter. Corrections meet with the Ombudsman staff to discuss progress on each occasion.	NTCS has been granted three months for the development of the initial plan addressing the points that are specific to Correctional Services only. Further consultation needs to be initiated and required with other agencies where the recommendations have an NT Government approach.	Three month extension has been granted.
9	Given the overwhelming proportion of Indigenous female prisoners, consideration and implementation of all recommendations be conducted in consultation with Indigenous communities and elders as well as prisoners and other stakeholders.	NTCS and AGD have established Indigenous units to focus on strategic priorities that are inclusive of extensive consultation. Where this recommendation is controlled by NTCS, not all recommendations that impact others agencies can be confirmed.	NTCS confirms the consultation will include those identified in the planning process.

Note: Minor changes were made to the recommendations after the draft report was submitted to Corrections. These are not material in terms of the above comments from Corrections. To maintain consistency, the *Recommendation* column has been altered to reflect the recommendations as they appear in this final Report.