



Ombudsman NT Investigation Report

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

Volume 2 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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INTRODUCTION

1. This is the second volume of a report into the conditions of women at the Alice Springs Women's Correctional Facility (ASWCF).
2. Volume 1 set the scene by looking at the prisoners, the prison and the growing problem of incarceration rates, particularly for women. It then discussed the need to differentiate between prisoners and assess and address their needs separately, particularly in this case in relation to female prisoners, the overwhelming majority of whom are Indigenous.
3. It went on to talk about the need for fundamental change to the system and the changes that are needed. It wrapped up with a synopsis of particular issues identified for women held within the Alice Springs Correctional Centre (ASCC) that mean change is an unavoidable necessity.
4. Volume 2 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.
5. It 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.

CHAPTER 9- OVERCROWDING: PRESENT AND PROJECTED

6. The issue that lies at the heart of many of the concerns raised about the ASWCF is the pressure that the number of women prisoners is already placing on the existing facilities and programs and the near certainty that rising female prisoner numbers will place ever growing pressure on Corrections ability to discharge its functions.
7. Growing prisoner numbers place increased pressure on physical facilities. They increase demands on those providing prison programs and catering for the basic needs of prisoners. They increase the potential for conflict within the prison which can itself restrict opportunities for rehabilitation.
8. This Chapter looks in depth at how best to measure the problem as it stands and discusses the limitations of existing facilities.

Prisoner and stakeholder comments

9. Almost all of the female prisoners interviewed advised that their accommodation area was too small and that there are not enough sitting areas outside.
10. They stated that due to overcrowding and there are not enough beds. Some prisoners sleep on the floor on a mattress. Some advised that they do not mind sleeping on the floor as they do not like bunk beds (top bed) due to health issues and having to climb up and down.
11. One prisoner advised that she has a cell to herself so space is not an issue. Another prisoner advised she shared a cell with three others female prisoners and advised that this was reasonable in her opinion.
12. Many prisoners stated that the female sector is too small and they only have access to a small area to go for walks, exercise and tell stories.
13. Almost all prisoners indicated that there is no privacy at all in their accommodation area and the facilities do not meet the needs of women. Overall they are of the view that the female sector at the ASCC is overcrowded.
14. Stakeholder comments on this issue included:

...aware of overcrowding in the ASWCF and holds serious concerns about this. We understand that the number of female prisoners has recently tended to fluctuate between approximately 52-78, and that the accommodation is suitable for approximately 48 women.

We observed an increase in the number of women in custody over the 2015 Christmas period, which we understand led to an education room in Block 1 being converted to accommodation. We understand that 4-5 women were transferred to the custodial setting in Darwin because of this increase.

Of the 5 blocks that women may be accommodated in at ASWCF, we have particular concerns around the conditions in the Open Security Donger. We have observed this to generally accommodate between 15-20 women who sleep in double bunks and share three

toilets and showers between them. We have been told that there is no air-conditioning, and that the stand-up fans provided are inadequate. Further, that the Donger gets so uncomfortably hot that women sometimes sleep on the floor on their mattresses because of the heat. This is exacerbated by the lack of privacy for women in custody, who often sleep in their day clothes (think t-shirts and cut off track suit pants) to avoid being seen sleeping in their underwear by prison staff that include male prison officers.

... Apart from the make shift nature of the donga and the other two spaces; overcrowding was evident from the large number of women, sitting and standing shoulder to shoulder in the fenced off area between the two buildings.

Relevant standards

15. The *Nelson Mandela Rules* (the United Nations Standard Minimum Rules for the Treatment of Prisoners) provide:

Rule 12 - 1. Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself or herself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

2. Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the prison.

Rule 13 - All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

Rule 14 - In all places where prisoners are required to live or work:

(a) The windows shall be large enough to enable the prisoners to read or work by natural light and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;

(b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

Rule 15 - The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

Rule 16 - Adequate bathing and shower installations shall be provided so that every prisoner can, and may be required to, have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

Rule 17 - All parts of a prison regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

16. The *Standard Guidelines for Corrections in Australia* (2012) at Chapter 2 – Care and Wellbeing – Accommodation state:

- 2.1 *All parts of a prison used by prisoners shall be properly maintained and kept clean at all times.*
- 2.2 *Each prisoner should be provided with suitable living accommodation.*
- 2.3 *Cells or rooms that are designed for single or multiple occupancy, should be consistent with the standards relating to size, light, ventilation, etc., as set out in the Standard Guidelines for Prison Facilities in Australia and New Zealand (1990) or as later modified.*
- 2.4 *Accommodation should be provided to respond effectively to the actual needs and risk status of a prisoner. In some cases, single cell accommodation may be provided, in other cases multiple or dormitory accommodation may be more appropriate.*
- 2.5 *Where prisoners are accommodated in multiple occupancy cells or rooms, the prisoners are to be carefully assessed and selected as being suitable to associate with one another in those conditions. Particular care should be taken to avoid prisoners being subjected to intimidation or bullying.*
- 2.6 *Where practicable, Indigenous prisoners should be provided with the opportunity to be accommodated in family, community or language groups to provide a supporting environment.*

Other references

17. The Victorian Ombudsman noted in a report on *Investigation into Deaths and Self-Harm in Custody* (2014):¹

In simple terms overcrowding occurs when custodial facilities exceed the maximum number of people they were originally designed or built to hold, and where there is no corresponding growth in the supporting infrastructure.

18. Naylor (2014) has made several comments on the risks of overcrowding:²

[G]iven that governments continue to use prisons as a political choice, it is clear that overcrowding risks all sorts of additional harms. As the UN noted in a recent international publication with Red Cross on reducing prison overcrowding:

...overcrowding is the root cause of a range of challenges and human rights violations in prison systems worldwide, threatening, at best, the social reintegration prospects, and at worst, the life of prisoners’.

Recognised harms from overcrowding include pressures on sanitation and nutrition, risks to physical health such as the spread of communicable diseases, increased challenges to prisoners’ mental health and to management of mental health issues in prisons, increased levels of violence (between prisoners, and between prisoners and staff), and increased risk to suicide.

...

¹ Page 27.

² Naylor B, *Prisons, overcrowding and human rights*, Castan Centre for Human Rights Law Symposium - November 2014, pages 3-6.

Overcrowded prisons also limit prisoners' access to education, to work, to training and to the range of programs prisons offer to try to change offending patterns such as alcohol and drug programs and cognitive behavioural skills etc.

...

Some conditions arising out of overcrowding have been held to amount to cruel, inhuman or degrading or punishment (CIDTP), which is a breach of the ICCPR and CAT. Cases have concluded that significant combinations of conditions of overcrowding may amount to CIDTP, including shared cells, lack of personal space, lack of privacy, poor toilet and sanitary arrangements, exposure to violence, and lack of health care and rehabilitation. In the 2010 Canadian case of 'Trang' the Canadian Supreme Court concluded that extended periods of overcrowding 'led to strain, physical illness, violence, infractions of prison rules, and post-release recidivism' and that in the specific circumstances of the case the overcrowded conditions amounted to cruel and unusual treatment.

...

The European Court of Human Rights has said that a responsible government must organise its penitentiary system in such a way as to ensure respect for the dignity of detainees, regardless of financial or logistical difficulties.

19. A 2014 submission to the Western Australian Economic Regulatory Authority prepared by the WA Council of Social Services Inc., WA Association for Mental Health and WA Network of Alcohol & other Drug Agencies, asserted that overcrowding undermines the rehabilitative intention of prisons and went on to say:³

This conclusion is supported by authors such as Fleming, Gately and Kraemer who wrote with regard to the effects of releasing offenders with untreated mental health problems into the community:

It is important to consider not only the health issues of the prisoners, but also the effects of releasing offenders with untreated mental health problems into the community. Particularly with problematic prison overcrowding, the mental wellbeing of prisoners will only worsen as living conditions become more cramped, cell temperature reach extremes, and interpersonal difficulties inevitable occur. Overcrowding also increases the pressure on prison health services, unavoidably resulting in prisoners with undetected and untreated mental health problems. As these prisoners complete their sentence and are released, potentially without parole, the impact is felt on the public health system as they start accessing public health resources. ..Thus, prisoner mental health must be screened for and treated, with data provided to health organisations and government agencies to ensure programs are effective, and the health of prisoners meet standards expected in the general community

20. In *Mandic and Jovic v Slovenia*,⁴ the European Court of Human Rights concluded that inadequate physical conditions of detention in prison in particular insufficient personal space for prisoners resulting from systemic overcrowding, can amount to inhuman and degrading treatment in breach of Article 3 of the European Convention on Human Rights.

³ Page 17.

⁴ [2011] ECHR Application Nos. 5774/10 and 5985/10 (20 October 2011).

Measuring overcrowding

21. Assessing overcrowding in the correctional system is difficult because there is no precise definition of overcrowding. In addition, when quantitative measures are used in isolation to assess crowding they convey little about the impact that overcrowding has on inmates' quality of life and the consequent impact on staff.
22. This investigation considered two ways of objectively measuring the extent of overcrowding within the ASWCF. The first looks at actual prisoner numbers compared with the overall capacity of the facility. That in itself raises a number of issues about how one best measures prison capacity.
23. The second is more narrowly confined and looks at existing cell and dormitory sizes against relevant standards.

Capacity

Design v Total v Operating

24. Assessing the capacity of individual prisons is complicated by the fact that there are alternative ways of measuring capacity. For example, one may look at design capacity, total capacity or operating capacity.
25. Design capacity includes the number of permanent beds available that is consistent with the design capacity of the facility. This excludes accommodation used for special purposes (for example, segregation or crisis care) and sections that are temporarily out of commission or have been decommissioned.
26. Total capacity refers to the total number of beds, including design capacity and temporary beds. Total capacity also includes accommodation used for special purposes.
27. Operating capacity is not subject to any agreed definition but essentially appears to include any additional arrangements that may have been put in place to meet growing or additional temporary demand. This may involve adding additional beds or accommodation units or utilising space normally utilised for other activities. These *ad hoc* arrangements are a reflection of the ingenuity of prison administrators in providing additional facilities to meet increased demand.
28. NT Corrections has previously used operating capacity figures in some discussions of prisoner levels. This approach is not unique but has raised concerns in other jurisdictions.⁵ In the context of a WA review, stakeholders suggested that:⁶

The decision to refer to 'operating' rather than 'design' capacity is an ongoing attempt to obscure the rate of overcrowding within WA prisons, rather than a decision designed to provide a more meaningful statistic to the public. When a prison is designed, intentional decisions are made which take into consideration the number of prisoners, safety, human rights, and efficiency and effectiveness of service delivery within the facility. While operating prisons above design capacity may reduce costs in the short term, it is unlikely to contribute positively to long term positive social outcomes.

⁵ *Inquiry into the Efficiency and Performance of Western Australian Prisons*, WA Economic Regulatory Authority Discussion Paper, page 10.

⁶ WACOSS, WAAMH & WANADA – Submission to ERA Prisons Inquiry (2014), page 16.

29. The Productivity Commission has adopted 'Prison utilisation' as a measure of governments' aim to provide corrective services in an efficient manner'.⁷ 'Prison utilisation' is defined as:⁸

The annual daily average prisoner population as a percentage of the number of single occupancy cells and designated beds in shared occupancy cells provided for in the design capacity of the prisons, reported separately for open and secure prisons.

30. I consider that the Productivity Commission's approach is to be preferred. Prison design involves consideration of requirements across a whole range of prison functions, from ablutions, to separate space, to provision of recreational amenities, educational programs and employment opportunities, as well as meeting cultural needs.
31. It may be possible (and indeed unavoidable at times) to add further beds or temporary accommodation to meet needs. However, any additional accommodation of this nature adds to the stress on the institution. Nominating such extra beds as falling within the capacity of the prison can only undermine realistic assessment of the stress placed on the prison.
32. While 27 people can fit in a Classic Mini, it is neither a comfortable nor sustainable approach. While correctional administrators may be commended for devising ways to deal with increasing demand, it is not appropriate to judge their efforts and the stresses being placed on the prison system by including extra beds that have been squeezed in to meet additional challenges.
33. Similarly, using total capacity (which includes special purpose facilities) does not give the best picture of whether and to what extent there is overcrowding. These facilities are included to handle a prisoner population at design capacity. They must be available for prisoners when the need arises. They do not replace normal beds.
34. I am therefore firmly of the view that for the purposes of accurately describing capacity and planning for future needs, the best measure is design capacity.

Performance against design capacity in Australia

35. Nationally in 2015/16, prison utilisation was 111.4% of prison design capacity. Prison utilisation for open facilities was 99.4% and 115.9% for secure facilities. For the NT, prison utilisation for open facilities was 85.9% and 117.9% for secure facilities⁹
36. The design capacity of the ASCC is stated as 500. Corrections Annual Statistics for 2014/15¹⁰ show a daily average of 612 adult prisoners. The average occupancy for ASCC was therefore 122% following on from 130% in the previous year.¹¹ The Department advises that the figure for 2015/16 was 121%.

Design capacity of ASWCF

37. Corrections initially indicated that they defined 'capacity' as the number of beds they can fit into the accommodation area — in other words, utilising operating capacity. On this view, the Corrections assessment of capacity in the ASWCF was 74.

⁷ Report on Government Services 2016 – Corrective Services, page 8.25.

⁸ Ibid, page 8.26.

⁹ RoGS 2017, Table 8A.14.

¹⁰ Northern Territory Correctional Services Annual Statistics 2014-2015, page 4.

¹¹ Northern Territory Correctional Services Annual Statistics 2013-2014, page 4, Table 1.

38. Corrections provided the following information in relation to each accommodation area:

Accom Area	Utilisation (max no. of beds)	Total Accom Area (m ²)	Total Ablution Area (m ²)	Total Common Area (m ²)	Total Area (m ²)	Comment
North Overflow	6	33	8.3	N/A	41.3	Houses sentenced and remand female prisoners, 6 x single beds
South Overflow	16	43	8.3	N/A	51.3	Houses medium security and remand prisoners. 8 x bunk beds.
Demountable	20	73	11.2	N/A	84.2	Houses open security female prisoners only. 10 x bunk beds.
Low Security	14	57.6	19.32	111	187.92	Houses low security, open security, pregnant women and mother and babies. 8 cells with total of 14 beds.
Medium/High Security	18	57.2	25.2	114.8	197.2	Houses only medium and high security female prisoners. 18 beds. 2 toilets are within observation cells. Used by female prisoners in these cells. Not accessible to other prisoners.
TOTAL	74	263.8	72.32	225.8	561.92	

Notes:

North Overflow - 1 pregnant female prisoner has been accommodated here upon the prisoner's request.

North Overflow - within the North Overflow area, a small area has been designated as a laundry area.

Low Security - sometimes it houses medium security women if the female prisoner is pregnant.

Medium/High Security - there have been instances where a female prisoner from low security has been placed in this area due to behavioural issues.

Medium/High Security - there have been instances where female prisoners had to sleep on the floor on mattresses in the dormitory room as there were not enough beds i.e. there is only 5 available beds, 2 women had to sleep on the floor.

Medium/High Security – has 2 management cells with CCTV and a secured yard (observation cells).

39. I have discussed above the reasons why I do not consider operating capacity to be a useful measure — the preferable measure being design capacity.

40. Corrections advised that the total 'design' capacity of the female sector accommodation areas at ASWCF is 56 (Original Female Block – 10, Demountable – 20 and Low/Medium/High Security Area – 26).

41. Corrections advised a 26 prisoner capacity for the Low/Med/High Security areas while the plans show 16. It is not clear how or why this discrepancy arises.
42. This raises a serious question as to whether the Demountable, should be included in the design capacity for purposes of considering overcrowding and stresses placed on resources. Adding an additional structure may (if it is appropriate) increase the number of beds available but will not necessarily add to the supporting facilities and services available for increased numbers of prisoners. However, for the purposes of this analysis, it has been included in design capacity.
43. On examination of the accommodation plans provided by Corrections, it would appear that the design capacity of each accommodation area is as follows:

Accommodation Area	Design Capacity	No. of Toilets	No. of Showers	Comment
Original Female Block – North Overflow	4	2	2	Original plans indicate capacity is 3 single beds and 1 observation cell. 2 x toilets and 2 x showers.
Original Female Block – South Overflow	6	2	2	Original plans indicate capacity is 5 single beds and 1 observation cell. 2 x toilets and 2 x showers.
Demountable	20	3	3	The plan does not specify the actual number of beds but indicates 10 partitions to fit a bed on either side. 3 x toilets and 3 x showers.
Low Security Area	8	4	3	The plan for low security shows 8 beds. 4 x toilets and 3 x showers.
Med/High Security	8	8	3	The plan for low security shows 8 beds, 8 x toilets and 3 x showers.
Total Capacity	46			

ASWCF utilisation rate

44. Based on a generous interpretation of design capacity at 46, the following table shows the utilisation rate for ASWCF for each month during 2015, based on the average number of female prisoners.

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Sentenced	47	42	45	44	45	42	46	45	40	41	50	45
Remand	20	24	21	20	20	19	22	23	17	18	23	20
<i>Total</i>	67	66	66	64	65	61	68	68	57	59	73	65
Utilisation Rate %	146	144	144	139	141	132	148	148	124	128	159	141

45. Maintaining a utilisation rate at a relatively high level of between 85% and 95% indicates that resources are being utilised efficiently, while leaving some capacity to handle temporary fluctuations.
46. It is acknowledged that there may be times when a utilisation rate will exceed 100% due to substantial temporary fluctuations. However, a utilisation rate which remains consistently well in excess of 100% points to a pattern of overcrowding that requires action.
47. The average utilisation rate at ASWCF for 2015 was 141%. This clearly indicates that the female sector was very overcrowded.
48. Having an average utilisation rate that is largely sustained over the course of a year points to chronic overcrowding which requires substantial action.
49. When this situation is exacerbated by the growing trend in female prisoner numbers, priority action and long term planning is required.
50. By letter received on 8 May 2017, the Department advised of a drop in female prisoner numbers at ASWCF since 2015, providing the following graph showing prisoner numbers over time:

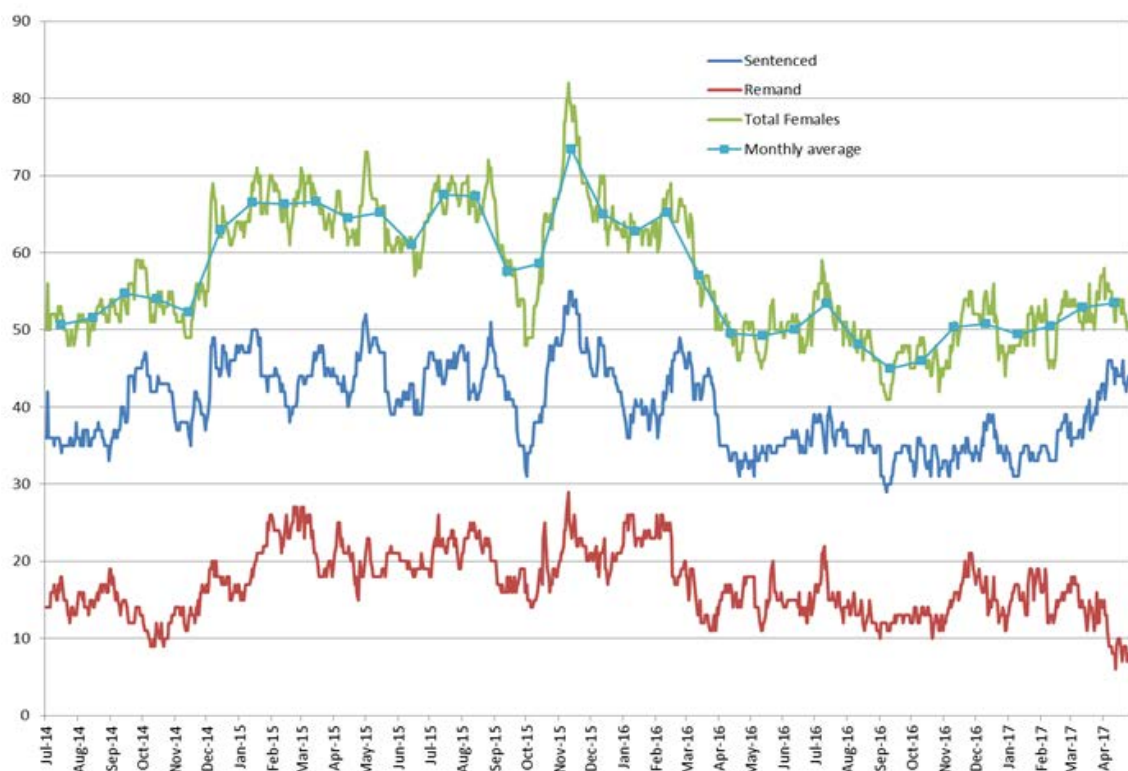


Table 1: Total female prisoner numbers for Alice Springs Women's Correctional Facility - sentenced, remanded and total females July 2014- April 2017. Source: Criminal Justice Research and Statistics Unit, Department of the Attorney-General and Justice, NT.

51. The Department advised that the average utilisation rate for 2016 was 116% and for the first 4 months of 2017, 112%, stating that that is a significant improvement. The improvement in that period is welcome but the figures still represent substantial overcrowding, particularly bearing in mind the generous assumptions regarding design capacity discussed above.

52. The graph shows variability in prisoner numbers over time,¹² including a rising trend in sentenced female prisoner numbers in the first four months of 2017 which, for the moment at least, is being offset by a fall in remand prisoner numbers. Any analysis of this type must, by its very nature, be a snapshot in time. The figures as at 2015 are higher — the more recent figures are lower — but the trend over a number of years has been for substantial increases.
53. While it may be comforting to hope for the best (that 2015 represented a peak and that the current reduction in overcrowding from that ‘peak’ will continue) it is more prudent to prepare for the worst (which, strongly suggested by long term trends in the NT and many other jurisdictions, is for a growing problem over time).

Cell space

Minimum cell space requirements

54. The *Standard Guidelines for Corrections in Australia* (2012) provide at 2.3:

Cells or rooms that are designed for single or multiple occupancy, should be consistent with the standards relating to size, light, ventilation etc., as set out in the Standard Guidelines for Prison Facilities in Australia and New Zealand (1990) or as later modified.

55. The *Standard Guidelines for Prison Facilities in Australia and New Zealand* set out detailed guidance in relation to a wide range of requirements for cells/bedrooms. In relation to cell/bedroom size, they give minimum standards for single cells/bedrooms, double cells/bedrooms and dormitories (up to 4 prisoners) based on the following figures:

	m ²
Single person in room	7.5
Each additional person in room	4
Single or double room ablutions	1.25
Dormitory ablutions	2.5

Note. Secure cells include space for ablutions.

56. So, for example, the standard for a single person secure cell with ablutions will be 8.75m², while the standard for a four person dormitory with ablutions will be 22m².
57. The *Standard Guidelines for Prison Facilities* are now over 25 years old but there is no reason to believe that minimum sizes should have reduced in the intervening years.
58. More recent measures do not depart markedly from the *Standard Guidelines*. For example, *Corrections Victoria Cell and Fire Safety Guidelines* advise that a minimum cell size should be 8.75m² and that a two bed cell should be 12.2m². *Corrective Services NSW Facility Assets Correctional Standards* state that the floor space of a single cell (dry or without hydraulic fittings) should be 7.5m², for a standard single cell 8.2m², and for a dual cell 12.7m².

¹² The Department commented that from December 2014, numbers suddenly increased substantially, with monthly averages between 60-70, and up to 73 in November 2015, compared to averages between 50 and 55 from July to November 2014. In February and March 2016, numbers dropped again, and since March 2016 the averages have ranged from 45 to 54 (still generally overcrowded, though less so than in 2015).

59. It is important to consider various factors in developing an appropriate cell size and configuration. Environment and culture will be relevant. Time spent in the cell each day will also be relevant. The *Standard Guidelines for Prison Facilities* provide:
- “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)
60. Bearing this in mind, for the purposes of this analysis, the minimum requirements set out in the *Standard Guidelines for Prison Facilities* will be relied on as a guide.

Cell Space at ASWCF

61. To get a sense of how much space is available for each female prisoner within their accommodation area, my Office made calculations based on information provided by Corrections. The figures set out in the following table (next page) do not include common living areas (if any), toilet/showers or hallway space. The figures are based on 7.5m² for a cell with one person, with 4m² added for each additional person.
62. This 4m² area is not much larger than two single beds pushed together. It should be recalled that the *Standard Guidelines for Prison Facilities* provide that this must make room for “sheltering, sleeping, grooming, sanitation, studying and relaxing” and that these should occur “without the interference of other prisoners”.
63. These figures must be considered subject to significant qualifications. Primarily, the *Standard Guidelines for Prison Facilities* only provide for a dormitory of up to four people. Extrapolating a 4m² area for additional prisoners beyond four is not a reflection of the Guidelines. It is an effort to try to establish an absolute minimum for cell space.
64. Having a larger number of people in a confined area will in itself be more likely to give rise to conflict, particularly in a situation where facilities and other opportunities for separation and private space are limited. This may be exacerbated by cultural factors.
65. It is acknowledged that there may be some circumstances in which maintaining a living area shared by more than four people from like family and cultural units is actually beneficial but this is more likely to be the exception rather than the rule.
66. These factors suggest that, if anything, this analysis is likely to understate the problem. However, given the failings that it discloses even with generous assumptions, it is worth carrying out.
67. In brief terms, only one of the Accommodation areas (North Overflow) was large enough to satisfy the minimum cell space. Five areas were more than one quarter under the minimum cell space, and one was under one half.¹³

¹³ As noted above, the Department has advised that the average utilisation rate has fallen from 141% in 2015 to 116% in 2016 and 112% for the first 4 months of 2017. This will clearly be reflected in a fall in the number of prisoners in some or all of the living areas at the moment. It is not proposed to conduct a further analysis of cell space utilisation which would involve returning to Corrections and further delay finalisation of the report. The variability of prisoner rates and the trend for increasing numbers over time are noted at paragraph 52 above.

ASWCF Cell Space Analysis

Accom Area	Accom Style	Utilisation Rate	Room/Bed Configuration	Total Accom Area (m²)	Minimum required cell space (m²)	Space Per Cell (m²)	Space per prisoner (m²)	Proportion under standard (%)
North Overflow	Dormitory	6	6 Single Beds	33	27.5	33	5.5	
South Overflow	Dormitory	16	8 Double Bunk Beds	43	67.5	43	2.7	36
Demountable	Dormitory	20	10 Double Bunk Beds	72	83.5	72	3.6	14
Low Security	Single Cells	4	4 single cells	27.6	30	6.9	6.9	8
Low Security	Shared Cells	10	2 cells. Each has 2 x double bunk beds and 1 x trundle bed	30	47	15	3	36
Medium/High Security	Single Cells	2	Observation only	13.8	15	6.9	6.9	8
Medium/High Security	Shared Cells	4	2 cells. Double Bunk Bed	13.8	23	6.9	3.5	40
Medium/High Security	Shared Cell	7	1 cell. 2 x Double Bunk Beds, 1 x Trundle and 2 mattresses on floor	14.8	31.5	14.8	2.1	53
Medium/High Security	Shared Cell	5	1 cell. 2 x Double Bunk Beds, 1 x Trundle	14.8	23.5	14.8	2.9	37

Corrections input

68. Corrections staff generally acknowledged that overcrowding occurs when there is a spike in numbers. They stated that they try to maintain a certain level of comfort and suitable accommodation and try to abide by the standard guidelines. They stated that they try to keep minimum people in certain areas but due to overcrowding sometimes they need to put in double bunks and sometimes prisoners have to sleep on mattresses on the floor.
69. They advised that another option in cases of overcrowding is for the library/education room to be used as a dormitory area.
70. One staff member stated:

Obviously the size of the unit would be better if there were sufficient living space areas and possibly even more semi or independent living space areas for women to for example, when they are going through programs and they need time to think as well as time to talk with their colleagues and women with babies that sort of thing. It is about the logistics of that whole area and how it is set out.

Sometimes it cannot be catered for because of the overcrowding that occurs quickly, it is then the prison moves to a responsive state, trying to make sure the accommodation is there and we then look again to see if there are further beds and if any women would be suitable for placement in the community. Some women are transferred to Darwin.

71. In relation to the potential for transfer to Darwin, staff advised that they are reluctant to transfer female prisoners to Darwin as the effects of moving prisoners from country can be detrimental. They stated that a lot of the female prisoners do not want to move to Darwin and do not mind staying at ASCC even when there is overcrowding as they are with their family.
72. A staff member advised that there is land available to build more housing if/when needed however; there are no plans to build further accommodation at this stage.
73. During the investigation, Corrections advised:
- The design capacity of the ASWCF will be reviewed and will be based on the actual design capacity of each accommodation area and not on operating capacity (which is the current method used by ASCC) whereby capacity is determined by the number of beds required and able to be fitted into an area. From the design capacity, the utilisation rate can be determined and compared to the relevant Government excepted level of prison utilisation rate.
 - Additional beds have been provided to the female sector so that female prisoners are no longer sleeping on the floor. A cold water bubbler has also been installed in the South Overflow Unit.
74. Overall, staff consistently indicated that the current facilities would be inadequate for any future increases in the female prisoner population and expressed a view that ASCC would need to consider expanding or implementing a different model of how women prisoners serve their custodial sentence.

Ombudsman comments

75. The *Hamburger Report* (A safer Northern Territory through correctional interventions: Report of the review of the Northern Territory Department of Correctional Services (2016)) stated:

Female Section (ASCC)

As with DCP, 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.

For example, in their detailed submission, CAALAS stated that in the open security donger, 15-20 women sleep in double bunks, with only three showers and toilets between them. This was also seen by the Review Team during their inspection of Alice Springs.

Finding

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

Recommendations

116. That sufficient numbers of beds are provided to address overcrowding, and shower and toilet facilities are commensurate with the number of prisoners.

76. There is no doubt that there is substantial ongoing overcrowding in the ASWCF. The facilities are not designed to deal with the number of prisoners who are coming into the facility on a regular basis. This situation will get worse as the number of women coming into the correctional system increases over time.
77. Many potential adverse impacts of overcrowding have been outlined above.
78. Transferring female prisoners to Darwin in an attempt to overcome overcrowding is not a good solution. This can sever the connection women prisoners have with family and community support networks. Continuing the practice of transferring female prisoners to the Darwin Correctional Centre will simply result in that Centre reaching maximum capacity quicker than anticipated after which, the question will become 'where will Corrections accommodate the female prisoners now that both facilities have reached capacity?'. This short term practice cannot be relied on to effectively address the growing trend of increased numbers of female prisoners.
79. Setting up extra beds and mattresses in existing facilities and introducing extra beds by way of 'temporary' dongers only adds to pressure on the system across the board.
80. Making temporary use of facilities designed for other purposes (for example, the library/education room) does nothing but place further stress on existing systems and prejudice rehabilitation and reintegration programs.
81. I must stress that in making these comments, I am not criticising the work of prison administrators and officers who have had to make the best of situations within existing resource and facility constraints. They have had little choice but to adopt second-best options in many cases.

82. The substantial and increasing number of women prisoners requires a change in strategic approach within the correctional environment and the criminal justice system generally. This issue is discussed in detail in Volume 1.
83. The availability of facilities (or lack thereof) should not drive decisions about how to deal with crime. However, the availability of alternative measures that may be more effective and less expensive in the longer term is something that should drive changes in approach.
84. The physical facilities currently available to Corrections at ASWCF present fundamental limitations on its capacity to adequately carry out its rehabilitation and reintegration functions. There is no obvious long term solution within the existing ASCC structure.
85. There is clearly a need for careful thought and quick action to ameliorate overcrowding in the short term. I certainly support the recommendations of the *Hamburger Report* in that regard. However, the answer lies in a completely different approach.
86. 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.

CHAPTER 10: HOUSING AND FACILITY ISSUES

87. A number of additional specific issues relating to housing also call for comment.

Toilets/showers

88. Some prisoners commented that the number of showers and toilets is not sufficient for the number of female prisoners within their accommodation area and, at times, they have to wait to access toilets and showers. They said there is not enough hot water for all the female prisoners as it is usually used up by the first few prisoners. They also advised that the toilets often get blocked and cannot be used.

89. *Bangkok Rule 5* (United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders) states:

The accommodation of women prisoners shall have facilities and materials required to meet women's specific hygiene needs, including sanitary towels provided free of charge and a regular supply of water to be made available for the personal care of children and women, in particular women involved in cooking and those who are pregnant, breastfeeding or menstruating.

90. The *Standard Guidelines for Corrections in Australia* state:

All parts of a prison used by prisoners shall be properly maintained and kept clean at all times. (2.1)

91. The *Standard Guidelines for Prison Facilities in Australia and New Zealand* does not provide any specific indication or ratio of toilet/shower to prisoner number but states:

5.27 Toilet and sanitary facilities must be provided for prisoners to use as required, and these must be kept in a clean condition.

5.28 Adequate bathing and shower installations must be provided to enable every prisoner to maintain general hygiene by bathing or showering at a temperature suitable for the climate.

92. The number of toilets and showers in each accommodation area (based on accommodation plans) is set out in the table below.

Accommodation Area	Actual Utilisation	No. of Toilets	No. of Showers
Original Female Block – North Overflow	6	2	2
Original Female Block – South Overflow	16	2	2
The Demountable	20	3	3
Low Security Area	14	4	3
Med/High Security	18	8	3

93. The most concerning areas are South Overflow and the Demountable, where there are a large number of female prisoners housed in an accommodation area with minimal toilets and showers.
94. Prison overcrowding taxes existing infrastructure, leading to increased repair and maintenance costs. The United States Government Accountability Office has observed that the increased use of resources leads to increased wear and tear of toilets, showers, water, electricity and food service equipment, which in turn can shorten the life of such equipment.¹⁴
95. The general condition of the ASWCF varies depending on the accommodation area. The North and South Overflow (the original building) is old and is subject to wear and tear however, has been kept in a reasonable condition. Overall the remaining areas are in reasonable condition.
96. Corrections advise that:
- as part of the daily unlock procedures in every accommodation block and sector, prison officers are required to physically enter all cells and dormitories and inspect each for security purposes, the personal hygiene of prisoners and any maintenance concerns and report any breakdowns, faults and security system failures;
 - the maintenance workshop at ASCC is managed by the Department of Infrastructure. If a maintenance issue is able to be fixed by staff employed in the maintenance workshop they will take care of it. If not, an email will be sent to the Department of Infrastructure which will forward the job to a plumber, electrician or other relevant contractor.
97. The access and maintenance problems with toilets/showers are symptoms of chronic overcrowding. It is important for Corrections to review current arrangements in consultation with prisoners. There is little doubt that additional shower and potentially toilet facilities are needed.
98. Given the limited number of options to improve the situation, it is also important for Corrections to ensure that priority is given to maintenance issues.

Laundry facilities inside sleeping area

99. In the South Overflow, women prisoners are confined within an extremely limited cell space per prisoner of only 2.7m². In addition, they are accommodated in the same room as the laundry and so are sharing their accommodation area with washing machines, dirty laundry etc.
100. This raises concerns around heat and noise with the machines operating in a confined area where 16 women prisoners are living and sleeping in double bunk beds.
101. Corrections should consider strategies to resolve this situation in consultation with affected prisoners.

Undercover seating

102. Ombudsman staff observed that there are minimal undercover sitting areas for female prisoners.

¹⁴ United State Government Accountability Office, Bureau of Prisons: growing inmates crowding negatively affects inmates, staff and infrastructure, GAO-12-743, 2012.

103. There appeared to be only one designated undercover sitting area (three tables) located to the right side of H Block near the basketball hoop. Another table was located near the clothes line but was not undercover.
104. There was a table at the front entrance of the Low Security and Medium/High Security area designated for use by the female prisoners housed in those areas. In the Low Security area there were bench seats along a wall.
105. The prisoners housed in the Low and Medium/High Security areas have access to their own common living area and undercover seating outside the entrance. However, the most disadvantaged prisoners are the prisoners housed in North Overflow, South Overflow and the Demountable. They do not have any common living area nor do they have any undercover sitting area.
106. There are approximately 42 female prisoners housed within these three areas who have a choice of staying inside their accommodation area or going outside without sufficient undercover sitting areas available.
107. It is important for Corrections to plan and implement additional undercover seating options to allow prisoners to make the best use of available space.

Women's cottage

108. Corrections advises that it has approved the refurbishment of a male block (V or Victor Block) as a Women's Cottage. This initiative was originally proposed in May 2014.
109. V Block has two wings, East and West. Each wing can accommodate 12 prisoners, for a total of twenty four (24) prisoners. There are 4 single cells and 2 dormitories in each wing.
110. V block has a total of 2 x kitchens, 6 x showers and 8 x toilets. In each wing, prisoners have access to 1 x kitchen, 3 x showers and 4 x communal toilets. Each prisoner has a lockable cupboard and the cells have a door key.
111. Refurbishment costs of approximately \$22,000 (including purchase of a new washing machine) would come from the ASCC budget. The ongoing cost of running the Cottage would be met from the ASCC budget.
112. Initially, the proposal is that the Women's Cottage will only accommodate open security female prisoners (4) who are employed in the voluntary or paid employment programs. However, ASCC management have discussed the possibility of expanding the initial numbers to include low security female prisoners employed within the prison environment, including cleaning work and ground maintenance which is currently undertaken by male prisoners in the ASCC training centre, the visit centre, ASCC store and gatehouse.
113. Although correctional officers rostered at the Women's Cottage sector will collect paperwork and manage all prisoner request forms, the Women's Cottage sector is intended to operate as living skills unit where prisoners will be supported with minimal supervision. Meals will be provided by ASCC food services and recreational activities delivered by sport and recreational officers twice a week.
114. A benefit to female prisoners will be the normalisation process of being accommodated in a living skills unit pre-release to assist their reintegration into society post-release.

115. Work on the Cottage has been completed and the sector is operational. However, due to a spike in male prisoner numbers, the Cottage is currently being used to house 24 male prisoners. Therefore, the commissioning of the Women's Cottage sector has been delayed.
116. A standard operating procedure for the Women's Cottage has not yet been approved, but a draft has been sent to various stakeholders for comment and input.
117. I am fully supportive of this initiative and would welcome its early implementation. It is a positive step towards trying to meet the needs of female prisoners from a holistic point of view and would also ameliorate to some extent the overcrowding in H Block.

Indigenous Cultural Precinct

118. In May 2014, a proposal was put forward for the development of an Indigenous Cultural Precinct within the ASCC to provide a suitable site where Indigenous prisoners can conduct practices relevant to their customs and beliefs such as:

- *Ceremonies*
- *Story telling*
- *Sorry Business*
- *Traditional recreation activities*
- *Arts/ crafts.*¹⁵

119. It is recognised by ASCC that dreaming stories (story telling) pass on important knowledge, cultural values and belief systems to younger generations.
120. The concept is to assist with re-connecting disenfranchised Indigenous people to their country, language groups and elders.
121. By proactively encouraging Indigenous prisoners to have an input and actively pursue their own culture, language and traditions it is considered this will assist many Indigenous prisoners to move forward during their incarceration by participating in learning and training programs designed to improve their education and life skills. Ultimately, it will promote empowerment through self-determination, pride and respect.

Objectives

122. The Indigenous Cultural Precinct was suggested to achieve the following:

1. Establish procedures to reflect respect and sensitivity toward religious, cultural or spiritual beliefs, practices, objects and significant symbols of Indigenous art.
2. Ensure eligible prisoners and visiting elders benefit from meaningful participation in activities conducted within the Precinct.
3. Deliver a culturally based opportunity for Indigenous prisoners that acknowledge traditional values and seek to re-establish links to culture, family and community.

¹⁵ Minute to Superintendent ASCC dated 12 May 2014.

123. The project outcomes are listed as¹⁶:

- General wellbeing.
- Work towards dealing with behavioural issues through art.
- Management of various physical and mental health conditions: hypertension, depression.
- The development of “Self Respect” and one’s self worth.
- Respect for staff and others and wider communities.
- Preparation for re-integration by establishing an avenue to earn an income.
- Structured “out of block time”: encouraging prisoners to participate in cultural proceedings, such as painting, the making of artefacts and Aboriginal teachings.
- Identification of the different Indigenous cultures within the ASCC.
- Personal and Family Health.
- Treatment of Alcohol and other drugs through art and education.

124. It is anticipated the Precinct would complement outside work opportunities and provide prisoners with a sense of belonging and ownership, strengthening their connection to culture and traditions which would facilitate their safe return to country on their release. It is also envisaged that the prisoners will decorate the Precinct with their own arts, crafts and paintings and other resources.

125. It is also considered that the Precinct and, in time, a larger Indigenous Cultural Precinct Coffee & Art Shop would provide ongoing employment and development activities for ASCC Indigenous prisoners.¹⁷

Infrastructure

126. The Indigenous Cultural Precinct proposal is divided into 3 stages:

1. Stage 1: Construction of a Cultural Centre in the MZ for both male and female prisoners;
2. Stage 2: Construction of 2 fully functional kitchen work benches in H Block (female block);
3. Stage 3: Construction and fit out of Indigenous Cultural Studio at entrance to Alice Springs Correctional Centre.

127. The initial costing for the project was \$6,000. It was hoped that materials (timber) could be provided at a reasonable cost from a local station. Funding for the Precinct was to come from outside the ASCC operational budget.

¹⁶ DCS Minute to Superintendent 06052015 Cultural Centre Precinct Meeting notes dated 6 May 2015, page 2.

¹⁷ Ibid. pages 5 and 6.

128. However, Corrections advised that because ASCC negotiated a *“program with Central Australian Aboriginal Media Association (CAAMA) Radio to teach prisoners radio skills the inclusion of data, water, power and security will increase the cost of the precinct”*. Corrections advised that funding for the Precinct would now come from a combination of capital works and monies from the Quit (smoking) project and that there would be money available in the next budget for the construction.
129. In October 2015, ASCC approved the construction of the Precinct. The scheduled completion date was to be no later than the ASCC NAIDOC celebrations in July 2016.
130. On enquiring about progress in November 2016, my investigators were informed the proposal had not been commissioned, stating that, *“Although Commissioner Middlebrook supported an Indigenous Cultural Precinct in ASCC he resigned on 12th November 2015”*. Corrections advised *“there is no funding for the proposed Indigenous Cultural Precinct and it will be funded from within the current ASCC budget.”*
131. It is noted that although the Precinct has not been completed ASCC has completed Standard Operating Procedures for it.¹⁸
132. The Indigenous Cultural Precinct would be a positive step towards building upon and retaining Indigenous prisoner’s culture and beliefs. This would aid in meeting the ultimate aims of rehabilitation and reintegration and thus minimising crime.
133. I believe it is important that initiatives of this kind, particularly when they involve relatively small resource investments, are given priority.
134. However, it is essential that female prisoners have a reasonable opportunity to actively engage in such initiatives and are fully consulted as part of their development.

Female access to other parts of the prison

135. A common theme throughout prisoner and stakeholder concerns is the fact that placing a women’s facility within a male facility can cause problems with contact, privacy and access. One stakeholder commented:

We wish to highlight the problematic nature of not having a separate and specialist women’s correctional facility in Alice Springs. Allocating some areas for women within a men’s correctional facility is inadequate and for many women, inappropriate. The vast majority of those in custody at the Alice Springs Correctional Centre (ASCC) are Aboriginal, and there is scope for cultural sensitivities to arise regarding gender which are difficult to manage in the current setting. For some women, serious safety concerns can arise if an ex-partner who has perpetrated violence against them is also at the ASCC. This can be highly traumatic for women and risk their safety and wellbeing.

136. While the Indigenous Cultural Precinct is proposed to be accessible to both female and male prisoners (at different times of the day) it is proposed to be built at the back of the male sector at some distance from the female section. Logistically, this could pose difficulties for female prisoners trying to access the Precinct.

¹⁸ Issue date 22 February 2016.

137. Every step must be taken to ensure that there is safe and easy access by female prisoners to the Precinct and policy and procedures (including the Standard Operating Procedure) must reflect fair and equal access for both female and male prisoners. Instrumental in the success of such a precinct is consultation with key stakeholders who are cognisant of the cultural challenges faced by Indigenous prisoners.
138. Similar concerns have been raised regarding accessibility to areas such as the education and computer areas where female prisoners are experiencing difficulties accessing programs due to their location and the logistics of navigating through a male dominated area.
139. As noted previously, placing a women's facility within a male prison creates a raft of problems. These are exacerbated when both female and male facilities are significantly overcrowded.
140. While this situation persists, Corrections must do all it reasonably can to ensure separation of women while ensuring they have a fair go in terms of access to facilities.
141. Given that, Corrections should consider whether access arrangements for women to other parts of the prison can be improved, including whether it is possible to identify a better location for the Indigenous Cultural Precinct to allow easy access to both female and male prisoners.

Time out of cell and Lockdown

142. The number of hours out-of-cell prisoners receive each day is commonly regarded as one of several indicators of the quality of prison life. It also bears upon considerations such as the minimum cell size for prisoners.
143. Corrections advises that standard out-of-cell hours at the ASWCF are as follows:
 1. Unlock procedures commence at approximately 08.00am Monday to Friday. Officers will unlock the South and North Overflow units first, followed by demountable, low security and medium/high security.
 2. Lock down occurs at 15.15pm Monday to Friday for South Overflow, Medium/High Security. The women in these accommodation areas spend 7 hours and 15 minutes out of cell. This means the women spend 16 hours and 45 minutes of each day locked in their cell during Monday to Friday.¹⁹
 3. Lock down occurs at 18.30pm Monday to Friday for North Overflow, Demountable²⁰ and Low Security. The women in these accommodation areas spend 10 hours and 30 minutes out of cell. This means the women spend 13 hours and 30 minutes of each day locked in their accommodation during Monday to Friday.
 4. On Saturday and Sunday the out of cell hours are from 08.00am to 18.30pm for all accommodation areas. Women receive 10 hours and 30 minutes out-of-cell hours. This means the women spend 13 hours and 30 minutes locked in their accommodation on Saturday and Sunday.

¹⁹ Women state that dinner is eaten after lock down in their accommodation.

²⁰ Women residing in the Demountable are technically never 'locked in' as the Demountable cannot be secured due to fire hazard reasons.

Relevant references

144. In *Full House: The growth of the inmate population in NSW*, the NSW Inspector of Custodial Services stated:²¹

Where there are two or more occupants of a cell, this close confinement for prolonged periods is likely to have a range of negative effects, from reduced access to privacy to increased aggression and conflict among inmates. The Inspection Standards provides that multi-occupancy cells should offer privacy when toilets or showers are used. The inspection team did not observe this at any time of the centres it visited, the impact of which is exacerbated by the excessive time for which inmates are confined to their cells. The high level of tension among cell occupants was noted by inmates during focus groups where they commented that this tension could lead to fights.

The Inspection Standards set out expectations for what practices should be implemented when overcrowding occurs in cells, including a reduction in the number of hours that inmates are locked in their cells, and the introduction of compensatory activities. It is expected that overcrowding should not, in any way, limit the inmate's access to the centre's activities or services.

While out-of-cell hours for the centres inspected have actually increased over the past three years, they still average only approximately seven hours per day, substantially less than what is considered acceptable.

When inmates are locked in their cells early, for example at MRRC where they are regularly locked in at 2.30pm or 3.30pm, it means that they cannot access telephones after this time. This makes it impossible for fathers to speak to their school-age children or working partners. This inspection found that a hot dinner was served at lock-in, as early as 2.30 to 3.30pm in-cell. This practice is not consistent with the Inspection Standards, which states that evening meals should be served at a time consistent with community practice.

Depending on what time the end of day lock-in is, it may give those inmates who work even less ability to utilise the out-of-cell hours. As they are out of their cells for work, when they return they may have only one hour to make phone calls, shower, exercise, socialise, submit inquiries, and complete any jobs they need to do. During a focus group, an inmate at Parklea CC commented, "For the privilege of working we feel like we lose our rights." A working inmate at MRRC told the inspection team, "There is not enough time between finishing work and lock-in and it places pressures on the showers and phones."

If CSNSW is to continue to provide inmates with only limited hours out-of-cell, there needs to be compensatory measures made available, including the application of in-cell technologies....

145. A review by HM Inspectorate of Prisons (UK) stated²²:

One of the Prison Service's key performance targets (KPTs) is that prisoners should have 10 hours a day out of their cells. The Service's corporate plan for 2007-08 aims 'to provide prisoners with a regime that gives them adequate time out of cell, with the chance to mix with others, enough access to visits, phone calls, letters and real opportunities for constructive occupation and self-improvement'.

²¹ Page 47.

²² HM Inspectorate of Prisons, *Time out of cell: A short thematic review*, (2007), page 7.

146. The *European CPT Standards* state:²³

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

147. In *Women in Prison I*, the NT Ombudsman looked at out-of-cell hours as one of the specific obstacles to women's access to programs, education and employment, recommending:

*That DCC develop a strategy that will enable it to expand out-of-cells hours to the women's block in order to bring it into line with the national average of around ten hours per day and that this strategy be integrated in all relevant action and plans in the future. Including Cabinet and other submissions for funding, until the strategy is implemented.*²⁴

148. The Ombudsman also found that female prisoners were disproportionately targeted for lockdown which resulted in the recommendation:

*That DCC ensure that, in future, women prisoners are not disproportionately targeted for lockdown.*²⁵

149. The periods during which prisoners are not confined to their cells or units provide them with the opportunity to participate in a range of activities that may include work, education and training, wellbeing, recreation and treatment programs, the opportunity to receive visits from or make calls to loved ones, and interact with other prisoners and staff.

150. Nationally, in 2014/15 the average number of hours of time out of cell per prisoner per day was 10.1. Average time out of cells was higher for prisoners in open custody (13.5 hours) than for those held in secure custody (9.1 hours).²⁶

151. It would appear Corrections has improved the out-of-cell hours for women prisoners since *Women in Prison 1*, with approximately 10 hours and 30 minutes of out-of-cell hours for lower security prisoners at ASWCF.

152. However, there are still particular concerns regarding women accommodated in the South Overflow and Medium/High Security who only receive 7 hours and 15 minutes out-of-cell time, Monday to Friday.

153. This is an area which is worthy of regular review to ensure that prisoners are able to utilise as much out-of-cell time as is reasonably practicable.

Unscheduled Lockdown

154. Time spent out-of-cells may also be interrupted by unscheduled lockdowns. This is when prisoners are locked into their cells at times during the day when they would otherwise be out of cell and possibly attending programs, education and employment.

²³ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) Standards (2nd general Report [CPT/Inf (92) 3], page 17.

²⁴ Page 91, recommendation 21.

²⁵ Page 92, recommendation 22.

²⁶ Report on Government Services 2016 – Corrective Services, 8.15.

155. Lockdowns may be ordered for the purposes of block searches or to manage security incidents, or if there is a substantial drop in the available numbers of custodial staff due to staff absences, general staff shortages, or when officers are occupied with searches, escorts, medical emergencies or security incidents elsewhere in the prison.
156. Information received during the investigation suggested that there may be some correlation between the high number of female prisoners (overcrowding) and lockdown. The suggestion was that Corrections has used lockdowns to control the prison population.
157. With regard to lockdowns, Corrections advised:

The Female Sector is only secured when staff respond to an Emergency Code. In these circumstances, prisoners housed within the High/Medium Security side are secured in accommodation; prisoners housed in the Low Security Side will have the outer door secured; prisoners accommodated in the Overflow Units are secured and prisoners housed in the Demountable are directed to remain within their accommodation. A roll call and health and safety check is then conducted and the Female Sector prisoner total is reported to the Gatehouse.

158. To determine if there was any correlation, information was sought from Corrections in relation to the number of lock downs and monthly female prison population numbers during 2015. The details are set out in the table below.

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
Sentenced	47	42	45	44	45	42	46	45	40	41	50	45
Remand	20	24	21	20	20	19	22	23	17	18	23	20
<i>Total</i>	67	66	66	64	65	61	68	68	57	59	73	65
Codes	1	4	1	-	-	-	-	5	2	2	1	-

159. Of course, the mere existence of a correlation would not prove that lockdowns were being used as a management tool to deal with overcrowding. Overcrowding itself is likely to lead to added pressure and therefore greater potential for incidents that might require a lockdown.
160. In any event, no conclusion can be drawn from the above figures. While the monthly prisoner totals vary they do not do so by a great degree and there is no obvious correlation between higher prisoner numbers and a higher number of codes. The data is not sufficient to support a correlation let alone a causal relationship.

Housing female prisoners in G block

Stakeholder concerns

161. Stakeholder comments on use of G Block (in the male section of the prison) for female prisoners include:

We hold serious concerns about the use of G-Block to accommodate women who may have engaged in fighting or who demonstrate suicidal ideation. It is unclear why the measures to isolate and punish women who had engaged in fighting, and measures to respond to

suicidal ideation would be the same. G Block is part of the men's Maximum Security Block, and women placed there have no time outdoors, and are extremely isolated. We understand that women in G Block sleep in a cell that includes a mattress on the floor, a toilet and a shower, that the cell can get very cold and the shower sometimes does not work. We are aware of an instance where a woman had to wear the same clothes for several days.

In addition, women in G Block have no privacy and are visible to male prisoners whilst being transported to and from G Block. We understand there is a covering over the window that can come loose at times, and that male prisoners can communicate with women through the window.

This is highly inappropriate and damaging to the mental health of the women and their physical health given the lack of opportunity to go outdoors and exercise.

...

... where women are sent if there was an issue with their behaviour such as fighting. I have been advised by those who do not want to be identified that this is G Block, and is part of the men's maximum security block. Issues with this arrangement are that because of its position women can be seen by male prisoners, and also are unable to utilise or access the outdoor area for exercise and are extremely isolated, which has the potential to exacerbate the trauma that many of the women prisoners have already experienced.

Information provided by Corrections

162. In relation to prisoners being placed in G Block for behavioural issues, Corrections advised:

- Women used to be placed in G Block for fighting (or other reasons) but this is unusual since the commissioning of the Low Security Unit and Medium/High Security Unit in H Block.
- Usually, women who have been fighting or have compliance issues will be placed in their own room or one of two management cells in H Block.
- However, if these are busy staff may have to take a prisoner to G Block until staff can ascertain what has happened and investigate if there will be further issues if they are returned to H Block.
- The process is for the Chief Correctional Officer to review the prisoner within 2 hours and investigate what happened and the prisoner will most likely be returned to H Block.

163. In relation to 'At Risk' prisoners, Corrections advised:

- Women are transferred to G Block if there is a concern they may be 'At Risk'.
- They are medically assessed in G Block.
- There are two management cells in H Block with CCTV coverage. However, there are concerns that there may be hanging points in the management cells and H Block is only manned from 8am to 7pm.

- G Block is staffed 24 hours a day, 7 days a week. When someone is placed At Risk, they are usually placed on a 15 minute physical observation regime. Apart from CCTV observation, staff in G Block conduct the 15 minute observation as required.
- Women are placed in a cell away from male prisoners.
- Taking prisoners to the hospital is not an option and there is no other service available in the prison to support 'At Risk' prisoners. If a person is placed At Risk, the At Risk Assessment Team (ARAT) will see them each morning. Forensic Mental Health will review the prisoner to assess if they still have ideation or may decide they no longer have that ideation and they discuss with the other members of the team whether the At Risk episode is to continue and whether or not it should be completed.

164. Prior to, and in 2013, H Block was staffed seven days a week with two correctional officers rostered between 0800-2000 hours. They were supervised by the CCO Management Zone (MZ) Operations or the Officer in Charge (OIC) after 1600 hours and on weekends.

165. In January 2014 H Block staffing increased to include a Senior Correctional Officer (SCO) rostered to duties from 0800-1600 Monday to Friday. The SCO supervises the two correctional officers rostered between 0800-2000 hours and the prisoner population. The SCO reports to CCO MZ Operations who is rostered on Monday to Friday between 0800-1600 hours or the OIC who is rostered from 0800-2000 hours.

166. In 2015, staffing levels did not change from 2014. From information provided by Corrections, it would appear that H Block has not been staffed after 8pm since 2013.

167. The lock down procedure at H Block commences at 1515 hours when correctional officers routinely conduct roll calls and secure each accommodation area.

168. The *ASCC Female Induction Handbook* states:²⁷

If you were placed 'At Risk' you may be housed in either the Female Sector or G Block where you will have an unclothed search and be given a non-tear gown to wear.

...

If you are placed "At Risk" you will be subject to an unclothed search and placed in a non-tear gown and issued non-tear bedclothes for your safe custody. If placed "At Risk" by the Court, you will be reviewed by Medical and the Officer in Charge and your status may be changed to PROTECTION. If you have acted in an irrational behaviour, have a medical problem or threatened self-harm you will remain "At Risk".

You may also be placed "At Risk" during or after the Reception process depending on your behaviour at this time. At any time you threaten self-harm or are acting in an irrational manner, Officers will place you "At Risk". Forensic Mental Health Services will review you on a daily basis and when he/she assesses you are better, will remove you from "At Risk".

²⁷ Pages 3 and 15.

Separate Confinement

A Correctional Officer may authorise that you be separated from other prisoners if:

- *You are being extremely disruptive and threatening the safety and security of other prisoners or staff.*
- *You have had a Misconduct Hearing Charge and have been given a penalty of a period of separate confinement.*
- *For medical reasons.*
- *For protective reasons.*

169. Information was requested from Corrections in relation to how many female prisoners were placed in G Block during 2015. Records revealed:

1. There were 18 occasions where a woman was placed in a G Block observation cell. Of the 18, there were some women who were placed there on several occasions.
2. Information displayed in 'Notification of Concern' documents and information provided by Corrections conflicted in some cases, including differing details for dates of 'Notification of Concern Created' and 'Notification of Concern Removed'. This meant it was not possible to definitively establish the number of days some women stayed in the observation cell.
3. In some instances, the date of 'Notification of Concern Created' and 'Notification of Concern Removed' details were not provided.
4. In some instances 'Notification of Concern' documents were not completed in full and were missing 'Notification of Concern Removed' date.
5. With regard to length of the 18 placements: 9 were released on the same day, 5 could not be determined due to incomplete/inconsistent data and 4 were in G Block for over 3 days.

170. In one case, a prisoner was initially placed At Risk on 6 November 2015 on the basis of a court order and statements to correctional officers. Two further notifications of concern were registered on 18 and 25 November respectively before the first notification was recorded as finalised on 1 December 2015. While the limited information in the records provided makes it difficult to confirm, it appears that this woman may have remained in an observation cell in G Block for all or most of a 25 day period. The prisoner was again transferred to G Block on 10 December 2015 in relation to another incident but that notification appears to have been finalised on the same day.

Separation of men and women

171. There is clear guidance that women and men should, as far as possible, be kept in separate institutions or parts of institutions, for example:

- *Nelson Mandela Rules, Rule 11*
- *Standard Guidelines for Corrections in Australia, 1.44*
- *Correctional Services Act, section 40(b).*

172. I have made comments about the desirability of having completely separate facilities for women elsewhere in this report. This situation is illustrative of the problems that can arise where a women's facility is shoehorned into a larger men's prison.
173. With regard to temporary transfer of prisoners to G Block to facilitate management of conflict, this is not an ideal situation. It would be preferable for Corrections to investigate other options for handling these situations.
174. If it cannot be avoided, it would be preferable for Corrections to take steps to minimise the potential for male prisoners to view and interact with female prisoners in transit or in the Block and ensure that time spent in G Block is kept to a minimum.
175. With regard to At Risk prisoners, it must be acknowledged that there are a relatively small number of women in the ASWCF and there are limits on what can be reasonably achieved within existing resources. The absence of 24 hour staffing of H Block obviously raises substantial concerns in maintaining At Risk prisoners in that Block.
176. The approach of transferring women who may be At Risk to a block that is also used by male prisoners might be more acceptable if the transfer was to an appropriate medical facility designed, maintained and staffed to cater for prisoners with mental health issues. However, the issues discussed here clearly show that this is not presently the case.

Separate confinement

177. The general treatment of prisoners with mental health issues and those considered At Risk is discussed, and relevant standards and instruments identified, in Chapter 13 – Health Care.
178. There are many standards and instruments that point to concerns with separate confinement, particularly in relation to prisoners with mental health issues. For example, the *Nelson Mandela Rules* provide:

Rule 43 – 1. In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited:

(a) Indefinite separate confinement;

(b) Prolonged separate confinement;

Rule 44 - For the purpose of these rules, separate confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged separate confinement shall refer to separate confinement for a time period in excess of 15 consecutive days.

Rule 45 – 1. Separate confinement shall be used in exceptional cases as a last resort, for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority. It shall not be imposed by virtue of a prisoner's sentence.

2. The imposition of separate confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures. The prohibition of the use of separate confinement and similar measures in cases involving women and children, as referred to in other United Nations standards and norms in crime prevention and criminal justice, continues to apply.

179. The *Bangkok Rules* provide:

Rule 16 - Developing and implementing strategies, in consultation with mental health-care and social welfare services, to prevent suicide and self-harm among women prisoners and providing appropriate, gender-specific and specialized support to those at risk shall be part of a comprehensive policy of mental health care in women's prisons.

Rule 41 - The gender-sensitive risk assessment and classification of prisoners shall:

d) Ensure that those with mental health care needs are housed in accommodation which is not restrictive, and at the lowest possible security level, and receive appropriate treatment, rather than being placed in higher security level facilities solely due to their mental health problems.

180. The *Royal Commission into Aboriginal Deaths in Custody* recommended:²⁸

That Corrective Services should recognise that it is undesirable in the highest degree that an Aboriginal prisoner should be placed in segregation or isolated detention.

181. The *Standard Guidelines for Corrections in Australia* provide:

1.80 Prolonged separate confinement, corporal punishment, punishment by placement in a dark cell, reduction of diet, sensory deprivation and all cruel, inhumane or degrading punishments should not be used.

2.22 Prisoners who are identified as being at risk of self-harm should be placed under a management regime appropriate to their individual need that is designed to ensure their well-being.

2.23 Prisoners placed under a special management regime should not be denied access to privileges or entitlements other than those necessary removed for their own protection, and such removal should be for the minimum time necessary. Prisoners should only be segregated as a last resort in order to prevent self-harm or suicide and should be closely monitored.

2.25 Consideration may be given to the use of family or identified community members for the support of Indigenous and CALD prisoners to manage self-harm and other psychological issues or episodes.

182. Pollack states that women, in particular, may come under scrutiny for misconduct charges, arguing that a punitive response is often not helpful:²⁹

Research with incarcerated women consistently illustrates that women in prison have experienced extraordinary high levels of childhood abuse and violence against women. Common effects of childhood sexual trauma in particular are self-injurious behaviour (such as cutting oneself), depression, and suicidal feelings. Furthermore, the powerlessness experienced as a child is replicated by the power dynamics of the prison environment, thus increasing the potential to reactivate former coping mechanisms...

²⁸ Royal Commission into Aboriginal Deaths in Custody (1991), Volume 5, Recommendation 181.

²⁹ Pollack, S (2005), "Taming the Shrew: Regulating Prisoners Through Women-Centred Mental health Programming", *Critical Criminology*, Volume 13, pp 71-87, page 81.

Behaviours commonly exhibited by many women in prison, such as angry outbursts, substance abuse, self-injury and dissociation may be regarded as normal self-protective measures cultivated in response to traumatic events. These self-protective strategies are often reactivated within the prison when events and/or relationships replicate abusive dynamics or when women have flashbacks or memories of past abuse.

183. The Royal College of Physicians (UK) has stated:³⁰

Prisoners with obvious mental disturbance should not be placed in separate confinement and should be managed by closer supervision and support instead, combined, if necessary, with medical care and sedation.

184. The Ontario Ombudsman has recently completed a report on inmate segregation.³¹ In presenting the report, the Ombudsman commented:³²

The first problem is that the Ministry does not operate under a clear definition for segregation. So whether someone is even considered to be in segregation depends on which definition is being used.

Another problem is the way the Ministry ... tracks the admission and detention of inmates in segregation. Information on inmates' segregation is often entered incorrectly. Inputting incorrect start and end dates; using incorrect date formats; or re-starting the clock when an inmate is transferred to another facility makes it impossible to know who is in segregation and for how long.

Thirdly, the reviews that are supposed to occur at specified intervals aren't done as they are supposed to be.

...

It's important to remember that solitary confinement – locking someone up and depriving them of all human contact for 22 hours a day or more – is a severe form of punishment that can have grave and lasting effects on a person's mental state.

To quote inmate "Linda" from our report, who spent more than 60 days in segregation before we intervened and a more appropriate placement was found for her: "The door is made of iron... when it slams shut, it kills you psychologically. Who can tolerate being locked up in a [tiny] space and not lose their sanity?"

This is why the United Nations considers prolonged solitary confinement to be cruel and inhumane, and recommends placements never exceed 15 days. This is why in Ontario, it is meant to be used as an absolute last resort, and even then, it must be justified, reviewed, and reported to the most senior levels of the Ministry.

³⁰ Royal College of Physicians (2002), *Suicide in Prisons*, Council Report CR99, RCP, London, page 21.

³¹ Ombudsman Ontario, *Out of Oversight, Out of Mind: Investigation into how the Ministry of Community Safety and Correctional Services tracks the admission and placement of segregated inmates, and the adequacy and effectiveness of the review process for such placements*, April 2017.

³² Out of Oversight, Out of Mind, Opening Remarks – Paul Dubé, Ombudsman Ontario, 20 April 2017, https://www.ombudsman.on.ca/Files/sitemedia/Documents/Resources/Reports/SORT/Seg_Remarks-EN-accessible.pdf.

My investigation found that the reality falls far short of this obligation. Many inmates are in segregation because they have mental illnesses or developmental disabilities, and correctional staff feel they have no other way to house them. The system for recording and tracking data on inmates is cumbersome, outdated and prone to errors. Tracking goes off the rails when inmates are transferred between institutions. Oversight at the senior level often amounts to a rubber stamp.

It is high time for real, practical change.

185. In *Women in Prison I*, the NT Ombudsman commented:

I am concerned by what appears to be the fairly common practice of the holding of prisoners with serious mental illness or disability in separate confinements. I am aware of four Aboriginal women prisoners over the last two years where this has been the case ... This has occurred for different reasons including disciplinary charges, classification as "disruptive prisoners", and risk of self-harm. NTCS has acknowledged that one of these prisoners, C, was held in segregation as a "disruptive prisoner" in the men's maximum security block of ASCC for an unbroken four month period, plus additional time in DCC.

186. The Ombudsman made a recommendation (supported by both the Department of Justice and the Department of Health and Community Services) that the relevant directive be reviewed for its impact on prisoners with mental illness, intellectual disability or acquired brain injury. The recommended changes included setting out principles that separate confinement:

- a) is generally damaging for mental health and should be avoided wherever possible;
- b) may be particularly distressing for Indigenous prisoners;
- c) of women in a men's block may be particularly distressing;
- d) for extended periods (greater than 21 days) should be avoided at all costs.

187. More recently, the *Hamburger Report* commented:³³

CAALAS indicated their concern over the placement of female prisoners in [G] Block (male maximum security) for fighting or for observation if they are considered to be at risk of suicide or self-harm. This was checked with NTDCS and the response was:

'ASCC has advised they have not ever had a female prisoner being separately confined in H or G Block for the purpose of misconduct punishment. The CCO Misconducts has been conducting misconducts for a few years now and he has no memory or record of and doesn't intend to hand down a period of separate confinement to a female prisoner. The normal LOP and fine system has a greater effect. In the event that a female prisoner needs to be separately confined for a disturbance, there are cells purpose built in H Block for that reason.

With regards to females at risk, they can be placed in H Block in the purpose built cells and observed by camera and regular patrols, but ideally for the safety of the female prisoner and our duty of care, At Risk females are better off housed in G Block cells 1 or 14 because of 24 hour staffing in that area'.

³³ Page 123.

Further advice was received that female prisoner(s) have been placed in cells in H Block for “behavioural issues” – fighting, aggression, threatening behaviour. Prisoners are assessed within two hours in accordance with NTDCS Separate Confinement Procedures, and we are informed it is very rare for any prisoner, male or female, to be kept in separate confinement for longer than two hours.

While it would be preferable for a prisoner to be placed in separate confinement within their own cell, the lack of single cell accommodation makes this an impossibility at Alice Springs.

188. The gravity with which Parliament regards the keeping in seclusion of a person who may have mental health issues is recognised in the detailed provisions of the *Mental Health and Related Services Act*. Section 62 provides a prescriptive array of requirements for action and record-keeping, and other mechanisms for ongoing monitoring and review whenever a person is kept in seclusion.
189. To hold any prisoner in separate confinement beyond a limited period raises significant concerns. The *Nelson Mandela Rules* prohibit separate confinement for a prolonged period (defined as anything beyond 15 days).³⁴ However, it appears there is one instance of a female prisoner being held in separate confinement in G Block for up to 25 days. It is important for Corrections to review that case to definitively establish the facts and develop alternative approaches to meet the needs of At Risk prisoners who require specialised care over an extended period.
190. In any event, the *Nelson Mandela Rules* provide that separate confinement “*shall be used in exceptional cases as a last resort, for as short a time as possible and subject to independent review.*” It is vital that separate confinement in any situation is utilised subject to those restrictions.
191. One might think it unnecessary to cite the above range of standards and pronouncements to reinforce the obvious concern with holding a female ‘At Risk’ prisoner in separate confinement in a single cell in a male high security section. In most cases, separate confinement in these circumstances beyond a minimal time frame would appear more likely than not to exacerbate the condition of the prisoner and should be avoided at all costs. Any such confinement should be subject to meticulous record keeping and frequent review by a qualified health practitioner.

Conditions in G Block

192. Stakeholders also expressed concern about conditions faced by female prisoners in G Block. When problems with facilities and clothing are added to the isolation experienced by female prisoners who are already experiencing stress and ill health, these are issues that clearly require further consideration.
193. The limits of existing resourcing and staffing structures have been explained above. The fact of that the current situation exists is not an answer to the problem. There is a need for long term planning to address these issues.
194. In the meantime, it is important for Corrections to review the handling of At Risk female prisoners at the ASCC. While I do not seek to limit the options, the following matters are worth consideration by Corrections:

³⁴ Rules 43 and 44 quoted above.

- Take any steps necessary to ensure that the existing management/observations cells in H Block are suitable for At Risk prisoners;
- Consider the use of existing management/observation cells in H Block as the initial holding place pending assessment (during hours that H Block is staffed);
- Consider whether it is realistic to increase staffing in H Block to provide for 24 hour coverage;
- Take steps to minimise the potential for male prisoners to view and interact with female prisoners in transit or in G Block;
- Ensure that time spent in G Block is kept to the minimum necessary;
- Consider whether it is possible to allow another prisoner to provide support to an At Risk prisoner if they are transferred (not necessarily confined in the same cell but present in the same vicinity);
- Improve conditions for female prisoners held in G Block in line with relevant standards;
- Consider transfer to an appropriate service provider outside the prison for anything other than a short term stay in G Block;
- Improve the quality of record keeping and monitoring regarding At Risk incidents and transfers to G Block, including times and dates of transfers and returns and detailed reasons for decisions and actions taken while separately confined.

Housing remand and sentenced prisoners together

195. Concerns were also raised about housing remand and sentenced prisoners together.

196. Corrections was asked if sentenced female prisoners and remand female prisoners are accommodated together and if so what measures are in place to ensure prisoner safety. Its response was:

Yes. Pursuant to the Correctional Services Act, Part 1.2 Interpretations: Section 6 A person is a prisoner if the person:

(a) Has been committed or remanded into the custody of the Commissioner by order that is in force; or

(b) Is under a sentence of imprisonment but is not a non-custodial offender; or

(c) Is a detainee under the Serious Sex Offenders Act; or

(d) Is an immigration detainee.

The dynamic security of staff who interact on a daily basis with the prisoner population and compliance with the Correctional Services Act, NTDCS Directives and Standard Operational Procedures are among measures in place to ensure the prisoner population's safe custody.

Relevant standards and other references

197. The Nelson Mandela Rules provide:

Rule 11 - The different categories of prisoners shall be kept in separate institutions or parts of institutions, taking account of their sex, age, criminal record, the legal reason for their detention and the necessities of their treatment; thus:

...

b) Untried prisoners shall be kept separate from convicted prisoners;

Rule 93 – 1. The purposes of classification shall be:

- (a) To separate from others those prisoners who, by reason of their criminal records or characters, are likely to exercise a bad influence;*
- (b) To divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation.*

2. So far as possible, separate prisons or separate sections of a prison shall be used for the treatment of different classes of prisoners.

Rule 112 – 1. Untried prisoners shall be kept separate from convicted prisoners.

Rule 113 - Untried prisoners shall sleep singly in separate rooms, with the reservation of different local custom in respect of the climate.

198. The *Standard Guidelines for Corrections in Australia* provides:

1.11 Where practicable, remand prisoners should not be put in contact with convicted prisoners against their will.

199. The *Correctional Services Act*, section 40 states:

Separation of classes of prisoners

The General Manager of a custodial correctional facility must ensure that, to the extent it is practicable:

- (a) sentenced prisoners are kept separate from other prisoners; ...*

200. In a number of ways, housing unconvicted remandees with sentenced prisoners can be seen as problematic. It is clearly contrary to the thrust of the various standards outlined above. However, it is equally clear that it is not a unique practice in Australia.

201. It is acknowledged that there will be cases in which a remandee's past history or actions in custody will mean that classification at a particular level is warranted. Fulfilling this requirement would therefore mean separate sections for each security rating of sentenced female prisoner and for each security rating of female remandee.

202. There may also be sound cultural reasons why placing women from similar family and cultural groups together will have some advantages even if some have not been sentenced.

203. Again, the small size of the female prisoner population in the NT creates a challenge for Corrections. It cannot sustain a multiplicity of separate sections within the existing facilities with a small number of prisoners/remandees in each.
204. In the absence of steps to completely separate sentenced prisoners from people on remand, it is essential that Corrections has in place procedures to ensure the rapid assessment and assignment of people on remand to an appropriate security status to ensure that people on remand are not held with a higher security rating than necessary.
205. I acknowledge that the standards that call for separation are qualified by considerations of practicability and that there are circumstances where maintaining a complete separation at ASWCF would have substantial resource and practical implications. I nevertheless draw the issue to Corrections attention for consideration.

CHAPTER 11: PROGRAMS – EDUCATION AND REHABILITATION

206. Programs discussed in this chapter may be divided into two broad categories. The first are **offence related programs** (which are sometimes referred to as **rehabilitation programs**). They address the specific offence or offences which a prisoner has committed and problems which directly led to them. For example, they may include violent offender and sexual offender programs and alcohol and other drug misuse programs.
207. The second are **education and training programs** which give the prisoner better prospects for engaging in the community upon release. They may include programs that assist in coping with violence, relationships and conflict situations, programs that assist prisoners to function in the community and vocational programs.
208. Programs involving employment are discussed in the next chapter, although many of the principles are shared.
209. A brief description of the programs in which women at ASCC could participate that were scheduled or run in 2015 is set out at the end of this chapter.

Prisoner and stakeholder concerns

210. Prisoners informed my investigators that the majority of them are not asked or consulted about what they need in terms of education and training and rehabilitation programs.
211. The majority advised there are limited education and training and rehabilitation programs on offer. Some advised they had expressed interest in doing programs to keep themselves occupied. One woman said she had been waiting for more than 10 months and later found out that she could not undertake the program because her name was not on the list. She subsequently requested for her name to be put on the list but nothing has happened.
212. Another prisoner said she had been incarcerated for about four months and was still waiting to do programs. She said she had not received any feedback or information in relation to what programs might be available to her.
213. Prisoners stated the same people are given repeated opportunities to participate in programs. They feel not everyone gets 'a fair go' to undertake programs. They feel that everyone regardless of their classification should be provided with an opportunity to participate.
214. They emphasised they would like to attend more programs however, this has not occurred.
215. Learning to read and write was particularly important to the women.
216. Other programs of interest or importance identified by the women included:
- Painting – Aboriginal painting and other types of painting;
 - Education – any trade, study or certificate etc.;
 - Arts and crafts;

- Driving - to improve traffic related offences i.e. drink driving;
- Aboriginal Culture – practice ceremonies and telling stories;
- Future – looking at the future and moving forward;
- Parenting – learn how to be better parents and have a better family life;
- Alcohol and Drug – learn how to stay away from alcohol and drugs;
- Violence – learn how to get away and avoid domestic violence;
- Food nutritional – learn how to cook and make healthy meals;
- Coping outside – learn how to cope once released from prison;
- Computer – learn how to use computers;
- Hairdressing – learn how to become a hairdresser;
- Music and Band – learn how to play musical instruments or create a band;
- Woodwork/carpentry – learn how to make items and how to become a carpenter;
- Sewing – learn how to use the sewing machine and make clothes;
- Jewellery – learn how to make different types of jewellery;
- Hospitality – different jobs within hospitality;
- Life skills – other life skills courses and training.

217. Amongst the women there was little understanding as to the steps that need to be taken to access programs. They commented that sometimes prison officers would come by the female sector and write their name down for a program. For those few women who knew to submit an application form to make a request, they explained they do not know how to complete it, or had difficulty completing it, and no assistance is provided.

218. The women said they do not know what education, training or rehabilitation programs are available to them.

219. They explained they each have a 'Netcard' which they can use to check for any programs they might be enrolled in. However, they feel that it is pointless to check this as they are not enrolled in anything. Sometimes the Netcard shows they are enrolled in a program but in fact they were not.

220. If the Netcard does display correct enrolment information, the female prisoners are then required to make their own booking/request to be put onto the program and are not automatically placed. They advised that the steps involved in making the request can be overwhelming particularly when no assistance is provided, because the majority of the women have very limited reading and writing skills.

221. They said, if they do become aware of programs it is through informal means such as talking amongst themselves.

222. Stakeholder feedback regarding education, training and rehabilitation is set out below:

In our view, the rehabilitation and education programs available to women in custody are shockingly inadequate and do not come close to meeting the multitude of needs that need to be addressed including:

- 1. Trauma, grief and loss*
- 2. Substance abuse*
- 3. Mental health issues*
- 4. Domestic and family violence*
- 5. Sexual assault*
- 6. Health concerns*
- 7. Homelessness*
- 8. Financial hardship*
- 9. Separation from family and country*
- 10. Involvement from the Department of Children and Families, which may include children being removed*
- 11. Language barriers*
- 12. Low literacy and numeracy*
- 13. Cognitive difficulties*
- 14. Lack of trust*
- 15. Low self-esteem*

In terms of mental health and wellbeing, we understand that women in custody are generally unable to see a counsellor individually. We understand that prisoners deemed high risk will be referred to Forensic Mental Health staff for a clinical response. Whilst there are psychologists at the prison, we understand their role to be along the lines of program facilitation rather than individual treatment. In our view the absence of individual counselling options is dire.

Given the frequent experiences of serious trauma amongst women in custody, including being a victim of domestic and family violence or sexual assault, it is unacceptable that there is not specialist counselling available to assist women who may require it.

The information provided in May 2015 in regard to programs being offered in the prison for women, was that it was a very ad hoc in regard to areas covered, skills to be offered and the timing of these. It did not appear to be offered in a planned way.

The types of programs that had been offered or were being considered included:

1. *Cross Border – mob*
2. *CAWLS*
3. *Relationships Australia*
4. *Kungas Stopping Violence Program*
5. *Holyoaks*
6. *White card*
7. *First Aid*
8. *Drum Beat*
9. *Negotiating with BIITE re Horticulture*

In regard to the health and wellbeing of women prisoners I am aware from other programs that I oversight that there is limited group support for adults experiencing mental health issues in the prison generally. As well as limited psychological support for individuals or as set out above for group work.

This is concerning as in other jurisdictions it has been found that women prisoners suffer very high levels of mental illness. A 2010 study of Indigenous women in Queensland prisons found nearly 90% have been diagnosed with mental illness. Recent research by Beyond Blue titled 'The Family Business: Improving the understanding and treatment of post-traumatic stress disorder among incarcerated Aboriginal and Torres Strait Inlander women', found Post Traumatic Stress Disorder (PTSD) was the most common mental health condition in incarcerated ATSI women and almost half of the women who were assessed in custody had this condition.

This is also consistent with what others on the ground in Alice Springs are telling me that large proportion of women are survivors of domestic and family violence and require ongoing trauma informed care.

Relevant standards

223. The *Universal Declaration of Human Rights*, Article 26(1) provides:

Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

224. The *International Covenant on Civil and Political Rights*, Article 10(3) states:

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

225. The United Nations *Basic Principles for the Treatment of Prisoners* states:³⁵

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

226. Resolution 1990/20, clause 3, of the UN Economic and Social Council states:³⁶

(a) Education in prisons should aim at developing the whole person, bearing in mind the prisoner's social, economic and cultural background;

(b) All prisoners should have access to education, including literacy programmes, basic education, vocational training, creative, religion and cultural activities, physical education and sports, social education, higher education and library facilities;

(c) Every effort should be made to encourage prisoners to participate actively in all aspects of education;

(d) All those involved in prison administration and management should facilitate and support education as much as possible;

(e) Education should be an essential element in the prison regime; disincentives to prisoners who participate in approved formal educational programmes should be avoided;

(f) Vocational education should aim at the greater development of the individual and be sensitive to trends in the labour market;

(g) Creative and cultural activities should be given a significant role since they have a special potential for enabling prisoners to develop and express themselves;

(h) Wherever possible, prisoners should be allowed to participate in education outside the prison;

(i) Where education has to take place within prison, the outside community should be involved as fully as possible;

(j) The necessary funds, equipment and teaching staff should be made available to enable prisoners to receive appropriate education.

227. The Nelson Mandela Rules state:

Rule 104

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

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

³⁵ Basic Principles for the Treatment of Prisoners – Adopted and Proclaimed by General Assembly Resolution 45/111 of 14 December 1990.

³⁶ Resolution 1990/20 of the UN Economic and Social Council.

228. The *European CPT Standards* provide:

Equality of access to activities

25. *Women deprived of their liberty should enjoy access to meaningful activities (work, training, education, sport etc.) on an equal footing with their male counterparts. As the Committee mentioned in its last General Report, CPT delegations all too often encounter women inmates being offered activities which have been deemed “appropriate” for them (such as sewing or handicrafts), whilst male prisoners are offered training of a far more vocational nature.*

In the view of the CPT, such a discriminatory approach can only serve to reinforce outmoded stereotypes of the social role of women. Moreover, depending upon the circumstances, denying women equal access to regime activities could be qualified as degrading treatment.

229. The *Standard Guidelines for Corrections in Australia* state:

- 3.6 *Prisoners should be provided with access to programmes and services, including education, vocational training (and employment), that enable them to develop appropriate skills and abilities to support reduced re-offending when they return to the community.*
- 3.8 *Prisoners who are approved to be full time students should be remunerated equivalently to prisoners who are employed in full-time work.*
- 3.9 *A high priority should be accorded to programmes addressing literacy and numeracy. Relevant prisoners should be encouraged to engage in such programmes but should not be compelled.*
- 3.10 *Programmes and services provided to address criminogenic needs should be based on best practice and have solid evidence as to their efficacy.*
- 3.13 *The involvement of the community in assisting the prison workforce in the development and maintenance of programmes should be encouraged.*
- 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.*

Other references

230. The Royal Commission into Aboriginal Deaths in Custody recommended:³⁷

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

³⁷ Royal Commission into Aboriginal Deaths in Custody (1991), Volume 5, Recommendation 184.

231. Andrew Coyle, in *A Human Rights Approach to Prison Management*, asserts that the obligation on prison authorities to provide genuine educational opportunities for prisoners goes beyond basic education:³⁸

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

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

Because of their smaller numbers or because of restricted accommodation the access which women prisoners have to activities is often more limited than that available to men. For example, there may be fewer opportunities for education or skills training. Work opportunities may be restricted to that which is regarded as traditional work for women, such as sewing or cleaning. The prison administration should make sure that women have the same opportunities as male prisoners to benefit from education courses and skills training. The same applies to access to facilities for physical exercise and sports. If there is a shortage of facilities or trained staff within prisons it may be possible to involve local agencies and non-government organisations in providing activities for women prisoners.

*Wherever possible the activities which are made available to women prisoners should be designed for them rather than simply being adapted from programmes designed for men.*³⁹

233. Bearing in mind the difficulties in providing education to women, the United Nations *Manual on Human Rights Training for Prison Officials*, states:

*No distinction should be made between women and men as regards the types of education and training activities made available to them.*⁴⁰

234. The NSW Select Committee on the Increase in Prisoner Population similarly recommended that women be provided with no less choice and access to programs and education than male inmates.⁴¹

235. Research reports point to a strong link between participation in prison-based education and training and post-release employment and, in some cases, an association with reduced risk of reoffending. One study of prisoner education and training concluded that:⁴²

³⁸ Coyle, A (2002), *A Human Rights Approach to Prison Management: Handbook for Prison Staff*, International Centre for Prison Studies, London at 91.

³⁹ Ibid, at 134.

⁴⁰ Office of the United Nations High Commissioner for Human Rights (2005), *Human Rights and Prisons: A Manual on Human Rights Training for Prison Officials*, Professional Training Series No. 11 at 105.

⁴¹ NSW Select Committee on the Increase in Prisoner Population (2000), *Interim Report: Issues Relating to Women* at 81.

⁴² Giles M and Whale J, Prisoner Education and Training and other Characteristics, Western Australia, July 2005 to June 2010, quoted in Victorian Ombudsman *Investigation into the rehabilitation and reintegration of prisoners in Victoria* 2015 at 64.

Spending public funds on educating and training prisoners can generate a significant return on investment, because ... study in prison can reduce costly recidivism and improve life outcomes for former prisoners.

236. In a literature review on prison-based education, training and employment programs, Corrections Victoria reported:⁴³

- *Prisoners who participated in education programs were 43 per cent less likely to return to prison than those who did not.*
- *Prisoners who participated in education programs were 13 per cent more likely to have obtained employment post release.*

237. Corrections Victoria data suggests women are less likely to have been in full time employment at the time of offending and are likely to benefit from developing vocational skills to assist in finding flexible employment to meet their generally higher carer responsibilities.⁴⁴

238. The Australian Institute of Criminology, *Good practice in women's prisons: A literature review*, makes a number of relevant comments:⁴⁵

Good practice dictates the provision of a range of custodial services (such as counselling, cognitive skills, anger management and substance abuse programs) and post-release support, as well as access to mental and physical health services and vocational, educational and recreational activities.

Some of the promising developments discussed include:

- *holistic programs which address women's varied and complex needs including housing, parenting, relationships, trauma recovery, financial management, independent living, legal advice, physical and mental health issues, drug and alcohol counselling and reintegration into the community;*
- *the establishment of café facilities which are staffed by prisoners to equip them with hospitality, sales and management skills;*
- *the adaptation of the therapeutic community model for female prisoners;*
- *developing employment and education programs that enable women to gain skills in non-traditional areas, for example, building and computing;*
- *developing networks with the local community;*
- *the availability of female-orientated recreational programs, such as yoga and tai chi; and*

⁴³ Corrections Victoria, Review of recent literature on prison-based education, training and employment programs, January 2014, quoted in Victorian Ombudsman *Investigation into the rehabilitation and reintegration of prisoners in Victoria* 2015 at 64.

⁴⁴ Victorian Ombudsman *Investigation into the rehabilitation and reintegration of prisoners in Victoria* 2015 at 64, referring to Corrections Victoria, Education and Training Strategy (Prisons) 2012-2013, June 2011.

⁴⁵ Australian Institute of Criminology *Good practice in women's prisons: A literature review*, AIC Reports Technical and Background Paper 41, at pages x, xi and 26, 33, 34 and 73.

- *ensuring education, employment and treatment programs are sensitive to culture and gender.*

...

The key findings of Heseltine, Sarre and Day's (forthcoming: np) literature review in respect of female offenders are:

- *there is increasing recognition that women offenders have distinctive areas of criminogenic need, which influence rehabilitation program efficacy and intervention strategies developed for male offenders are likely not be equally beneficial to female offenders;*
- *gender-responsive risk factors include dysfunctional relationships, family conflict, parental stress, child abuse and adult victimisation, and mental health issues; these factors are predictive of recidivism and institutional rule violations for women offenders;*
- *the strongest predictors of treatment success target interpersonal needs, victimisation and self-esteem; and*
- *the high level of mental health problems, substance use and co-morbidity provide treatment challenges, as these issues are best treated concurrently rather than sequentially and need to be responsive to the specific experiences of female offenders.*

They also made the following points in relation to programs for women:

Assessment strategies for female offenders are broadly consistent with that of male offenders. There are arguably less well-developed program specific referral pathways, criminogenic assessment of risk and need, and pre-post program measures of change. Whilst staff supervision models have improved over time, the provision of training specific to the needs of female offenders is limited.

Indigenous women tend not to access mainstream post-release support or education, while many justice-based and non-government organisation re-entry programs are not specifically designed to address the needs of Indigenous women (Goulding 2006⁴⁶). Accordingly, a significant development is the WA Breaking The Cycle program, an art program for Indigenous women which, in line with best practice, was also designed and delivered by Indigenous women in a culturally appropriate manner (Goulding 2006). The program specifically targeted urban women and was held at Bandyup Women's Prison.

Goulding (2006) found that the program was positively received by prison staff and participants. In particular, all interviewed participants reported enjoying the program and said it had met or exceeded their expectations, as well as making them feel proud of their cultural heritage....Goulding (2006:40) concluded that the program was:

A successful project in terms of retaining high attendance rates and enthusiasm amongst a disadvantaged socio-economic and cultural group that traditionally does not seek out educational training within the prison environment.

⁴⁶ Goulding D 2006. *Breaking the cycle: Art based training program for 'urban' Aboriginal women exiting prison in the Perth metropolitan area.* Perth Murdoch & University Centre for Social and Community Research.

In addition, consistent with best practice, the program was designed to enhance notions of self-determination and foster empowerment rather than dependency, emphasise strengths rather than deficiencies, foster family and community involvement, raise social competencies, develop marketable work skills, provide training opportunities and qualifications, establish relationships with mentors and emphasise the significance of Indigenous culture. Finally and most importantly, it included meaningful, rather than tokenistic involvement of Aboriginal people (Goulding 2006).

Another important development is the Indigenous Oral History Laboratory at the Townsville Women's Correctional Centre in Queensland. The laboratory provides a library and recording area for those who wish to tell their story about their family and cultural heritage. It is suggested that the program will assist communities to preserve their cultural history and will provide an important resource to assist future studies of Indigenous culture (QDCS 2009).

239. There are a number of cultural considerations that need to be taken into account when offering programs to Aboriginal prisoners. Aboriginal prisoners are more likely to respond to programs that are culturally appropriate, and ideally, delivered by Aboriginal people.
240. Providing education and training together with rehabilitation programs to prisoners has been shown to reduce both short term and long term recidivism for male and female prisoners. Some studies suggest that the outcomes are more pronounced for female prisoners.⁴⁷

Reintegration and post-release support

241. Key elements of rehabilitation are preparing prisoners for the reality of release and guiding and supporting them post-release. The following comments by the Victorian Ombudsman give force to that point:⁴⁸

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 postrelease 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

⁴⁷ Cameron, M. (2001), "Women Prisoners and Correctional Programs", *Trends and Issues in Crime and Criminal Justice*, No. 194, Australian Institute of Criminology at 4.

⁴⁸ Victorian Ombudsman *Investigation into the rehabilitation and reintegration of prisoners in Victoria* 2015, pages 110, 121, 122.

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.

...

769. Family contact was also recognised to be particularly important for women and Aboriginal and Torres Strait Islander prisoners:

Maintaining connection to family and building family support enables effective reintegration. But with only two female prisons in Victoria, many women are incarcerated in locations far away from their families and communities. This distance can make it difficult to maintain strong family relationships, because many of the affected families face poverty and transport disadvantage, which prevent them making regular visits and having ongoing contact.

With the majority (about 85 per cent) of women in prison being parents or primary carers of children, maintaining the parent-child relationship is crucial. A 2011 study of Victorian women who have been imprisoned and their children, found that few children had frequent and predictable visiting arrangements and visits generally took place under poor conditions that did not meet the children’s needs. As well as causing distress to children, poor quality and irregular visits can make eventual reunification less likely.

For Aboriginal and Torres Strait Islander prisoners, pre-release programs should look at connecting prisoners with family and community for additional supports and making referrals to Aboriginal Community Controlled organisations for their ongoing services, if that individual prisoner wishes to use these. ...

We’re often called upon to pick up a released prisoner who has come out of prison at a late hour after public transport has finished, which is the likelihood in regional areas, or they are released on a Friday night. This has the impact of leaving the prisoner vulnerable from the minute they come out of prison. More consideration and appropriate notice needs to be provided regarding the release of prisoners to appropriate support agencies and family members.

...

770. The importance of support and connectedness to family in rehabilitating and reintegrating prisoners, particularly post-release, has also been highlighted in a recent United Kingdom report into the effectiveness of existing arrangements to help offenders resettlement in the community, which noted:

... this inspection confirmed our view that an offender’s family are the most effective resettlement agency. More than half the offenders in our cohort returned home or moved in with family and friends on release, even if this was only a temporary measure. The few who had a job on release had mainly arranged this with the help of previous employers, family or friends.

Helping offenders maintain or restore relationships with their family and friends, where this is appropriate, should be central to the resettlement effort. But too often, these relationships are seen simply as a matter of visits which may be increased or

reduced according to an offender's behaviour. We found no evidence that families were involved in sentence planning for instance, even when an offender said they were relying on them for support after release. Too little account was taken of whether initial arrangements were sustainable and what continuing support might be needed.

NT situation

Program statistics

242. The *Report on Government Services* (RoGS) provides comparative figures for education and training programs in prisons across Australian jurisdictions. While it appears work is underway on developing similar comparators for 'rehabilitation' or 'offence-related' programs, comparative figures are not yet available. There are no specific figures for women prisoners.

243. The *Report on Government Services 2017* states that nationally in 2015/16, 34.4% of eligible prisoners participated in accredited education and training courses (figure 8.5). Vocational education and training courses had the highest participation levels (24.7%), followed by pre-certificate Level 1 courses (6.6%), secondary school education (5.0%), and higher education (1.7%) (table 8A.10).⁴⁹

244. The following graph from RoGS 2017 shows the percentage of eligible prisoners in education and training in each jurisdiction in 2015/16. The table that follows it shows figures for 2015/16 and preceding years.⁵⁰

Figure 8.5 Percentage of eligible prisoners in education and training, 2015-16^a



^a See box 8.5 and table 8A.10 for detailed definitions, footnotes and caveats.

Source: State and Territory governments (unpublished); table 8A.10.

⁴⁹ Report on Government Services 2017 – Corrective Services page 8.10. Education and training figures do not include participation in non-accredited education and training programs or a range of offence related programs that are provided in prisons, such as drug and alcohol programs, psychological programs, psychological counselling and personal development courses.

⁵⁰ Report on Government Services 2017 – Corrective Services page 8.10.

	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Aust
2015-16 (c), (d), (e)									
Pre-certificate Level 1 courses	3.6	0.7	13.4	1.3	44.5	7.3	25.4	0.9	6.6
Secondary school education	12.4	0.6	2.3	—	—	—	44.2	—	5.0
Vocational Education and Training	20.2	32.2	14.4	27.3	37.1	7.5	55.2	23.5	24.7
Higher education	0.5	1.6	6.2	1.0	—	1.5	4.3	—	1.7
Total prisoners in education and training (f)									
2015-16	32.2	34.1	35.6	28.5	67.4	14.4	72.3	24.4	34.4
2014-15	31.7	35.7	28.0	24.0	53.1	16.9	76.3	14.1	31.6
2013-14 (g)	33.6	33.4	26.4	29.1	59.4	13.1	82.7	12.8	32.3
2012-13	36.1	38.1	24.5	29.0	43.3	25.3	81.8	16.5	33.1
2011-12	35.3	37.2	26.5	31.8	46.4	28.5	85.1	22.4	33.8
2010-11 (h)	30.3	40.4	27.8	36.3	48.9	na	89.8	32.7	34.6
2009-10	34.0	35.6	27.4	37.1	45.9	na	92.0	30.1	34.6
2008-09 (i)	33.9	34.7	27.1	48.7	66.0	na	na	25.3	36.4
2007-08 (j)	32.3	32.5	29.0	36.2	47.2	na	..	26.4	30.2
2006-07	34.7	32.5	27.0	40.9	46.4	na	..	74.2	36.1

245. The NT had the lowest prisoner education and training percentage for Australia in 2014/15 and the preceding three years, ranging from 12.8% to 22.4%. This improved to second last position in 2015/16, with a percentage of 24.4%.

246. The following table from RoGS 2016 gives a breakdown of education and training provided within NT prisons over several years.

Northern Territory

Table 8A.72 Effectiveness, prisons

	2010-11	2011-12	2012-13	2013-14	2014-15
Education and training (per cent of eligible prisoners) (e)					
Pre-certificate Level 1 courses	9.9	2.8	0.5	—	—
Secondary school education	—	0.1	0.2	0.2	0.6
Vocational Education and Training	22.6	19.3	15.5	12.6	13.6
Higher Education	0.2	0.2	0.3	—	—
Total — all education	32.7	22.4	16.5	12.8	14.1

(e) Figures are based on the number of prisoners in education on a single day (30 June in the 2014-15 counting period), calculated against the number of prisoners in custody on that day. As of 2014-15, prisoners ineligible for education also include those in programs and work (internal or paid/volunteer) and those with less than 3 months to serve.

— Nil or rounded to zero.

247. The proportion of vocational and education training rose substantially during 2015/16 to 23.5%, close to the national average of 24.7%. However, there has been a major decline in Pre-certificate Level 1 courses, dropping from 9.9% to 0.9% in 2015/16.

Women in Prison 1

248. In *Women in Prison 1*, the NT Ombudsman made the following comments:⁵¹

It was extremely disappointing to learn that educational provision in NT prisons has been significantly reduced for 2007.

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

⁵¹ Pages 47, 74 and 75.

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

While both the National Strategy for Vocational Education and training for Adult Prisoners and Offenders in Australia (at 4.3 and 4.4) and Recommendation 45 of the CAYA Review of Custodial Services call for the development of educational targets and outcomes measures, DCS has not done so. In a 7 December 2006 interview with Jens Tolstrup, Director DCS, he stated that no targets for educational attainment for either male or female have been developed...

...

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

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

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

249. The Ombudsman made numerous recommendations in relation to programs:

Recommendation 7

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

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

Recommendation 9

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

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

Recommendation 10

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

Recommendation 11

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

Recommendation 12

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

Recommendation 13

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

[20 courses were listed]

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

Recommendation 14

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

Recommendation 15

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

Recommendation 16

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

Corrections information and comments

250. The ASCC *Female Induction Handbook* states:⁵²

Education

Art education and the Quick Smart Program are facilitated in the Textile Workshop. Vocational Education is also provided within the Female Sector. Submit a yellow form to find out what is available for you. An assessment will be facilitated prior to you commencing a class to see what your levels are.

Prisoners may attend the SSS Program; obtain a White Card and the KUNGA Program among other activities facilitated within the Female Sector.

Rehabilitation

Prisoner Treatment Programs assist people to address their “offending behavior” and are available to both Sentenced and Remand prisoners. If sentenced and wishing to participate in programs, submit a yellow request form with a short story to Prisoner Services and you will be waitlisted for participation.

Among the Programs available are Alcohol/Drug Course, Anger Management and Indigenous Family Violence Programs.

251. Corrections commented:

... all female prisoners regardless of their classification have access to education and training and rehabilitation programs.

...

Every attempt is made to engage external providers that have specialised women’s services available, such as CAWLS or Congress Women’s Health Centre. By adapting internal logistical processes, women access the Prisoner Services staff every Wednesday (education, rehabilitation and clinical teams accommodated within Q Block).

This provides the opportunity for the female prisoners to observe how the external providers work (and who they are), and is an opportunity to develop relationships with Corrections staff. This allows for differing communication styles which women prisoners have compared to male prisoners, and provides the opportunity for the women to be able to develop the trusting therapeutic relationship required for an intervention.

252. Corrections stated that the specific needs of female offenders are met by delivering individual interventions to female prisoners rather than in group programs. It stated that to ensure the cultural relevance of treatment/interventions/counselling/reintegration/transition services to female prisoners:

Consideration is given to the family and friendship relationships that are known when developing groups and delivering interventions to ensure conflict relationships are avoided. The female prisoners have access to the Elder’s Visiting Program and the advice of the Elders is incorporated into reintegration planning. Indigenous Support Officers (previously Aboriginal Liaison Officers) are actively engaged in prisoner planning and communication.

⁵² Pages 16 and 17.

253. Corrections staff commented:

- ASCC is trying to move towards best practice standards and develop a detailed Throughcare plan.⁵³
- Rehabilitation services are provided by outside community service agencies whose viability is dependent upon government funding. Any changes in the funding provided immediately impacts the ability to provide services to the women.
- Staff are cognisant that programs need to be more tailored to female needs and focus on areas such as coping mechanism skills, budget management, parenting courses, maintaining household and other 'survival skill kit' approaches.
- There needs to be an increase overall in the number of programs provided to the female prisoners.
- The remoteness of Alice Springs in itself is a challenge in trying to find community service agencies to provide the type of services required. For example, there is no community agency in Alice Springs that can provide parenting courses where the focus is on the mother and child relationship and responsibilities etc. which is recognised as a major gap in service delivery to female prisoners.
- There is no scope in the current resource model for any programs to be delivered by correctional staff.

254. Corrections also provided information on a number of initiatives being considered or proposed.

255. ASCC is looking at establishing a women's supported accommodation house based in Alice Springs which will be specifically for women who are working or studying. This initiative will allow visits from children and Corrections will assist with liaising with Territory Families on behalf of the women.

256. It is envisaged that once women complete their sentences, they can stay at the accommodation and do not have to leave immediately. This is part of transitioning and will allow the women to establish housing credentials, i.e. rental history and assist with familiarity in the upkeep and maintenance of their home.

257. ASCC has also developed a partnership with BIITE to provide a rehabilitation program in the nature of a family well-being course — learning about caring for yourself and others.

258. Further information on initiatives that might be established in, or expanded to, Alice Springs are included in Appendix A to Volume 1 of this report. These include the *Women of Worth Program*, Intensive Learning Centres – Female and *Transitional Accommodation*. Corrections notes that while it has the intention to progress these and other initiatives within the context of Corrections strategies, the capacity to do so will be balanced against budgetary restraints.

⁵³ According to the North Australian Aboriginal Justice Agency website Throughcare is defined 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

Program processes

Prisoner Services

259. Education/training and rehabilitation programs for prisoners at ASCC are coordinated by the Prisoner Services team. The role of Prisoner Services is to provide intervention targeting offending behaviour and delivering support services to prisoners by conducting assessments, providing interventions where possible, and making recommendations for post release treatment.
260. Prisoner Services is responsible for developing a 'shared care plan' for women and also assesses each woman to establish what courses the woman is required to participate in.
261. Rehabilitation programs are largely provided by external organisations. There are currently no policies or procedures in relation to rehabilitation programs.
262. As at 20 June 2013 there were 27 positions within Prisoner Services (not including the General Manager and Manager Prisoner Services positions).
263. In 2015 a change management process resulted in the loss of several positions including the music teacher, the art teacher, the literacy teacher and the Principal Psychologist.
264. In the DCS Organisational Chart for 31 December 2015⁵⁴ notes appear against the Senior Education Officer, Prison Lecturer (VOC Ed) Auto and Prison Lecturer (Weld) indicating that these positions will not be filled.

How education/training and rehabilitation program are assigned to female prisoners

265. Corrections uses a system called IOMS for prisoner management. IOMS lists all of the programs available. Female prisoners are recorded on the wait list for programs in IOMS.
266. There are a range of mechanisms for identifying individual prisoner needs. These may include Initial Risks and Needs Assessment (IRNA), Security Classification and Transfer Eligibility (SCATE) assessment, Offender Management Planning (OMP), general clinical interview, support assessment, Throughcare interview, reintegration plan, inter-agency care plan, staff observations and prisoner requests.
267. Sample copies of the initial support assessment were provided by Corrections. The document does not appear to be evaluating the women's needs in terms of education, rehabilitation programs or employment but rather identifying immediate issues or concerns⁵⁵ the women may have where Prisoner Services can assist. The Throughcare initial interview document identifies rehabilitation needs but does not identify education and training needs.
268. Recommendations from an OMP meeting, support services interview, Throughcare interview, industry area or clinical interview are discussed with the female prisoner, who can consent or refuse to participate. This is followed up with a letter that advises the woman of the course and attendance date(s).

⁵⁴ The Organisational Chart for Prisoner Services is dated 'as at 31.12.14' is incorrectly labelled and should be 31 December 2015 as it was provided by DCS in an email for 2015.

⁵⁵ For example, questions relating to children and partner, living situation prior to incarceration, housing, referrals and licensing.

How female prisoners are advised of education/training and rehabilitation programs

269. Female prisoners may be informed when they have been waitlisted for a rehabilitation program or education/training by letter, their Net Card or individual contact.
270. Every afternoon at approximately 1400 (Monday to Friday) a call-up list identifying those prisoners who are required for programs/education the following day is emailed to ASCC staff to ensure the prisoner's attendance. Corrections staff can also access the 'prisoner diary' function within the IOMS database, which reveals all scheduled activities for the individual prisoner.
271. As a reminder, information about relevant programs/courses is available on prisoner's Net Cards. Prisoners are reminded after each morning muster about the day's activities and each Wednesday, Prisoner Services (Q Block) is designated for female prisoners to attend programmes.

How staff track what programs are required to be completed by female prisoners

272. Staff can either check the individual prisoner's current and waitlisted programs on IOMS or check the daily call-up list. The OMP also states recommended programs or activities for the individual prisoner. All information is available to Corrections staff in IOMS. All prisoner attendance is entered into IOMS. OMP reviews monitor progress on recommended courses or activities for the prisoner.

Prisoner requests for education and training and rehabilitation programs

273. All prisoner request forms are case-noted on IOMS prior to being forwarded to the relevant person who will follow up the request. In the case of a self-referral for program attendance, the prisoner may be waitlisted for the program or, if required, waitlisted for a clinical assessment to establish the need for attendance at the program. A letter may be sent to the prisoner and this information will be available on their Net Card.

Program records

274. Information was requested from Corrections in relation to:
- a) the total number of sentenced female prisoners at ASWCF who were waitlisted for education/rehabilitation programs in 2015; and
 - b) of that number, how many completed programs.
275. Corrections advised:

Unfortunately, after eligible sentenced prisoners are waitlisted for a program/activity in IOMS and subsequently enrolled in that program; their name is removed from the waitlist. IOMS does not have the ability to report the requested waitlist information.

276. Corrections was also asked about the average waiting time, and responded:

Regardless of their legal status, female prisoners are offered the opportunity to access programs/activities and education. This occurs in person, fliers or by word of mouth. The women accessing these programs/education activities are generally not placed on a waitlist because the programs/education activity delivery is imminent.

NTDCS clinical treatment programs are not available to women in ASCC but psycho-educational programs are available subject to provider (internal and external) scheduling and in the latter case; ongoing funding e.g. funding for Holyoakes, CAAAPU and ADSA ceased on 1 July 2015.

Programs like the White card, drink driver education and first aid may incur some delays until there are sufficient female numbers available to create a course. In respect to clinical interventions e.g. women's violent offenders treatment programs – time on waitlist is dependent upon the DCC which is now the only facility providing the NTDCS treatment program.

277. When Corrections was asked how many female prisoners on the waitlist did not complete the program because they could not get onto the program, it responded:

Please refer to the Sentence Management Manual for program eligibility criteria and Procedure for Transfer of ASCC Prisoners to DCC for Treatment Programs document.

278. Corrections did not provide the information requested but rather, referred our Office to a manual which did not contain the information sought.

279. Information was requested regarding the average wait times at Corrections for programs. The response was:

The Principal Psychologist advised the waiting time for the psycho-educational programs would be minimal but for individual treatment, it was approximately a 12 month wait for individual to commence.

280. This provided only a partial response to the question that was asked.

281. The benefits of effective recording of information are well established. This basic information is essential in terms of individual tracking, program monitoring, assessing program performance and future planning.

Ombudsman comment

282. Following *Women in Prison 1*, it would appear that Corrections did make improvements to programs for female prisoners but these fell well short of full implementation of the recommendations made by the NT Ombudsman and even they were short-lived.

283. The *Hamburger Report* stated:⁵⁶

Access to programs by women is restricted, due to the lack of facilities for them, and the need to provide programs for the majority male prisoner population. In their submission, CAALAS reported that programs for women can only be held on Wednesday, and any that take place on other days are crowded, with lack of privacy.

CAALAS has also identified the need for programs and support services that address the specific needs of women, citing issues such as domestic and family violence and sexual assault. While we agree in principle, the Review Team is of the view that issues of victimisation are better addressed in the community, and that NTDCS should focus on addressing offending behaviour given the paucity of resources available to address clinical needs.

⁵⁶ Pages 122, 124.

Finding

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

Recommendations

120. That additional programs, education, creative and cultural activities are provided so that all female prisoners can be actively engaged.

Need for increased emphasis on tailored programs

284. Education and rehabilitation programs should not be viewed as a distraction or time-filler to occupy prisoners. They should be the essence of time in custody. Prison should function as a conducive environment for their conduct.
285. It is essential that there be substantially increased emphasis on the planning and implementation of these programs.
286. It is vital that women at ASWCF have access to programs that have been developed for them - programs that recognise their gender, their indigeneity and the challenging backgrounds that many of them come from.
287. Programs must recognise the level of literacy and numeracy skills of most of the women and the cultural imperatives they often share.
288. Many Indigenous women have low literacy and numeracy skills and limited education. Access to accredited education and training is critical to maximise the prospects of successful reintegration into the community and reduce reoffending patterns. A number of women spoke of their desire to participate in literacy and numeracy programs.
289. Programs of this nature must form a basis for personal extension and development within prison.
290. In addition to educational programs, there must be a significant rehabilitation component. There must also be a broader range of programs that help female prisoners deal with the many challenges they will face on their release from prison.
291. Undertaking a range of programs/employment should be seen as an essential part of serving time in prison. Serious consideration should be given to actively promoting and possibly requiring a minimum level of involvement in programs from every prisoner. The mix of programs to achieve the required minimum could be established in consultation with the prisoner but the requirement to 'work' towards rehabilitation could be mandatory. This could be backed by providing incentives for successful pursuit and completion of programs.
292. However, to do this, it would be essential to have a broad range of relevant and effective programs readily available.

Program variability

293. One notable aspect of numerous programs offered in the past is their apparently short-lived nature.

294. In 2015, four programs were cancelled due to loss of funding and two were transferred to Darwin Correctional Centre. The cancelled programs comprised:

- two programs helping prisoners to deal with excessive alcohol use; and
- two life skills programs .

295. The transferred programs comprised:

- a violent offender treatment program; and
- a sex offender treatment program.

296. I would place transferring standard programs to Darwin in the same vein as cancellation given the dislocation involved for prisoners whose supports and families are in Central Australia.

297. In addition, a First Aid program was not offered during the year and the Quick Smart basic literacy and numeracy program was discontinued but then restarted in a different format with prisoners acting as tutors.

298. In 2015, dedicated internal program positions at Alice Springs were dispensed with. This not only limited program delivery but also had the side effect that internal staff who had previously provided additional support to prisoners outside strict program terms are no longer available to do so.

299. Some program delivery was contracted to Bachelor Institute Indigenous Tertiary Education (BIITE). Visual Arts, Foundational Skills Knowledge and Vocational Training are now delivered by BIITE academic and support staff.

300. This represents a huge amount of change in one year.

301. There is much to be said for maintaining a level of longer term consistency in program offerings. It allows prisoners to develop a level of familiarity with what is on offer and allows for improvements to be made in program delivery.

302. Program monitoring and evaluation is essential to test the worth of programs but programs must be given a reasonable life span (almost always beyond the span of the political cycle) if they are to be truly tested. In many cases, the real efficacy of a program cannot be tested in anything short of a five year timeframe.

303. Short term funding for programs does little more than put undue pressure on program developers and facilitators to achieve or portray unrealistic results to support arguments for ongoing funding.

304. Corrections must be in a position to commit to programs for a longer term. There may be provision for regular review of a program but ongoing funding should be guaranteed in the absence of exceptional circumstances and renewal should be addressed well before the expiry date for funding.

305. It is acknowledged that a number of discontinued programs were funded from external sources which had their own funding issues. It is important for the NT Government and Corrections to do everything within their power to promote longer term, sustainable commitments to program funding and renewal.

306. Whether or not programs are delivered by internal staff or external providers is a matter for consideration by Corrections. However, in making this assessment, it is important to take into account the advantages of having internal staff who are in a position to maintain ongoing connection with prisoners and provide ongoing support in a variety of areas.

Program accessibility

307. It is clear from the concerns expressed by prisoners that there is a lack of awareness of options available and disquiet about the effort that needs to be put into accessing programs let alone completing them. Bearing in mind the importance of participation in these programs and the many challenges facing prisoners, it is incumbent on Corrections to do everything in its power to promote and facilitate participation.

308. I do not suggest that Corrections staff are failing to provide relevant information and support at the moment. However, it is important that even greater effort is put into encouraging and supporting prisoners to undertake and complete programs.

309. In *Women in Prison 1*, the NT Ombudsman recommended women serving a sentence, or on remand, for a period of 3-6 months be given regular access to suitable programs. This was partially accepted but has now transitioned back to a focus on inmates serving 6 months or more. This is a missed opportunity to reduce recidivism. The majority of women are incarcerated for 6 months or less. I consider Corrections should re-examine this approach.

Limited support facilities

310. In order to pursue any program, prisoners need access to suitable spaces and facilities to pursue their studies, learn and reflect. The substantial overcrowding within ASCC places major restrictions on the availability of such spaces and facilities.

311. For example, the education block (Q Block) is made available to women once a week on a Wednesday. This is an opportunity for female prisoners to speak informally with prison staff about any concerns or needs; it is also an opportunity for Prisoner Services to provide the women with services and for individual counsellors to provide treatment.

312. Q Block is contained in the heart of the male area of the prison. Providing female prisoners with access to the education block is a logistical challenge and resource intensive. It involves ensuring no male prisoners are in the area.

313. This is obviously a very limited time each week to have access to educational facilities. The problem is compounded by the limited 'quiet' space available for study within H block and the lack of even basic study facilities there. It is in no way conducive to the successful pursuit of programs.

Online learning

314. While a number of other jurisdictions provide prisoners with controlled access to online learning, this is not currently available to ASCC prisoners.

315. Clearly, technological advances provide expanded opportunities for secure access to learning opportunities. It is important that Corrections fully explores the potential for utilisation of online options for program delivery and study.

Monitoring and evaluation

316. The *Standard Guidelines for Corrections in Australia* state:

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

3.12 Where an Administrating Department makes use of community resources for the assessment, treatment, counselling, education and training of prisoners, the Department should regularly assess and monitor the service provided by such agencies to ensure that the quality is adequate and consistent.

317. Proper monitoring and evaluation is essential to any program strategy. Proper records must be kept of who is requesting to take part in a program, who is accepted, who completes a program, who drops out and why, and ultimately whether the aims of the program are being met.

318. To fully monitor program uptake, delivery and effectiveness, it is vital that Corrections has the tools available to record and monitor progress and report on outcomes. Monitoring and evaluation must be built into program planning.

The way forward

319. For Corrections, a significant part of the answer lies in a separate women's facility or facilities with substantial resources devoted to relevant programs.

320. In any event, it is important for Corrections to develop an overarching strategy to guide the development and implementation of programs. This should be done in consultation with stakeholders and prisoners.

321. Developing an overarching strategy which secures ongoing funding for initiatives of this type will be a key to addressing fundamental weaknesses in the existing system.

322. Matters to be considered in development of the strategy include:

- inclusion of a range of basic literacy and numeracy, rehabilitation, life skills, pre-vocational and vocational programs;
- programs should be designed for females;
- programs should recognise that the overwhelming majority of female prisoners are Indigenous;
- ensuring that key programs (including programs essential for securing parole or other benefits) are reasonably accessible without the need for transfer to another institution;
- the need to develop pathways into accredited programs and qualification courses;
- exploring the potential for external and online program delivery;
- providing access to computers and online facilities to advance learning and development;

- providing access to other study materials;
- increasing the availability of special purpose study facilities, e.g., beyond one day each week in Q Block;
- increasing the availability of study spaces that can be accessed on a daily basis;
- providing completely separate and secure access to such facilities and spaces for females;
- establishing long term program commitments with dedicated and ongoing funding;
- development of programs should always include planning and provision of adequate resources for program monitoring and evaluation;
- providing multiple mechanisms to ensure prisoners are made aware of program options on a continuing basis;
- providing for appropriate encouragement and support to prisoners who wish to enquire about or enrol in a program;
- providing for appropriate support to prisoners in programs, including liaison with external providers, sending assignments, receiving results, conducting examinations, obtaining required study materials, photocopying, downloading documents, supply of writing materials and general advice and support;
- improving record-keeping and monitoring relating to all aspects of program offerings and engagement;
- conducting annual reviews of program offerings to ensure they remain relevant to prisoners.

ASCC programs available to women - 2015

323. A brief description of programs in which women at ASCC could participate that were scheduled or run in 2015 is set out below. In a number of cases the program was ceased in 2015.

Quick Smart Program

Basic language and literacy program.

Quick Smart facilitates learning through flash cards and is designed for women prisoners who do not have sufficient primary education to manage a vocational education course or certificate.

On 30 June 2015 the delivery of the Quick Smart Program, developed by the University of New England, was cancelled during change management processes in Prisoner Services. It later recommenced with an external tutor employed by the University of New England who trains prisoner tutors to deliver to their peers.

Safe, Sober and Smart Group Program

During 2015 the program was held in:

- a. July 2015 - 9 attendees.
- b. August 2015 – 12 attendees.
- c. September 2015 – 12 attended but 4 did not complete.
- d. October 2015 – 10 attended but 5 only attended the 2nd module.
- e. November 2015 – 17 attended but 5 only attended 2nd or 3rd modules.
- f. December 2015 – 15 attended but 3 only attended 1 module.

Violent Offender Treatment Program (Ceased)

Sex Offender Treatment Program (Ceased)

These two programs were cut in early 2015, when both were transferred to Darwin. Anyone who wishes to undertake these courses must now be transferred to Darwin.

The Director of Offender Services advised that ASCC female prisoners are not impacted in relation to transfer of prisoners because both programs are only suitable for male prisoners. The Director also advised that any female prisoners in this category would undertake individual work to address violent offending or sex offending.

Even though there are few female sex offenders, the staff attached to this program were able to provide services to women who were victims of sexual crimes in a personalised one on one approach. Given that a substantial number of women are in prison for crimes of violence, it is not clear why a program that addresses this issue would not be highly relevant to women, even if there was a need to modify it in some respects to meet the needs of the particular audience.

DASA Safe and Smart Program (Ceased)

This program was delivered at least once a year. It was a twelve hour program facilitated on a weekly basis and covered two modules per session. The aim was to assist female prisoners to reintegrate back into the community by providing information about alcohol, strategies to reduce harm identified through excessive alcohol use, and information about community agencies to access post-release. DASA undertook the referral and eligibility assessments.

During 2015 this program was delivered twice:

- a) 4 February 2015 – 12 female prisoners participated, 9 completed it. There were 3 remand prisoners with 2 completing the program.
- b) March 2015 – 12 female prisoners participated, 9 completed it. There were 4 remand prisoners, with 3 completing the program.

This service was initially funded through the Alice Transformation Program, then later through the Department of Health. Funding was discontinued on 30 June 2015 and the program ceased.

CAAAPU – Grog making the change (Ceased)

This was a psycho-education alcohol awareness program utilising the NT Government “Grog Making the Change” publication as a program tool. It provided information about alcohol, strategies to reduce harm identified through excessive alcohol use, and information about CAAAPU’s services post-release.

The program was delivered in four sessions – two hours per session, on a weekly basis, once per calendar year. During 2015, this program was not delivered.

The service was initially funded through the Alice Transformation Program, then later through the Department of Health. Funding was discontinued on 30 June 2015 and the program ceased. This also resulted in CAAAPU’s community based residential rehabilitation program for women ceasing operations in 2014/15.

Drink Driving Course

This program is a prison ‘fee for service’ arrangement with DASA who are accredited facilitators of the mandated NT Government “Back on Track – Drink Driver Education Program”.

This program is usually one on one and is a half a day depending upon participant numbers, literacy and language abilities. Successful client completion is based upon demonstrated competency based assessment.

This program is provided twice per year. During 2015 this program was provided on:

- 11 March - 18 March 2015. There were 13 participants, 12 completed the course, 1 was a remand prisoner and the other 11 were sentenced prisoners.
- 24-25 November. There were 10 participants all of whom completed the course and were all sentenced female prisoners.

This course directly targets one of the major causes for incarceration among the female prisoners and is strongly supported by the women.

This program is a 'fee for service' which means that prisoners who wish to participate in this program have to pay the cost.

Individual Counselling

Individual counselling is provided by prisoner services and Holyoake. Individual counselling is delivered on a case by case referral from Forensic Mental Health Services (FMHS) and delivered as an individual intervention.

Holyoake is a non-Government, non-religious organisation that offers confidential counselling and support to those who are affected by alcohol, drugs, gambling and inappropriate behaviour. It aims to assist female offenders to stop the cycle of violence and develop positive solutions and support.

This program is delivered as per prisoner's schedule. During 2014 and 2015 the following individual counselling was provided:

- a) Holyoake – September 2014 – 1 participant. This participant was referred by Forensic Mental Health Services staff or by request. This prisoner is a supervised person.
- b) Holyoake – October 2014 – 1 participant. This participant was referred by Forensic Mental Health Services staff or by request. This prisoner is a supervised person.
- c) Holyoake – In 2015 (date not provided) – 1 participant. This participant was referred by Forensic Mental Health Services staff or by request. This prisoner is a sentenced prisoner.
- d) Holyoake – June 2015 (date not provided) – 1 participant. This participant was referred by Forensic Mental Health Services staff or by request. This prisoner is a sentenced prisoner.

From the information provided by DCS, during 2014 and 2015 only four female prisoners were provided with individual counselling — it cannot be determined if the four sessions were provided to the same women or several women.

Women's Family Violence Program

In July 2015, this program was delivered to 9 female prisoners.

Kunga Case Management Skills Program

This program is operated in a partnership arrangement between the ASCC and the Central Australian Aboriginal Women's Legal Service. The program is federally funded through the Commonwealth Attorney-General's Department as part of the Australian Government's Indigenous Justice Program.

The Kunga Program commences at the beginning of each year. It is delivered 3 hours and 2-3 times per week. The Kunga Program is a culturally appropriate life skills program which is delivered within the Female Sector. Participants are selected in the last six months of their sentence as the program is funded to support female prisoners' pre and post release in community for approximately 12 months. The program touches on family violence; alcohol and other drugs; relationships and life skills. The program offers various life skills programs through educational and therapeutic activities.

During 2015, this program was delivered:

- a) January 2015 –11 participants, 10 completed the program (9 sentenced prisoners and 1 remand).
- b) February 2015 – 9 participants, 6 completed the program (8 sentenced prisoners and 1 remand).
- c) April, May and June 2015 - 10 participants, 10 completed the program (8 sentenced prisoners and 2 were supervised persons on remand).
- d) May and June 2015 (Activity session – Individual Case Management – 11 participants, 7 completed the program (5 sentenced prisoners, 1 supervised person and 1 remand prisoner).

Women's Legal Information Clinic – civil/family matters and education

This program is provided by the Central Australian Women's Legal Services (CAWLS). It is a monthly clinic and appointment length is variable depending upon client requirements. CAWLS lawyers make follow-up appointments as required with individual prisoners through the monthly clinic or through ASCC visits.

The vision of the CAWLS is to enable, educate and empower women to better engage in the legal system so that their rights are considered and respected. CAWLS is an accessible, proactive and responsive service for all Central Australian women with priority given to those in greatest need.

During 2015, this program was delivered:

- a) January 2015 – 12 participants, all completed the course (4 remand prisoners and 8 sentenced prisoners).
- b) February 2015 – 6 participants, 5 completed the program (1 was a remand prisoner (supervised person) and 4 were sentenced prisoners).
- c) 1 March 2015 – 13 participants all of whom completed the program and were all sentenced prisoners.

Family Well-Being Course

This course is delivered by BIITE and is a Certificate II in Family Wellbeing course. It comprises 8 units with nominal hours presented 220 minimum. This program is offered fulltime in 4 x 1 week blocks over 4 months. The intention is to offer the program twice per year.

The Family Well-Being course is self-help, self-empowering course for individuals in communities. The objective is to develop the skills for effective communication and conflict resolution to assist individuals and their communities to find positive solutions to deal with particular problems that they may face.

During 2015 this program was delivered once. There were 10 participants, 9 completed the program (1 remand and 8 sentenced prisoners).

Managing Your Life (Ceased)

This is a self-empowering program for females post release. It assisted women to develop skills for effective communication and conflict resolution to assist individuals to find positive solutions that they and their communities may face.

It was delivered by Holyoake as 12 x two hour sessions where each session is a standalone module. Individual counselling is delivered on a case by case basis, with referral from Forensic Mental Health Services and delivered as an individual intervention.

During 2015, this program was delivered 5 times:

- a) January 2015 – 5 participants, 4 completed the program (1 remand and 3 sentenced prisoners).
- b) February 2015 – 5 participants, 3 completed the program (all were sentenced prisoners).
- c) March 2015 – 12 participants, 10 completed the program (all were sentenced prisoners).
- d) April 2015 – 12 participants, 7 completed the program (1 supervised person, 1 remand and 5 sentenced prisoners).
- e) June 2015 – 6 participants, 5 completed the program (2 remand and 3 sentenced prisoners).

This service was initially funded through the Alice Transformation Program; then later through the Department of Health. The funding was discontinued on 30 June 2015 and the program ceased.

Aborigines Building Connections – For our children program

Provides counselling and case management to the prisoner population and their families to enhance, maintain or where necessary, manage changes in their relationships.

Is delivered by Relationships Australia NT (RANT) and is a 6 hour program delivered in 2 sessions over 3 weeks. RANT schedules 2 women's program per year. RANT provides individual counselling and case management service to eligible clients.

During 2015 this program was delivered:

- April/May 2015 – 9 participants, 8 completed the program.
- September 2015 – 6 participants, all 6 completed the program.

Drum Beat (Ceased)

The aim is to build confidence, problem solving and team skills. This program is offered by Holyoake and consists of 10 sessions of 1 to 1½ hours.

This program was delivered in 2014 with 15 participants but was not delivered in 2015.

Initially funded through Alice Transformation Program, then later through the Department of Health. Funding was discontinued on 30 June 2015 and the program ceased.

Elders Visiting Program (EVP)

The Elders Visiting Program is operated by Corrections Indigenous Services and Community Engagement Unit to facilitate Indigenous Elders from across NT Communities to engage with correctional centres, detention centres and other services as appropriate to provide support, advice and information to offenders. Female prisoners have access to the EVP.

Elders undertake visits to correctional centres a minimum of three (3) times a year but may make additional visits for Sorry Business, NAIDOC celebrations, mediation/conflict resolution and as required. Where appropriate, Elders are a key point of contact in establishing the suitability of an offender returning to Community and providing support.

In 2016, a total of 26 Elders (excluding Elders visiting during NAIDOC and other celebrations) visited 37 women prisoners.

Transitional Housing

Under the *Correctional Services Act* and NTDCS Directive 2.7.1, female prisoners with an open security classification may be assessed as suitable for referral to the pre and post-release supported accommodation program.

This program provides the women with accommodation where they can participate in employment, rehabilitation programs or study and is designed to assist the female prisoners with transitioning back to community life. Case management includes financial, social, health and housing along with maintaining alcohol/drug rehabilitation.

Referrals to pre and post-release support accommodation program may be made by NTDCS staff or requested by individual prisoners. The Sentence Management Team is responsible for identifying eligible prisoners, both pre and post-release, as suitable for placement at the accommodation house.

Currently there is only one supported accommodation program for the female prisoners at ASWCF which is provided by DASA. DCS refers the women to DASA, which ultimately determines suitability.

In 2015 there were a total of 22 male prisoners approved for placement at transitional housing. Of the 22 male prisoners, three absconded from the facility and were charged with escape lawful custody, 12 successfully completed their placement, six prisoners remained in their program at CAAPU and one remained at Aranda House.

In 2015 there were a total of eight female prisoners who accessed the transitional housing arrangement at DASA. Of the eight female prisoners, two absconded from the facility, four successfully completed their placement and two remained in the transitional housing program at DASA.

DCS advise that they have good success rates for the supported accommodation program however, it is too early to tell the full effect in relation to the recidivism rate as data is not yet available. At that time the program had only been in place for 12 months. The process of selecting women for this program and referring to DASA is informal and no policy exists at this stage.

Information received from the women during the Ombudsman staff visit suggests many women are not aware of this program or what it involves. The women who are aware of the program supported it.

White Card Course

This program is delivered by the Centre for Applied Technology. It is a two day course. It is a nationally accredited OH&S Induction course for the construction industry; and a requirement for many entering the paid workforce and/or working within prison industries.

This program benefits the female prisoners as being the holder of the Construction White Card provides access to employment opportunities within the construction industry, increasing skills and the ability to obtain employment by women prisoners who decide to return to live in their communities where opportunities to engage in paid employment are limited.

Although it was scheduled to be delivered twice in 2015, it was only delivered once:

20 June 2015 – there were 12 participants all of whom completed the program. All female prisoners who completed this program were sentenced female prisoners. Next course is scheduled on 14 January 2016.

First Aid

This program is provided by Eagle Training Services and is a one day course, usually run in conjunction with other programs.

It is an accredited course that provides the knowledge and skills to render assistance to others and is a pre-cursor to entry into some employment fields.

During 2015 this program was not delivered. The last first aid course was delivered on 18 August 2014 where all 10 participants completed the course. All were sentenced females.

CHAPTER 12: EMPLOYMENT OPPORTUNITIES

Prisoner and stakeholder comments

324. Discussions held with female prisoners on the topic of employment revealed a common theme that the employment available at ASWCF is limited, meaningless and unlikely to assist them in securing employment once released.

325. The majority of the female prisoners stated that they do not like the jobs they have been assigned but stated 'it is something to do'. The women advised that there is a need for more skilled jobs to assist them in obtaining employment upon release.

326. Female prisoners who do not have jobs advised 'there are no jobs available to us, after we clean our area and toilet in the morning we just sit around'.

327. Female prisoners also stated:

- they are not given any choices in relation to the types of jobs they can do and are instead told what jobs they have been assigned;
- choice should be a priority to ensure suitable employment is sought and they get skilled up in the career they seek;
- job opportunities should be made available to all prisoner classifications;
- they are disadvantaged compared to the male prisoners — male prisoners are provided with more employment opportunities — they stated 'men do everything but not ladies';
- they would like to do jobs that are offered to the male prisoners including creating tucker box, cooking and making miscellaneous items.

328. Female prisoners said they would like to obtain employment that involves learning new skills and new things. Examples provided included:

- Teacher in their community/town
- Teacher's Aid in their community/town
- Painting – would like to do more painting and learn new skills
- Learn about computers and how to use them
- Cooking
- Sewing
- Laundry – wash own clothes worn upon entry to prison
- Gardening including growing flowers, herbs, fruits etc.

- Administration jobs
- Mechanic
- Learn how to fix and make various things
- Horticulture
- Council Work i.e. wildlife training
- Art – learn about and undertake different types of art.

329. Stakeholder comments included:

Currently we are aware of 4-5 women with an open release status who are in paid employment in the hotel industry, undertaking duties such as housekeeping and laundry.

To our knowledge there are also several women in full-time voluntary employment positions with the Salvation Army Sorting Shed and Shop.

On the prison grounds, women are responsible for all cleaning and laundry which pays approximately \$20 per week. Women who pack breakfast kits at the prison also received approximately \$20 per week. Further, we are aware of some opportunity to sell artwork such as paintings and decorated chairs that are completed in the textiles shed.

In our view, the employment and other activities that women can be involved in are extremely limited due to women being located incidentally in a small portion of a primarily male prison.

...there is no doubt that there are more opportunities in general for the women than there were ten years ago. However, it is still very difficult as there is a non gender mix policy which can preclude women from accessing training opportunities. It would seem that the 'business' of the prison and the enterprises that provide both work experience and retraining for inmates is confined to the men simply by weight of numbers. I cannot see why women cannot go out on work groups with the men who do some very good work around the town and learn some very transportable skills during their time in jail.

Relevant standards

330. The Nelson Mandela Rules provide:

Rule 96

- (1) *Sentenced prisoners shall have the opportunity to work and/or to actively participate in their rehabilitation, subject to a determination of physical and mental fitness by a physician or other qualified health-care professionals.*
- (2) *Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.*

Rule 98

- (1) So far as possible the work provided shall be much as will maintain or increase the prisoner's ability to earn an honest living after release.*
- (2) Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.*
- (3) Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, prisoners shall be able to choose the type of work they wish to perform.*

Rule 99

- (1) The organization and methods of work in prisons shall resemble as closely as possible those of similar work outside of prisons, so as to prepare prisoners for the conditions of normal occupational life.*
- (2) The interests of the prisoners and of their vocational training, however, must not be subordinated to the purpose of making a financial profit from an industry in the prison.*

Rule 100

- (1) Preferably, institutional industries and farms should be operated directly by the prison administration and not by private contractors.*
- (2) Where prisoners are employed in work not controlled by the prison administration, they shall always be under the supervision of prison staff. Unless the work is for other departments of the government, the full normal wages for such work shall be paid to the prison administration by the persons to whom the labour is supplied, account being taken of the output of the prisoners.*

Rule 103

- (1) There shall be a system of equitable remuneration of the work of prisoners.*
- (2) Under the system, prisoners shall be allowed to spend a part of their earnings on approved articles for their own use and to send a part of their earnings to their family.*
- (3) The system should also provide that a part of the earnings should be set aside by the prison administration so as to constitute a savings fund to be handed over to the prisoner on his or her release.*

331. The *Standard Guidelines for Corrections in Australia* state:

- 4.1 Industry within prisons should be consistent with the national Code of Practice on Prison Industries and National Competition Policy.*
- 4.2 Prisoners should have access to a range of productive employment and facilities which provide them with the opportunity to utilise their time in prison in a constructive and beneficial manner. Prison labour should not be of an afflictive nature.*

- 4.3 *Prisoners should be remunerated for their work according to a preset scale that recognises different levels of skills and effort.*
- 4.4 *All sentenced prisoners should be expected to work, subject to their physical and mental capacity, but the maximum number of hours of work for prisoners should be prescribed in legislation or rules.*
- ...
- 4.8 *Wherever possible, prisoners should be employed to undertake as much of the cooking, cleaning, gardening and routine maintenance as is consistent with reducing the costs of imprisonment to the community.*
- ...
- 4.10 *Work should provide opportunities for prisoners to acquire skills that are in demand in the employment market so they have real employment opportunities upon release.*
- 4.11 *Prison employment should offer opportunities to achieve national competency accreditation.*
- 4.12 *Work opportunities should be free of gender stereo-typing and be designed to reflect the needs of different minority groups within the prisoner population.*
- 4.13 *Provision should be made for prisoners to be released from work to attend approved programmes and education.*
- 4.14 *Wherever possible, prisoners should be employed in work that provides a specific benefit to the community.*

Other references

332. The European CPT Standards state:

Equality of access to activities

25 *Women deprived of their liberty should enjoy access to meaningful activities (work, training, education, sport etc.) on an equal footing with their male counterparts. As the Committee mentioned in its last General Report, CPT delegations all too often encounter women inmates being offered activities which have been deemed “appropriate” for them (such as sewing or handicrafts), whilst male prisoners are offered training of a far more vocational nature.*

In the view of the CPT, such a discriminatory approach can only serve to reinforce outmoded stereotypes of the social role of women. Moreover, depending upon the circumstances, denying women equal access to regime activities could be qualified as degrading treatment.

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

*No distinction should be made between women and men as regards the type of work they are offered, and the same wage for equal work should be paid to men and women.*⁵⁷

⁵⁷ Office of the United Nations High Commissioner for Human Rights (2005), *Human Rights and Prisons: A Manual on Human Rights Training for Prison Officials*, Professional Training Series No.11 at 101.

NT situation

334. In *Women in Prison 1*, the NT Ombudsman made the following recommendations:

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

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

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

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

335. At the time, DCS advised that:

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

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

336. The current Northern Territory Correctional Industries (DCSI) Policy states:⁵⁸

DCSI is integral in rehabilitating and re-educating offenders through providing practical skills that will assist with gaining employment upon their release. DCSI aims to increase real employment opportunities for offenders and build partnerships with the business community particularly where it may benefit regional and remote Indigenous communities.

DCSI Policy is an overarching framework for the operations of DCSI and other work units that provide employment opportunities to offenders. These work areas must deliver services effectively, efficiently and lawfully, and align to the DCS strategic objective of reducing re-offending through employment, education and programs.

337. The Female Induction Handbook – Block Work states:⁵⁹

ASCC will provide employment for you, subject to availability and dependent upon your skills. Although you may have skills you may not be placed into a job straight away. Employment opportunities in the Female Sector include:

- *Laundry Workers*
- *Textile Workers*
- *Breakfast Bag Packers*
- *Office Cleaner*
- *Block Cooks and Dining Room Cleaners*
- *Rubbish Workers*
- *Gardeners*
- *Education Tutor*
- *Store worker*
- *Library worker*

The Senior Correctional Officer will allocate employment and Block Officers may direct you to do extra jobs throughout the day. All prisoners are paid in accordance to their work. If not working, you must still keep your accommodation clean and tidy. If you are a sentenced prisoner, you must work if offered work. If you refuse to work you will not receive any pay and may be subject to Prison Misconduct Charges.

If held on a Remand Warrant, you may choose not to work but are still required to maintain your hygiene and accommodation to be paid the basic rate of \$7.50 per week. If you refuse to work you will get NO MONEY. If unsure how much money you are paid, you can look it up on your Net Card.

338. The Standard Operating Procedure – Female Sector – Post Orders states:

16. In addition to the employment of prisoners for ground maintenance, Officers are responsible for organising work parties for ground maintenance in the Female Sector. Where practicable, work parties will be arranged each day to complete required duties which are to include but not restricted to;

- *Lawn mowing –all areas around H Block.*
- *Weed eradication - All areas where there is a prominent build-up of weeds.*
- *Rubbish collection – All areas including the Industries Compound.*

⁵⁸ DCS - DCSI Policy, page 4.

⁵⁹ At page 6.

339. At ASWCF jobs are available to female prisoners depending on their classification.

340. Jobs within ASCC may be internal (within the prison) or external. External work is generally more attractive as it develops skills within the community and may potentially lead to employment opportunities in the future.

341. External employment may take the form of VET (Voluntary Employment Training) or PET (Paid Employment Training). To be eligible for external employment opportunities women must have been sentenced and achieved an open security rating.

342. Females sentenced to less than 12 months are required to undertake programs to address their offending behaviours before they can go on to open security and be considered for VET or PET employment.

343. When asked why some female prisoners do not work, Corrections responded:

While prisoners held on Remand Warrant may and are encouraged to work and undertake education and programs, they are only required to maintain daily hygiene regimes. Some prisoners do not want to work. Prisoners who elect not to work do not receive any payment and may not access their private monies for canteen purchases ...

Comparison of male and female employment

344. The table on the next page provides a detailed analysis of male and female employment at ASCC.

345. Corrections advised that as at 29 February 2016 there were a total of 570 male prisoners — 127 were employed within the service industries and 228 in business units.

346. This meant 62% of the male population were participating in employment opportunities, 40% in the business units and 22% in the service industries.

347. On the face of it, female prisoners compared well, with 51 of 66 female prisoners (77%) participating in employment.

348. However, it is important to appreciate that none of the female prisoners were participating in work in the business units. All were in service industries, with 22 of the 51 working on breakfast packs. This involves the women sitting around cardboard boxes and placing breakfast items into plastic bags from 8am until 3pm.

349. An examination of the table and the accompanying notes, makes it clear that the employment options engaged in by women are vastly different from those available to men in qualitative terms. The potential for personal and vocational development available to women is minimal.

350. Corrections advised that there were 5 women prisoners involved in outside employment programs — voluntary or paid employment. There were 4 female prisoners employed at the Salvation Army (VET) and 1 at the IBIS Hotel (PET).

Prisoner employment as at 29 February 2016

		EMPLOYMENT SECTORS				
		COTTAGES MEN	MZ MEN	G BLOCK MEN	H BLOCK WOMEN	TOTALS
SECURITY RATINGS		L2 & Open	L1/Med	Max/Med/ L1		
1	CORRECTIONAL CENTRE POPULATIONS	145	264	161	66	636
2	SERVICE INDUSTRIES (Total Profile)	60	37	30	51	178
	Block Workers (block cooks, laundry etc.)	5	6	9	8	28
	Gardeners	3	8	2	2	15
	Cleaners	7	2	10	3	22
	Breakfast Packs	0	0	0	22	22
	External Work Placement (PEP/VEP)	35	0	0	5	40
	Job Find (Karen Sheldon Training)	0	0	0	0	0
	Full Time Education	0	0	0	0	0
	Part Time Education	0	0	0	0	0
	Programs (i.e. BIITE, CIVIL Train etc.)	10	0	0	0	10
	Quick Smart Tutors	0	3	1	1	5
	Misc. Workers	0	18	4	6	28
	Supervised/FMH/Health/Pregnant or with child	0	0	4	4	8
3	BUSINESS UNITS (Total Profile)	107	121	0	0	228
	Bakery	6	0	0	0	6
	Cabinet Making/Furniture	14	0	0	0	14
	Carpentry/Maintenance	0	10	0	0	10
	Construction & Development	13	0	0	0	13
	Creative Arts	0	4	0	0	4
	Horticulture	28	0	0	0	28
	Kitchen	0	24	0	0	24
	Laundry	4	24	0	0	28
	Mechanical	0	11	0	0	11
	Metal Fabrication	0	14	0	0	14
	Number Plates	0	13	0	0	13
	External work projects (Ayers Rock)	12	0	0	0	12
	Textiles/Industry Ragging	0	9	0	0	9
	Stores/canteen/vending	3	3	0	0	6
	Trade Skills	0	9	0	0	9
	Work Parties (Community Support Program)	27	0	0	0	27
	Total Employment Profile	167	158	30	51	406

Notes to table:

There were 10 prisoner undertaking Cert 1 Resource and Infrastructure (CIVIL Training – mining readiness) whilst employed in other areas and 12 prisoners employed in Community Support Program and also Ayers Rock lighting project. The Horticulture Sector, Engineering and Food Services delivers Vocational Education Training (Certificate 1 through BIITE) to prisoners employed within these areas. The Number Plate Factory has the contract to manufacture number plates and novelty plates for the NT. The Bakery bakes for ASCC, Food Services delivers all meals to ASCC, the Laundry launders all prisoner linen, doonas, male clothing and launders the blankets for the Police. Engineering manufactures fences and other items, Construction and Development make roof trusses and concrete items, Cabinet/Furniture Workshop makes pieces for male and female prisoners to paint.

Service industries within ASCC include:

- Food Services Sector which provides three (3) meals a day to the prisoner population and staff and external stakeholders plus delivers vocational training to prisoners.*
- Laundry provides a product/resource to the correctional centre and to the wider community e.g. washes Police blankets, facilitates the laundry for Alcohol and Other Drugs*
- Work parties (General reparation work within local municipalities and surrounding areas)*
- Female Industries – provides employment by way of preparing breakfast packs for the main kitchen for issue to the general prison population as required.*

The Business Unit of Correctional Industries and Employment undertakes commercial business activity by engaging and forging business partnerships with local suppliers. The commercial industry based operations consist of the following trades:

- The Engineering Workshops (Metal Fabrication – Vocational training is delivered to prisoners*
- The Creative Arts (Graphic design)*
- Truss Factory (Timber house Trusses) – Vocational training is delivered to prisoners*
- Furniture Making Factory – Vocational training is delivered to prisoners*
- Number Plate Factory (Government Contracts)*
- Male Textiles – provides general clothing repairs for the institution*

Horticulture looks after the grounds of ASCC and delivers vocational training to prisoners.

351. Additional information provided by Corrections on employment opportunities available to the female prisoners at ASWCF is summarised below.

Name of Employment Opportunity	Duties/Tasks	Time Taken	Quals	Skills acquired during employment	Employment opportunity once released
Breakfast Packers	Put breakfast food items into plastic bag for prisoners. M-F - 8 to 3pm	From 8am (not full day)	No	Packing items into bags. No new skills.	Food packing - Limited
Laundry Worker	Washing female inmate clothes and towels.	From 8am (not full day)	No	Sorting, washing clothes and operating washing machines. No new skills.	Laundromat – Limited
Waterer & Gardener	Water plants and trees.	30 Min	No	No new skills.	N/A
Gardener	Whipper snip, mow and tidy garden.	Ad hoc	No	No new skills.	Gardener – Limited.
Bin Runners	Change bins within H Block	30 Min	No	No new skills.	N/A
Diplomat Hotel (PEP)	Housekeeper	Full day	No	New skills	Good prospects – house keeper, hospitality etc.
Store Worker	Manage and sort store room	Ad Hoc	No	No new skills	N/A
Block Cook	Distribute food to inmates	30 Min	No	No new skills	N/A
Dining Room Cleaner	Clean the common area after dinner	30 Min	No	No new skills	N/A
Salvation Army Thrift Shop (VEP)	Sorting and packing items	Full day	No	New skills	Good prospect in retail etc.
Quick Smart Tutor	Tutor other prisoners on the use of Quick Smart program	Ad Hoc	No	New skills	Good prospects - tutor, teacher's aide etc.
Office Cleaner	Mop and sweep office space and toilets.	Mon-Sun. 1 hour a day	No	No new skills	Cleaner
Painting	Paint on furniture, canvas etc.	Ad Hoc	No	New skills	Painter

Employment Officer

352. The ASCC has an Employment Officer whose role is to coordinate and implement paid employment programs for prisoners within the ASCC and advise the Principal Industries Officer and senior correctional management on a range of issues relevant to the employment and reintegration of prisoners.

353. The Employment Officer:

- assists prisoners to plan for and obtain employment including working for the dole and voluntary work;
- provides support and encouragement of self-sufficiency and self-esteem, assisting in developing social and living skills that will enhance the likelihood of ex-prisoners settling, sustaining and maintaining appropriate living skills.

354. Information received from Corrections suggests that the Employment Officer is currently located in the Cottage Sector which is outside the main prison compound. The reasoning provided for this location is that there are more male prisoners in the PET and VET programs than female prisoners. Corrections stated that this does not mean that the female prisoners are not getting this service, as the Employment Officer still monitors the female prisoners actively to ensure they are represented too.

355. Corrections also notes that senior prison staff identify female prisoners suitable for voluntary or paid employment and an email is sent directly to the Employment Officer.

356. In any event, it is important that the Employment Officer maintain direct contact with female prisoners to promote awareness about programs. To that end, the Employment Officer should make every effort to regularly visit H Block and attend at least weekly.

Ombudsman comments

357. The *Hamburger Report* commented:⁶⁰

Female prisoners have inequitable access to employment opportunities, with their options restricted to work in cleaning and the laundry, rather than work which will help them develop real world employability skills.

Finding

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

Recommendations

119. That female prisoners are provided with work that will provide them with marketable work skills, not just in service areas such as cleaning and laundry which will limit their job opportunities and their futures.

⁶⁰ Pages 122, 124.

358. I wholeheartedly support that recommendation. Many of the comments I have previously made with regard to education and rehabilitation programs have equal relevance to programs that involve meaningful work opportunities, particularly when they are aligned with vocational development and attainment of qualifications that will improve the chances of prisoners securing employment on their release.
359. The above tables show that much of the work done by women prisoners is menial, unskilled, and unlikely to lead to any future career prospects. They are generally confined to a very narrow range of work compared to male prisoners.
360. That is not to say that it is work that does not need to be done or that women prisoners should not contribute to the running of the prison by undertaking such work.
361. However, it is important that there be a balance between such work, necessary as it may be, and work that leads to personal development and vocational opportunities. And it is important that the burden of work of this basic nature not be borne solely or predominantly by women prisoners when all prisoners benefit from it.
362. Every effort should be made by Corrections to engage female prisoners in work of a productive nature from the point of view of the community and the personal development of the prisoner. As with education and rehabilitation programs there should be a substantial expansion of the breadth and scope of employment for females.
363. While it may take some rethinking of current practices, female prisoners should be able to expect that they might have access to a comparable range of options within the service industries and business units and in relation to external employment.
364. It is important for Corrections to review its current practices and produce a detailed policy that addresses the current shortcomings with regard to employment opportunities for women prisoners at ASWCF.
365. The review should be conducted in consultation with female prisoners and stakeholders and should address the various issues discussed above.

CHAPTER 13 – HEALTH CARE

It is generally accepted that women's health care needs in prison - both physical and mental - are more various and complex than men's (Carlsen and Worrall, 2004; UNDOC, 2008). Although women and men in prison face similar health problems, for example, substance misuse, mental illness and communicable diseases, there is a significant difference in the nature, intensity and complexity of the problems in the gender group (Ash, 2003). Women are also likely to have additional and different needs not only with respect to maternity care and gynaecological health but also to psychological health and a greater incidence of past or recent abuse whether physical, emotional or sexual in nature (Ash, 2003).⁶¹

366. Health service provision generally falls under the jurisdiction of the Health and Community Services Complaints Commission (HCSCC). The Office of the Ombudsman routinely refers complaints of this nature to the HCSCC.
367. In early 2016, the HCSCC finalised a report entitled, [*Investigation into Prison Health Service at Darwin Correctional Centre*](#), which deals with a number of individual complaints but also makes a number of general recommendations to the Prison Health Service for improvement.
368. There is nevertheless overlap in terms of service provision 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.
369. This Ombudsman report will therefore touch on health care issues in order to review the standards and literature available for guidance and record concerns raised by prisoners and stakeholders.

Prisoner and stakeholder concerns

370. Female prisoners suggested that medical assistance, including dental assistance, is very delayed and women often have to wait for long periods of time i.e. weeks to access medical and dental assistance.
371. It was suggested that even requests for medication such as Panadol for toothache etc. had been denied.
372. Stakeholders made the following comments:

In regards to the health and wellbeing of women prisoners I am aware from other programs that ... there is limited group support for adults experiencing mental health issues in the prison generally. As well as limited psychological support for individuals or as set out above for group work.

This is concerning as in other jurisdictions it has been found that women prisoners suffer very high levels of mental illness. A 2010 study of Indigenous women in Queensland prisons found nearly 90% have been diagnosed with mental illness. Recent research by Beyond Blue titled

⁶¹ Currie, B, Internet Journal of Criminology (2012) *Women in Prison: A Forgotten Population?* ISSN 2045-6743, page 17, referring to Carlsen, P. and Worrall, A. (2004) *Analysing Women's Imprisonment*. Devon: Willan Publishing, and Ash, B. (2003) *Working with Women Prisoners*, 4th edition, HM Prison Service: Women's Estate Policy Unit (internet).

'The Family Business: Improving the understanding and treatment of post-traumatic stress disorder among incarcerated Aboriginal and Torres Strait Islander women', found Post Traumatic Stress Disorder (PTSD) was the most common mental health condition in incarcerated ATSI women and almost half of the women who were assessed in custody had this condition.

In terms of mental health and wellbeing, we understand that women in custody are generally unable to see a counsellor individually. We understand that prisoners deemed high risk will be referred to Forensic Mental Health staff for a clinical response. Whilst there are psychologists at the prison, we understand their role to be along the lines of program facilitation rather than individual treatment. In our view the absence of individual counselling options is dire.

Given the frequent experiences of serious trauma amongst women in custody, including being a victim of domestic and family violence or sexual assault, it is unacceptable that there is not specialist counselling available to assist women who may require it....

We hold various other concerns about the conditions faced by women in custody, including the very long waiting lists that have been reported by those needing to see a doctor.

Relevant standards

373. The Nelson Mandela Rules provide:

Health-care services

Rule 24

- 1. The provision of health care for prisoners is a State responsibility. Prisoners should enjoy the same standards of health care that are available in the community, and should have access to necessary health-care services free of charge without discrimination on the grounds of their legal status.*
- 2. Health-care services should be organized in close relationship to the general public health administration and in a way that ensures continuity of treatment and care, including for HIV, tuberculosis and other infectious diseases, as well as for drug dependence.*

Rule 25

- 1. Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention to prisoners with special health-care needs or with health issues that hamper their rehabilitation.*
- 2. The health-care service shall consist of an interdisciplinary team with sufficient qualified personnel acting in full clinical independence and shall encompass sufficient expertise in psychology and psychiatry. The services of a qualified dentist shall be available to every prisoner.*

Rule 26

- 1. The health-care service shall prepare and maintain accurate, up-to-date and confidential individual medical files on all prisoners, and all prisoners should be granted access to their files upon request. A prisoner may appoint a third party to access his or her medical file.*

2. *Medical files shall be transferred to the health-care service of the receiving institution upon transfer of a prisoner and shall be subject to medical confidentiality.*

Rule 27

1. *All prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.*

2. *Clinical decisions may only be taken by the responsible health-care professionals and may not be overruled or ignored by non-medical prison staff.*

Rule 28

In women's prisons, there shall be special accommodation for all necessary prenatal and postnatal; care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the prison. If a child is born in prison, this fact shall not be mentioned in the birth certificate.

Rule 30

A physician or other qualified health-care professionals, whether or not they are required to report to the physician, shall see, talk with and examine every prisoner as soon as possible following his or her admission and thereafter as necessary. Particular attention shall be paid to:

- a) Identifying health-care needs and taking all necessary measures for treatment;*
- b) Identifying any ill-treatment that arriving prisoners may have been subjected to prior to admission;*
- c) Identifying any signs of psychological or other stress brought on by the fact of imprisonment, including, but no limited to, the risk of suicide or self-harm and withdrawal symptoms resulting from the use of drugs, medication and alcohol; and undertaking all appropriate individualized measures or treatment;*
- d) In cases where prisoners are suspected of having contagious diseases, providing for the clinical isolation and adequate treatment of those prisoners during the infectious period;*
- e) Determining the fitness of prisoners to work, to exercise and to participate in other activities, as appropriate.*

Rule 31

The physicians or, where applicable, other qualified health-care professionals shall have daily access to all sick prisoners, all prisoners who complain of physical or mental health issues or injury and any prisoners to whom their attention is specially directed. All medical examinations shall be undertaken in full confidentiality.

Rule 32

1. The relationship between the physician and other health-care professionals and the prisoners shall be governed by the same ethical and professional standards as those applicable to patients in the community, in particular:

a) The duty of protecting prisoners' physical and mental health and the prevention and treatment of diseases on the basis of clinical grounds only;

b) Adherence to prisoners' autonomy with regard to their own health and informed consent in the doctor-patient relationship;

c) The confidentiality of medical information, unless maintaining such confidentiality would result in a real and imminent threat to the patient or to others;

d) An absolute prohibition on engaging, actively or passively, in acts that may constitute torture or cruel, inhuman or degrading treatment or punishment, including medical or scientific experimentation that may be detrimental to a prisoner's health, such as the removal of a prisoner's cells, body tissues or organs.

2. Without prejudice to paragraph 1 (d) of this rule, prisoners may be allowed, upon their free and informed consent and in accordance with applicable law, to participate in clinical trials and other health research accessible in the community if these are expected to produce a direct and significant benefit to their health, and to donate cells, body issues or organs to a relative.

Rule 33

The physician shall report to the prison director wherever he or she considers that a prisoner's physical or mental health has been or will be injuriously affected by continued imprisonment or by any condition of imprisonment.

Rule 34

If, in the course of examining a prisoner upon admission or providing medical care to the prisoner thereafter, health-care professionals become aware of any signs of torture or other cruel, inhuman or degrading treatment or punishment, they shall document and report such cases to the competent medical, administrative or judicial authority. Proper procedural safeguards shall be followed in order not to expose the prisoner or associated persons to foreseeable risk or harm.

Rule 109

1. Persons who are found to be not criminally responsible, or who are later diagnosed with severe mental disabilities and/or health conditions, for whom staying in prison would mean an exacerbation of their condition, shall not be detained in prisons, and arrangements shall be made to transfer them to mental health facilities as soon as possible.

2. If necessary, other prisoners with mental disabilities and/or health conditions can be observed and treated in specialized facilities under the supervision of qualified health-care professionals.

3. The health-care service shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment.

Rule 110

It is desirable that steps should be taken, by arrangement with the appropriate agencies, to ensure if necessary the continuation of psychiatric treatment after release and the provision of social-psychiatric aftercare.

374. The Bangkok Rules provide:

Rule 6

The health screening of women prisoners shall include comprehensive screening to determine primary health-care needs, and also shall determine:

- a) The presence of sexually transmitted diseases or blood-borne diseases; and, depending on risk factors, women prisoners may also be offered testing for HIV, with pre and post-test counselling;*
- b) Mental health-care needs, including post-traumatic stress disorder and risk of suicide and self-harm;*
- c) The reproductive health history of the women prisoner, including current or recent pregnancies, childbirth and any related reproductive health issues;*
- d) The existence of drug dependency;*
- e) Sexual abuse and other forms of violence that may have been suffered prior to admission.*

Rule 7

- 1. If the existence of sexual abuse or other forms of violence before or during detention is diagnosed, the women prisoner shall be informed of her right to seek recourse from judicial authorities. The women prisoner should be fully informed of the procedures and steps involved. If the women prisoner agrees to take legal action, appropriate staff shall be informed and immediately refer the case to the competent authority for investigation. Prison authorities shall help such women to access legal assistance.*
- 2. Whether or not the women chooses to take legal action, prison authorities shall endeavour to ensure that she has immediate access to specialized psychological support or counselling.*
- 3. Specific measures shall be developed to avoid any form of retaliation against those making such reports or taking legal action.*

Rule 8

The right of women prisoners to medical confidentiality, including specifically the right not to share information and not to undergo screening in relation to their reproductive health history, shall be respected at all times.

Rule 9

If the women prisoner is accompanied by a child, that child shall also undergo health screening, preferably by a child health specialist, to determine any treatment and medical needs. Suitable health care, at least equivalent to that in the community, shall be provided.

Rule 10

- 1. Gender-specific health-care services at least equivalent to those available in the community shall be provided to women prisoners.*
- 2. If a women prisoner requests that she be examined or treated by a women physician or nurse, a woman physician or nurse shall be made available, to the extent possible, except for situations requiring urgent medical intervention. If a male medical practitioner undertakes the examination contrary to the wishes of the women prisoner, a women staff member shall be present during the examination.*

Rule 11

- 1. Only medical staff shall be present during medical examinations unless the doctor is of the view that exceptional circumstances exist or the doctor requests a member of the prison staff to be present for security reasons or the woman prisoner specifically requests the presence of a member of staff as indicated in rule 10, paragraph 2 above.*
- 2. If it is necessary for non-medical prison staff to be present during medical examinations, such staff should be women and examinations shall be carried out in a manner that safeguards privacy, dignity and confidentiality.*

Rule 12

Individualized, gender-sensitive, trauma-informed and comprehensive mental health care and rehabilitation programmes shall be made available for women prisoners with mental health-care needs in prison or in non-custodial settings.

Rule 13

Prison staff shall be made aware of times when women may feel particular distress, so as to be sensitive to their situation and ensure that the women are provided appropriate support.

Rule 14

In developing responses to HIV/AIDS in penal institutions, programmes and services shall be responsive to the specific needs of women, including prevention of mother-to-child transmission. In this context, prison authorities shall encourage and support the development of initiatives on HIV prevention, treatment and care, such as peer-based education.

Rule 15

Prison health services shall provide or facilitate specialized treatment programmes designed for women substance abusers, taking into account prior victimization, the special needs of pregnant women and women with children, as well as their diverse cultural backgrounds.

Rule 16

Developing and implementing strategies, in consultation with mental health-care and social welfare services, to prevent suicide and self-harm among women prisoners and providing appropriate, gender-specific and specialized support to those at risk shall be part of a comprehensive policy of mental health care in women's prison.

Rule 17

Women prisoners shall receive education and information about preventive health-care measures, including from HIV, sexually transmitted diseases and other, blood-borne diseases, as well as gender-specific health conditions.

Rule 18

Preventive health-care measures of particular relevance to women, such as Papanicolaou tests and screening for breast and gynaecological cancer, shall be offered to women prisoners on an equal basis with women of the same age in the community.

375. The European CPT Standards provide: ⁶²

Access to a doctor

33 – When entering prison, all prisoners should without delay be seen by a member of the establishment's health care service. In its reports to date the CPT has recommended that every newly arrived prisoner be properly interviewed and, if necessary, physically examined by a medical doctor as soon as possible after his admission. It should be added that in some countries, medical screening on arrival is carried out by a fully qualified nurse, who reports to a doctor. This latter approach could be considered as a more efficient use of available resources.

It is also desirable that a leaflet or booklet be handed to prisoners on their arrival, informing them of the existence and operation of the health care service and reminding them of basic measures of hygiene.

34 – While in custody, prisoners should be able to have access to a doctor at any time, irrespective of their detention regime (as regards more particularly access to a doctor for prisoners held in solitary confinement, see paragraph 56 of the CPT's 2nd General Report: CPT/Inf(92) 3). The health care service should be so organised as to enable requests to consult a doctor to be met without undue delay.

Prisoners should be able to approach the health care service on a confidential basis, for example, by means of a message in a sealed envelope. Further, prison officers should not seek to screen requests to consult a doctor.

35 – A prison's health care service should at least be able to provide regular out-patient consultations and emergency treatment (of course, in addition there may often be a hospital-type unit with beds). The services of a qualified dentist should be available to every prisoner. Further, prison doctors should be able to call upon the services of specialists.

As regards emergency treatment, a doctor should always be on call. Further, someone competent to provide first aid should always be present on prison premises, preferably someone with a recognised nursing qualification.

Out-patient treatment should be supervised, as appropriate, by health care staff; in many cases it is not sufficient for the provision of follow-up care to depend upon the initiative being taken by the prisoner.

⁶² Pages 39-41.

36 – The direct support of a fully-equipped hospital service should be available, in either a civil or prison hospital.

If recourse is had to a civil hospital, the question of security arrangements will arise. In this respect, the CPT wishes to stress that prisoners sent to hospital to receive treatment should not be physically attached to their hospital beds or other items of furniture for custodial reasons. Other means of meeting security needs satisfactory can and should be found; the creation of a custodial unit in such hospitals is one possible solution.

37 – Whenever prisoners need to be hospitalised or examined by a specialist in a hospital, they should be transported with the promptness and in the manner required by their state of health.

Equivalence of care – general medicine

38 – A prison health care service should be able to provide medical treatment and nursing care, as well as appropriate diets, physiotherapy, rehabilitation or any other necessary special facility, in conditions comparable to those enjoyed by patients in the outside community. Provision in terms of medical, nursing and technical staff, as well as premises, installations and equipment, should be geared accordingly.

There should be appropriate supervision of the pharmacy and of the distribution of medicines. Further, the preparation of medicines should always be entrusted to qualified staff (pharmacist/nurse, etc.).

39 – A medical file should be compiled for each patient, containing diagnostic information as well as an ongoing record of the patient's evolution and of any special examinations he has undergone. In the event of a transfer, the file should be forwarded to the doctors in the receiving establishment.

Further, daily registers should be kept by health care teams, in which particular incidents relating to the patients should be mentioned. Such registers are useful in that they provide an overall view of the health care situation in the prison, at the same time as highlighting specific problems which may arise.

40 – The smooth operation of a health care service presupposes that doctors and nursing staff are to meet regularly and to form a working team under the authority of a senior doctor in charge of the service.

Equivalence of care – psychiatric care

41 – In comparison with the general population, there is a high incidence of psychiatric symptoms among prisoners. Consequently, a doctor qualified in psychiatry should be attached to the health care service of each prison, and some of the nurses employed there should have had training in this field.

The provision of medical and nursing staff, as well as the layout of prisons, should be such as to enable pharmacological, psychotherapeutic and occupational therapy programmes to be carried out.

42 – The CPT wishes to stress the role to be played by prison management in the early detection of prisoners suffering from a psychiatric ailment (e.g. depression, reactive state, etc.), with a view to enabling appropriate adjustments to be made to their environment. This activity can be encouraged by the provision of appropriate health training for certain members of the custodial staff.

43 – A mentally ill prisoner should be kept and cared for in a hospital facility which is adequately equipped and possesses appropriately trained staff. That facility could be a civil mental hospital or a specially equipped psychiatric facility within the prison system.

On the one hand, it is often advanced that, from an ethical standpoint, it is appropriate for mentally ill prisoners to be hospitalised outside the prison system, in institution for which the public health service is responsible. On the other hand, it can be argued that the provision of psychiatric facilities within the prison system enables care to be administered in optimum conditions of security, and the activities of medical and social services intensified within that system.

Whichever course is chosen, the accommodation capacity of the psychiatric facility in question should be adequate, too often there is a prolonged waiting period before a necessary transfer is effected. The transfer of the person concerned to a psychiatric facility should be treated as a matter of the highest priority.

44 – A mentally disturbed and violent patient should be treated through close supervision and nursing support, combined, if considered appropriate, with sedatives. Resort to instruments of physical restraints shall only very rarely be justified and must always be either expressly ordered by a medical doctor or immediately brought to the attention of such a doctor with a view to seeking his approval. Instruments of physical restraint should be removed at the earliest possible opportunity. They should never be applied, or their application prolonged, as a punishment.

In the event of resort being had to instruments of physical restraints, an entry should be made in both the patient's file and an appropriate register, with an indication of the times at which the measures began and ended, as well as of the circumstances of the case and the reasons for resorting to such means.

376. The Standard Guidelines for Corrections in Australia provide:

Psychological Services and Managing Prisoners' Stress

2.22 Prisoners who are identified as being at risk of self-harm should be placed under a management regime appropriate to their individual needs that are designed to ensure their well-being.

2.23 Prisoners placed under a special management regime should not be denied access to privileges or entitlements other than those necessary removed for their own protection, and such removal should be for the minimum time necessary. Prisoners should only be segregated as a last resort in order to prevent self-harm or suicide and should be closely monitored.

2.24 Prisoners should have access to a professional counselling service provided by appropriately qualified persons and available at least during normal working days. Prisoners placed at work camps or remote locations where such services are not always available should be advised of the fact before transfer.

2.25 Consideration may be given to the use of family or identified community members for the support of Indigenous and CALD prisoners to manage self-harm and other psychological issues or episodes.

Health Services

2.31 Every prisoner is to have access to evidence-based health services provide by a competent, registered health professional who will provide a standard of health services comparable to that of the general community. Notwithstanding the limitations of the local-community health service, prisoners are to have 24-hour access to health services. This service may be on an on-call or stand by basis.

2.32 Every prisoner is to have access to the services of specialist medical practitioners and services relevant to their needs. Referral to such services should take account of community standards of health care.

2.33 Every prisoner is to e medically examined by a suitable qualified health practitioner within 24 hours after being received into prison, and thereafter as necessary.

2.34 Where a prisoner is found to have an infectious disease, the prisoner should be managed by health services so as to minimise the possibility of contamination of the prison environment and, where clinically appropriate, before the prisoner is permitted to mix with other persons and enter the normal prison routine.

2.35 Prisoners who are isolated for health reasons shall be afforded all rights and privileges that are accorded to other prisoners, where practicable and so long as such rights and privileges do not jeopardise the health of others.

2.36 All prisoners who have a medical complaint shall be seen by a health professional at intervals appropriate to the diagnosis in each case, according to good medical practice.

2.37 Health professionals should advise the officer in charge of the prison whenever it is considered that a prisoner's physical or mental health has been or will be, injuriously affected by continued imprisonment or by any condition of imprisonment, including where a prisoner is being held in separate confinement. The officer in charge of the prison should immediately make a written report of such advice available to the appropriate senior officer with a view to effecting an immediate decision upon the advice that has been given. A copy of the health professional's report should be placed on the prisoner's medial file.

2.38 Prisoners should be able to receive treatment from private health professional, provided they can be meet the costs and there are reasonable clinical grounds for granting the application and that the request falls within the relevant statutory requirements.

2.39 Prisoners are not to be the subject of unreasonable medical or scientific research that may be injurious to their health. Reasonable research is defined as where informed consent is given by the prisoner and where approval has been given by a properly constituted health research ethics committee, such as according to National Health Medical Research Council Standards.

2.40 Where a prisoner is under medical treatment upon being received into prison, that prisoner should be permitted to maintain contact, on the approval of the prison health service, with the medical service that was treating the prisoner previously.

2.41 Prisoners who are diagnosed with a severe psychiatric illness should be managed by an appropriate tertiary or specialist health care facility.

2.42 Prisoners who are diagnosed with mental illness or an intellectual disability should be provided with appropriate management and support services.

2.43 *Persons should not be remanded to prison custody solely for psychiatric or intellectual disability assessment.*

2.44 *Where a prisoner enters or is released from prison and is under medical or psychiatric treatment, where appropriate, the prison health service should make arrangements with an appropriate agency for the continuation of such treatment after release.*

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

2.46 *Arrangements are to be made for prisoners to give birth in a hospital outside the prison. If a child is born in prison, this fact should not be recorded on the birth certificate.*

2.47 *The confidentiality of medical information shall be maintained to reserve each prisoner's individual entitlement to privacy. However, medical treatment may be provided on a 'need to know' basis:*

- *With the consent of the prisoner; or*
- *In the interest of the prisoner's welfare; or*
- *Where to maintain confidentiality may jeopardise the safety of others of the good order and security of the prison.*

Other references

377. *Good Practice in women's prisons: A literature review* (2011), produced by the Australian Institute of Criminology, noted that:⁶³

It is widely recognised that female prisoners tend to have more complex substance abuse, physical and mental health issues and needs than the male prison population and the general female population, and that women's drug use is more closely related to their offending than it is for men (Corrections Victoria 2005⁶⁴; NSWDCS 2010⁶⁵).

Specifically, studies have found that:

- *Mortality rates are much higher amongst post-release women prisoners than for both post-release male prisoners and the general population (Graham 2003⁶⁶, Karaminia et al. 2007⁶⁷; Larney & Martire 2009⁶⁸);*
- *Women are more likely to have committed their offence(s) while under the influence of substances or to support their drug use (Johnson 2004)⁶⁹;*

⁶³ *Good practice in women's prisons: A literature review* – AIC Reports Technical and Background paper 41 (2011), 49, 50, 54.

⁶⁴ Corrections Victoria 2005. *Better pathways: An integrated response to women's offending and re-offending. A four-year strategy to address the increase in women's imprisonment in Victoria 2005-2009*, Melbourne: Department of Justice

⁶⁵ New South Wales Department of Corrective Services (NSWDCS) 2010. *Women offenders*, Sydney: NSWDCS. http://.correctiveservices.nsw.gov.au/offender_management/offender_services_and_programs/women_offenders

⁶⁶ Graham A 2003. Post-prison mortality: Unnatural death among people released from Victorian prisons between January 1990 and December 1999. *Australian and New Zealand Journal of Criminology* 36: 94-108

⁶⁷ Karaminia A et al. 2007. Factors associated with morality in a cohort of Australian prisoners. *European Journal of Epidemiology* 22: 417-428

⁶⁸ Larney s & Nartire K 2009. Inadequate data collection prevents health planning for released prisoners. *Medical Journal of Australia* 191: 408-409

- *The estimated prevalence of hepatitis C infection among female inmates in Australia is higher than for male prisoners and much higher than the general population (50-70% vs 1% MACASHH 2008)⁷⁰;*
- *Female prisoners report a higher incidence of continued intravenous drug use while in prison than do males, thereby leading to continued risk of exposure to blood-borne viruses, such as hepatitis C (Dolan 2001, 2000);*
- *The incidence of asthma among female prisoners (43%) is much higher than the general population (10%) and higher than among male prisoners (25%); Kraemer, Gately & Kessell 2009)⁷¹;*
- *Incarcerated Indigenous females are over 11 times more likely (and non-Indigenous women 8 times more likely), to experience severe psychosocial distress than the general population. The figures for male prisoners were four times and three times respectively (Kraemer, Gately & Kessell 2009)⁷²; these findings were consistent with earlier results indicating higher rates of mental illness for Indigenous women than non-Indigenous women (Butler et al. 2007)⁷³;*
- *After adjusting for age, post-release female prisoners had rates of hospitalisation over three times greater than in the general population (Hobbs et al. 2006)⁷⁴;*
- *Female prisoners generally report a higher incidence of mental health problems than males (Butler & Milner 2003), with one study finding that 84 percent of female prisoners interviewed met the criteria for a mental disorder (including substance harmful use/dependence) in the year prior to interview (Tye & Mullen 2006)⁷⁵;*
- *Female prisoners had much higher rates of intellectual disability than their male counterparts (Cashin et al. 2007)⁷⁶; and*

⁶⁹ Johnson H 2004. Key findings from the drug use careers of female offenders study. Trends & Issues in Crime and Criminal Justice no.289. Canberra: Australian Institute of Criminology.

⁷⁰ Ministerial Advisory Committee on AIDS, Sexual Health and Hepatitis (MACASHH) 2008. Hepatitis C prevention, treatment and care: Guidelines for Australian custodial settings: Evidence base for the guidelines. [http://www.health.gov.au/internet/main/publishing.nsf/content/9F632131D38B580CCA257505007C1A70/\\$File/prison-guidelines-evidence.pdf](http://www.health.gov.au/internet/main/publishing.nsf/content/9F632131D38B580CCA257505007C1A70/$File/prison-guidelines-evidence.pdf)

⁷¹ Kraemer s, Gately N & Kessell J 2009. HoPE (Health of Prisoner Evaluation) pilot study of prisoner physical health and psychological wellbeing. Perth: Edith Cowan University. http://www.ecu.edu.au/_data/assets/pdf_file/0011/39773/HoPE-Health-of-Prisoner-Evaluation-Report-online-version.pdf

⁷² Kraemer s, Gately N & Kessell J 2009. HoPE (Health of Prisoner Evaluation) pilot study of prisoner physical health and psychological wellbeing. Perth: Edith Cowan University. http://www.ecu.edu.au/_data/assets/pdf_file/0011/39773/HoPE-Health-of-Prisoner-Evaluation-Report-online-version.pdf

⁷³ Butler T et al. 2007. Mental health status of Aboriginal and non-Aboriginal Australian prisoners. Australian and New Zealand Journal of Psychiatry 41: 429-435

⁷⁴ Hobbs M et al. 2006. Mortality and morbidity in prisoners after release from prison in Western Australia 1995-2003. Trends and issues in Crime and Criminal Justice no.320. Canberra: Australian Institute of Criminology <http://www.aic.gov.au/publications/current%20series/tandi/301-320/tandi320.aspx>

⁷⁵ Tye C & Mullen P 2006. Mental disorders in female prisoners. Australian and New Zealand Journal of Psychiatry 40(3): 266-271

⁷⁶ Cashin A et al. 2007. Intellectual disability in the New South Wales inmate population. International Journal of Prisoner Health 2(2): 115-120

- *Two-thirds of female inmates in a NSW study reported that their offences were drug-related. On reception, just under half were suffering drug withdrawal syndrome (Kevin 2005)⁷⁷.*

Forsythe and Adams (2009)⁷⁸ recently found that female detainees were more likely than men to use 'hard' drugs and there was a stronger relationship between experiences of mental illness, drug use and arrest. They suggested that mental health care be considered as a measure to reduce recidivism and that programs designed for male offenders may not be suitable for addressing female offenders' needs, which tend to be more complex.

Kinner and Williams (2006⁷⁹) have suggested that, generally, inadequate attention is given to tailoring service delivery to specific sub-groups, such as Indigenous prisoners or women, and it is recognised that the needs of Indigenous women are particularly complex. In this context, the experience with the Derbarl Yerrigan Health Service at BPCW⁸⁰ is of interest. The program was, at the time of the most recent OICSWA⁸¹ inspection, only in its planning stage but the program enables Indigenous women and their children to visit the health service on a weekly basis for a series of education/information sessions. The objective of the program is that upon release, the women will feel comfortable continuing to attend because of an established connection and familiarity with the services available. The program will reinforce the connection already made with the child health nurse from Derbarl Yerrigan, who provides services to Indigenous children at BPCW on a regular basis.⁸²

378. *Good Practice in women's prisons* also refers to the *Kyiv Declaration on Women's Health in Prison* (UNODC & WHO 2009)⁸³ and sets out a number of key principles in relation to the health needs and treatment of female prisoners, including:⁸⁴

- *As women in prison are frequently victims of physical and sexual abuse, prison authorities and custodial staff should promote their dignity and safety and protect women in prison from bullying and abuse of any type. Male custodial officers should not be responsible for the direct supervision of women. They should never have routine physical contact with them, or have access to living and bathroom areas;*

⁷⁷ Kevin M 2005. Addressing prisoner drug use: Prevalence, nature and context. Research publications no. 47. Sydney: NSWDCS.

http://www.Correctiveservices.nsw.gov.au/_media/dcs/information/research_and_statistics/research-publication/RP047.pdf

⁷⁸ Forsythe L & Adams K 2009. Mental health, abuse, drug use and crime: Does gender matter? Trends & Issues in Crime and Criminal Justice No. 384. Canberra: Australian Institute of Criminology. <http://www.Aic.gov.au/publications/current%20series/tandi/381-400/tandi384.aspx>

⁷⁹ Kinner S & Williams M 2006. Post-released experience of prisoners in Queensland: Implications for community and policy. Brisbane: Queensland University of Technology. <http://eprints.qut.edu.au/6462/>

⁸⁰ BPCW is Boronia Pre-release Centre for Women

⁸¹ OICSWA is Office of the Inspector of Custodial Services Western Australia

⁸² Office of the Inspector of Custodial Services Western Australia, 2009. Report of an announced inspection of Boronia Pre-release Centre for Women. Report no. 62. Perth: OICSWA

⁸³ United Nations Office on Drugs and Crime & World Health Organisation (UNODC & WHO) 2009. Women's health in prison: Correcting gender inequity in prison health.

http://www.Unodc.org/documents/commissions/CND-Session51/Declaration_Kyiv_Women_60s_health_in_Prison.pdf

⁸⁴ Pages 55-56

- *The prison environment does not always take into account the specific needs of women, including the need for adequate nutrition, health and exercise for pregnant women. There are also greater hygiene requirements due to menstruation such as the availability of regular showers and sanitary items that are free of charge and may be disposed of properly;*
- *Gender-sensitive training and training on the specific health needs of women in prison should be widely available in all systems;*
- *The provision of an effective system of prison inspection and oversight carried out by an independent body and with a confidential complaint system is essential in preventing violence and abuse within the prison;*
- *Continuity of care (Throughcare) upon release is of utmost importance and should be the collective responsibility of prison staff, health care staff and social-care authorities in the community;*
- *Health service provision and programming should specifically address mental illness, in particular, substance use disorders and post-traumatic stress disorder;*
- *Health service provision in prison must recognise women's gender-specific health care needs and should be individualised, framed and delivered in a holistic and humane manner; and*
- *Key services to be provided should include:*
 - *Comprehensive and detailed screening when first admitted to prison and regularly throughout their stay; this should cover socioeconomic and educational background, health and trauma histories, current health status and an assessment of skills held or required;*
 - *An individualised care, treatment and development plan, to be prepared jointly between different health care providers and all other staff likely to be involved in care and custody and in consultation with the women themselves;*
 - *Primary health care services provided in the prison, which are outlined during the induction period, including her rights to access (eg emergency access), confidentiality, privacy and to health information and promotion activities. These should be made clear, preferably by means of an easily understandable written pamphlet;*
 - *Specialist health care, which is readily provided and adjusted to meet individual needs such as for mental health (including help with legacies of abuse and post-traumatic stress disorder), chronic health conditions, HIV and AIDS (including counselling and support), hepatitis, tuberculosis and other infectious diseases; drug and alcohol dependence; learning disabilities; and reproductive health, with access to specialist health care being explained to the women in prison when discussing her individual care plan; and*
 - *Pre-release preparations that are adequately planned and provided in order to ensure continuity of care and access to health and other services after release. Health and social care cannot be provided in isolation from community services; just as health and nursing staff must maintain professional contacts with their peer groups, so must all services within prisons have good links to the equivalent services in the community.*

In addition, the Kyiv Declaration calls for an acceptance that:

- The criminal justice system be seen to be serving the interests of women in their care, so that gender-specific health and other needs are readily met and easily accessed;*
- Every prison that is required to house women prisoners has a written policy showing that the practices in that prison are sensitive to the special needs of women and that the staff have undergone gender-sensitive training; and*
- Where and whenever children are involved, their needs and best interests be clearly seen as the first and main consideration in what is provided for them.*

379. The Australian Medical Association (AMA) has noted that prison offers an opportunity to access disadvantaged groups who are normally hard to reach in the community. This access provides an opportunity to address health inequalities including drug, alcohol and tobacco use, primary health care access and mental health care treatment. The AMA also notes that the public also derives a benefit if prisoners return to the community with their health problems and medical conditions diagnosed and/or addressed.⁸⁵

380. There is international agreement on the principle of equivalence, where services in a custodial setting should not be less than those provided in the community. In order for prisons to meet community standards, the level of healthcare provided should match the particularly high needs of the prison population.

NT situation

381. The *Women in Prison 1* Report (2008) focused on mental health and disability services. The report did not make recommendations but stated:

I welcome the efforts of DHCS and DCS to improve cooperation and service to prisoners with mental illness and disabilities. I note in particular the belated entrance of the DHCS disability team into the area of prisoner services.

Put together, these new initiatives (the screening tool, new training, new staff and new arrangements designed to increase cooperation such as the on-site FMH presence at DCC) will represent a substantial step forward in service provision.

At present there is no quantitative or qualitative data which would reliably indicate the level of mental health and disability needs among NT prisoners or the actual types of needs present. It is difficult, therefore, to objectively measure the adequacy of service provision. Once the new screening tool has been operational for six to twelve months, more reliable data is likely to be available regarding prevalence and service needs.

It may be that, as the Director Mental Health Services has asserted, the mental health needs of NT prisoners are significantly less than interstate. On the other hand, the NT may well discover that upon proper screening, we are not so different after all.

In my view, it would be safe to assume that the majority of NT women prisoners, like their counterparts interstate and internationally, have identifiable mental health needs. It is apparent that the current service delivery framework focuses primarily on those with profound mental illness and does not greatly engage in broad mental health promotion and support for the majority of the population.

⁸⁵ Australian Medical Association, Position Statement on Health and the Criminal Justice System (2012), 3.

Canada's 2002 Mental Health Strategy for Women Offenders provides an interesting comparison. While it arises from a much larger jurisdiction with many more service delivery options, I believe its key relevance is the perspective it offers. The strategy accepts as its starting point the high prevalence of mental illness needs among women prisoners. Rather than simply resting with diagnostic categories, however, it proceeds on the principle of the holistic nature of mental health. Instead of being something which an individual either has or does not have, mental health is viewed as a spectrum of needs, requiring a spectrum of responses, but from which every prisoner would benefit.

The new initiatives announced above will, when operational, fill some of the most glaring service gaps in mental health and disability care in NT prisons. I urge DCS and DHCS to build on these initiatives over the next five years to develop a broader and more holistic approach to mental illness and disability care for prisoners in the NT, including a specific strategy for women prisoners at DCC and ASCC, with reference to the Canadian strategy.⁸⁶

382. The ASCC Female Sector Induction Handbook states:⁸⁷

Medical Care – Doctor/Nurse

You can see the Doctor or a Registered Nurse by filling out the white medical request form. The Doctor works between Monday to Friday and can refer you to see the following specialists:

- *Forensic Mental Health Services*
- *Physiotherapist*
- *Dentist*
- *Optometrist (not available to those on remand except under special circumstances).*

The Medical staff will look after your medical care while you are in ASCC and a Registered Nurse (RN) is on duty 7 days a week between 0800 to 2000 hours. If required, the Doctor will send you to Alice Springs Hospital for treatment and, dependent on your security rating you will have one or two Officers escorting you and you may be handcuffed.

Medical Request Form

If you have a health query, problem or if you want to see a Doctor or Nurse, you will need to fill in a Medical Request Form. The medical box is emptied daily by Medical staff who will see you as soon as possible.

If you are on medication, the nurses will issue it to you in the mornings and evenings. You must bring a cup of water and take it in front of the Registered Nurse (RN) and Officer. If issued a week's supply of boxed medication, it is your responsibility to take your medication as prescribed or you may be charged with Prison Misconduct.

After Hours and Medical Emergencies

If you have an after-hours medical problem which needs urgent attention you can contact an Officer via the Intercom. If you are very ill, talk to an Officer and they will ring Medical or call a Medical Emergency.

⁸⁶ Pages 166 and 167.

⁸⁷ Pages 13 and 17.

Forensic Mental Health

Talk with Officers and submit a yellow form explaining why you want to see a Forensic Mental Health Worker if you are feeling stressed, worried or cannot cope. They will meet find out what is going on, may continue to see you or refer you to someone else if longer-term help is needed.

383. The *Standard Operating Procedure – Female Sector – Post* states:⁸⁸

25. Prisoner Medical Rounds (Evenings)

Prisoner Medical Rounds will be conducted at approximately 1630hrs each evening. Sector Officers will assist the Medical Officer and Medical staff member with the issue of medication to prisoners.

27. Chits for medical conditions

Recommendations received from the Medical Unit will be assessed for approval by Deputy Superintendent Administration and directed to the SCO Female Sector.

Medical Chits will be printed and laminated with the following information;

- *Able to carry medication*
- *Dietary meals*
- *Extra bedding (blankets, pillows)*
- *Exempt from work*
- *Light duty work*
- *Other (exemptions or privileges).*

384. The NT Government has released a “Mental Health Service Strategic Plan” for 2015-2021. It is an aspirational document but includes “improving access to mental health services to people in prison, other correctional facilities and within the criminal justice system” as a focus.

385. Territory-wide, mental health services are co-ordinated by the Mental Health Directorate, located within the NT Department of Health (DoH). In the Top End, DoH mental health services are provided by Top End Mental Health Services, which is part of Top End Health Services. In Central Australia, DoH mental health services are provided by Central Australian Mental Health Services, which is part of Central Australian Health Services.

386. Specialist mental health services delivered by Top End Mental Health Services and Central Australian Mental Health Services include community based adult, child, youth and forensic services as well as inpatient services.

387. Within Top End Mental Health Services, the Forensic Team provides specialist mental health services to individuals in the justice system. This includes services provided in correctional facilities and in the community.

⁸⁸ Pages 13 and 14.

388. In contrast, the much larger jurisdiction of NSW has a dedicated Justice Health Department which includes the Forensic Mental Health and Forensic Hospital divisions.

389. With regard to counselling, Corrections was asked about the removal of the Principal Psychologist position (see paragraph 263 above) and advised:

The Principal Psychologist position exists in Treatment Services where the position and other clinical positions are responsible for addressing criminogenic risks and needs (offending behaviour) of the prisoners. Any mental health issues for a prisoner including psychotic episodes are the responsibility of Health Forensic Mental Health Services.

390. When asked how many female prisoners currently incarcerated were diagnosed with mental illness, Corrections responded:

The Forensic Mental Health Team (FMHT) advised that ASCC currently has one female client with a major mental illness who is prescribed medication and is case managed by the Forensic Mental Health Team. FMHT advised ASCC has another female client with a previous history of depression who is currently prescribed medication but is not case managed by FMHT. However, they will see her on request or if referred by staff or the Primary Health Care Provider.

Ombudsman comments

391. The total of two prisoners provided by Corrections appears to be far lower than the comparable statistics for mental health issues for women prisoners in other jurisdictions. This raises a question as to whether Corrections is currently undertaking adequate assessment for mental health issues.

392. It is important for Corrections to take active steps to identify and address existing and developing mental health issues. Prison provides a valuable opportunity to take positive action in this regard. Addressing these issues at the earliest opportunity can lead to more effective treatment.

393. It can also better inform the justice system about the particular circumstances of the offender so that any measures taken in relation to them regarding current charges or in the future can take those circumstances into account.

394. The same can also be said for identifying and addressing any underlying cognitive disability. Whether we are considering sentenced prisoners or people on remand, prison provides a valuable opportunity to identify mental health issues or cognitive disabilities that might not otherwise be picked up in brief dealings that authorities may have with a person prior to being held in prison.

395. Turning to more general health issues, there is a question as to whether the requirement for women to submit a request in writing for medical and dental assistance is limiting access. Many of the women are from a non-English-speaking background and have limited literacy skills. Over-reliance on written requests and completion of forms may well disadvantage them.

396. There have also been cases in the past where medical chits have been questioned or not actioned on the grounds of prison security or the good governance of the prison. Where there is some potential for variance from 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.

397. Given the concerns expressed above, this is an area which would benefit from closer consideration and consultation with service providers, the HCSCC, prisoners and stakeholders.

Hearing impairment

398. I have discussed previously the problems that can arise when a prisoner cannot speak English. In a similar way, prisoners with hearing problems face formidable challenges in the prison environment.

399. This issue was considered by the Australian Senate Community Affairs References Committee in its 2010 report, *Hear Us: Inquiry into Hearing Health in Australia*.

400. The Committee described the problem in the following terms:

8.83 Evidence was also presented to the committee that prison life for people with a hearing impairment, including Indigenous people, can be harder than it is for people with normal hearing ability. NAAJA noted in their submission that:

It is unquestionably the case that the experience of jail is significantly more severe on people with hearing impairments. Prisons operate with a heavy reliance on prisoners hearing commands, and responding as required. This includes the use of bells and sirens and following oral instructions.

8.84 One witness supported NAAJA's view when he reported on his conversations with hearing impaired prisoners at Alice Springs Correctional Centre:

Several of the guys...told me that, because of their hearing loss, they often did not understand what guards wanted them to do, so they were in constant strife with the guards in the prison. We had a program to provide hearing aids to these guys, because they did not qualify for hearing aids from any other sources. Thank goodness, the Office of Hearing Services would donate returned hearing aids. We used those, and it made quite a difference in a lot of individual guys' lives now that they could hear and understand things. Their perception by guards and their perceived behaviour improved because they knew what was expected of them. So it all has to do with proper and clear communications.

401. Although there was limited evidence as to the extent of hearing issues in prisons, the Committee noted:

8.75 The committee heard preliminary results from one study which found high levels of hearing loss and unhealed ear perforations among female Indigenous inmates. The preliminary results of that study indicate that 46 per cent of the women had a significant hearing loss, and that of those failing a hearing screening, 30 per cent had perforations of one or both eardrums.

8.76 Notwithstanding the lack of hard data, anecdotal evidence from the NT seems to indicate that in that jurisdiction at least the prevalence may be very high indeed:

Limited research work suggests that 85 to 90% of Indigenous prisoners have hearing loss.

We know for a fact that out at the jail here [i.e. in Alice Springs] out of the 90 per cent of the Indigenous people who would be out there, 99 per cent of those would have a hearing loss. It is quite scary.

402. The Committee recommended that:⁸⁹

... correctional facilities in which greater than 10 per cent of the population is Indigenous review their facilities and practices, and improve them so that the needs of hearing impaired prisoners are met.

403. This is an issue that is likely to have substantial implications for prisoner health, compliance and prospects for rehabilitation. It is worthy of careful and ongoing investigation and action by Corrections.

⁸⁹ Recommendation 34.

CHAPTER 14: THE BASICS

Clothing and hygiene

Prisoner concerns

404. Issues raised by female prisoners included:

- Two pairs of bras and underwear (recycled) are provided to women and in many instances, the bras and underwear issued are too small or do not fit properly or have holes or are ripped. The bras and underwear go missing which causes the women to fight because they are stealing each other's clothes. The women are of the view that this has occurred because there are not enough clothes, bras and underwear. Better fitting bras and underwear need to be issued.
- Women were recently provided new pants however, these pants were see-through. The majority of women do not like to wear them during the day but they are worn during the night. The women advised that they are culturally not appropriate as they are see-through.
- Many female prisoners said that while they were provided with very basic toiletries on induction and sanitary items are free, they are required to request in person for sanitary items from prison officers. The women advised that requesting sanitary items from a male prison officer is 'shame job' and not appropriate according to Indigenous culture.
- Once they arrive at the female sector, their clothes are washed by female prisoners. However, at reception (when the women first arrive in prison) their clothes are washed by male prisoners. The women believe that this is culturally unacceptable.

Relevant standards

405. The *Nelson Mandela Rules* provide:

Rule 19 – 1. Every prisoner who is not allowed to wear his or her own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him or her in good health. Such clothing shall in no manner be degrading or humiliating.

2. All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of hygiene.

3. In exceptional circumstances, whenever a prisoner is removed outside the prison for an authorized purpose, he or she shall be allowed to wear his or her own clothing or other inconspicuous clothing.

406. The *Bangkok Rules* provide:

Rule 5 - The accommodation of women prisoners shall have facilities and materials required to meet women's specific needs, including sanitary towels provided free of charge and a regular supply of water to be made available for the personal care of children and women, in particular women involved in cooking and those who are pregnant, breastfeeding or menstruating.

407. The *Standard Guidelines for Corrections in Australia* provide:

Clothing and Bedding

1.7 *When a prisoner is not allowed to wear personal clothing, the prisoner should be provided with clothing suitable for the climate and adequate to keep them in good health. Such clothing shall in no manner be degrading or humiliating. This may include clothing for general use, work or recreation.*

2.10 *All clothing should be clean and kept in proper condition.*

NT situation

408. On reception, women prisoners are provided with:

- 3 x sets of clothing;
- 3 x sets of underwear (bra and pants);
- Socks;
- Runners;
- Thongs;
- Toothbrush;
- Toothpaste;
- Soap;
- feminine hygiene products;
- 2 x sheets;
- 2 x blankets;
- 1 x doona;
- 1 x pillow;
- 1 x towel;
- 1 x plate;
- 1 x bowl; and
- 2 x cups.

Pen and paper are supplied on request, a regulation stamp is available each week and welfare phone calls are provided.

409. Women at ASCC are provided with some basic toiletries free of charge and have access to running water and shower and toilet facilities. In addition to the basic products provided, women are able to purchase toiletries such as shampoo and conditioner, deodorant, skincare products and a small range of makeup products in their weekly 'buy ups'.

410. The *Female Induction Handbook* provides:⁹⁰

Clothing and Footwear

You are expected to dress neatly in clean clothing and look after your clothes as you may be charged with Prison Misconduct if you purposely damage items. Any time you depart the Sector, you must be dressed in your prison clothing, wearing your Identification Card, closed in footwear and have your hair neat and tidy. You must wear the clothing provided for you even when you are in your cell.

Protective Work clothing and Footwear must suit the type of work you are doing. The Senior Correctional Officer or Block Officers will ensure you are provided with safety equipment if it is required.

411. Corrections advises:

We always provide the female prisoner's underwear, the men we only provide their initial but for females because of modesty we always provided ladies with three sets of underwear and they are new. Bras may be recycled but definitely their issued underpants are never recycled. We always give the ladies underwear that is why we limit to three and allow them to take the pants they have been wearing home.

This is the only item that is issued new, everything else is recycled. Underwear are replaced on a one-to-one, ladies would come up to replace one for another. We do not allow prisoners to stockpile underwear to take home but only allow what they require while in prison.

Ombudsman comment

412. The concerns raised by prisoners are worthy of further investigation by Corrections and careful consideration.

413. The current practices with respect to clothing described by prisoners, particularly underwear, are inadequate. I consider that Corrections should liaise with the female prisoners and review the current condition of all female prisoners' clothing. Corrections should replace clothing which is in poor condition including clothes that are worn out, ripped, have holes or are not fitting properly.

414. Corrections should also review the 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.

⁹⁰ Page 8.

Food

Food is a central component of life in correctional institutions and plays a critical role in the physical and mental health of incarcerated people and the construction of prisoners' identities and relationships. An understanding of the role of food in correctional setting and effective management of food systems may improve outcomes for incarcerated people and help correctional administrators to maximize the health and safety of individuals in these institutions.⁹¹

Prisoner and stakeholder concerns

415. Women prisoners and various stakeholders complained that the food provided to female prisoners is not nutritional, nor is it meeting the dietary requirements for prisoners who may suffer from high blood pressure or diabetes.
416. The majority of female prisoners advised they are tired of the food served, stating that they receive the same food every week i.e. same menu and does not vary. Although they feel the amount of food provided is sufficient and reasonably tasty, healthier options could be included.
417. They have, in some cases, resorted to purchasing their own food from their weekly 'buy ups' to obtain different food however, food purchased through this method can be very expensive and most women cannot afford to do this.
418. Prisoners were concerned with the level of fat and processed foods served and were hoping for fresher options. They also indicated that they would like to do the cooking and prepare the meals. Currently only male prisoners are allowed to cook.
419. They advised that breakfast includes cereals and skim milk (powdered form). Lunch includes ham sandwich or chicken sandwich or hot dog or sausages served with salad, mayo and sauces.
420. Dinner includes:
- Monday – sausages, rice, stew (of some sort) — the stew often has too much curry powder and is too spicy to eat.
 - Tuesday – Mincemeat with mashed potatoes or rice.
 - Wednesday – Chicken with vegies (frozen vegies) and gravy.
 - Thursday – Stew with pasta.
 - Friday – Meat pie with sweet potato and frozen veggies.
 - Saturday – Stew sausages with rice.
 - Sunday – Cold meats and salad.
421. Other concerns expressed included:
- Bread is provided with every meal (breakfast, lunch and dinner).
 - Desserts are not provided even on special celebratory occasions.
 - Vegetables are not fresh, with the exception of sweet potatoes.

⁹¹ World Health Organization Regional Office for Europe 2015 *Food systems in correctional settings – A literature review and case study* at Abstract.

- Some food provided is too greasy.
- Food is sometimes cold.
- Powdered milk and sugar provided is not enough i.e. enough for breakfast but not for tea or coffee later.
- No fresh fruits are provided.

422. Stakeholders commented:

... the diet at ASCC can be unhealthy including a lot of white bread, high starch products and very little salad. This is concerning especially for women that may be diabetic.

Relevant standards

423. The Nelson Mandela Rules provide:

Rule 22

1. *Every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.*
2. *Drinking water shall be available to every prisoner whenever he or she needs it.*

424. The Standard Guidelines for Corrections in Australia state:

Food and Water

2.14 Every prisoner should be provided with continuous access to clean drinking water and with nutritional food adequate for health and well being, at the usual hours prepared in accordance with the relevant health standards.

2.15 Special dietary food should be provided where it is established such food is necessary for medical reasons, on account of a prisoner's religious beliefs, because the prisoner is a vegetarian, or where the prisoner has other reasonable, special needs.

Celebratory Meals

2.21 Where appropriate and practical, prisoners should have the opportunity to participate in religious and cultural events or celebrations.

Other references

425. The World Health Organization has stated:⁹²

There are two major ways in which prison food systems have an impact on the health of incarcerated people. First, prison food systems and eating behaviour may lead to changes in weight, including excessive weight gains or loss, which undermines prisoners' physical health. Second, nascent research about the relationship between food and behaviour suggests that food and nutrition may have an impact on mental health outcomes.

⁹² World Health Organization Regional Office for Europe 2015 *Food systems in correctional settings – A literature review and case study* at 3.

NT situation

426. The *Female Induction Handbook* states:

Food Services provide all prisoner meals. Breakfast and tea may be eaten in your cell and you will receive your breakfast the day before which you must keep until breakfast. Your tea is issued at night and you must rinse your plate after eating and place any scraps into the bin provided.

Lunch is issued by the Block Cooks and you can eat in the common area or outside tables. You must put leftovers and rubbish in the bin. The only other food you may have in your room is what you can buy from the canteen or Vending Machine. Containers to store food can be purchased on the weekly Canteen Buy sheets.

If you cannot eat certain foods because of Religious or Medical reasons you must see the Doctor and explain your reasons and he/she may give you a Medical Chit.

Ombudsman comment

427. Food is a perennial source of complaint to the Ombudsman's office.

428. Complaints from female prisoners are consistent with complaints received across the NT and other jurisdictions including limited variety, limited nutritional value and failure to meet particular dietary and health requirements.

429. Corrections faces a huge challenge in developing and implementing a prisoner menu that is reasonably healthy, filling and satisfying. It must do so within tight budgetary constraints. Maintaining a routine and broadly accepted menu assists it in doing so. There are significant limits to what Corrections can achieve in this area.

430. From the information gathered during investigation, it would appear the food provided to the female prisoners at ASWCF is sufficient to maintain a reasonable level of health and well-being.

431. However, there are a number of potentially simple and affordable measures that could be considered, for example:

- having a more varied menu rotation;
- occasionally including in the menu a different, nutritious meal suggested by prisoners;
- interspersing occasional special meals to mark special occasions, eg NAIDOC Week, Christmas and Easter or simply to break the routine;
- allowing female prisoners to prepare and cook meals for prisoners.

432. It may well be that consultation with female prisoners would point to further simple and affordable changes that would contribute to better health outcomes and increase the level of prisoner satisfaction with the diet provided.

433. It is also vital that Corrections continues to provide suitable options to meet the medical and religious requirements of particular prisoners.

Recreational activities

Prisoner and stakeholder concerns

434. Information received from the female prisoners suggests that the only regular recreational activity provided at ASWCF is softball. The female prisoners made the following comments in relation to recreational activity that may be available.

Crop Garden	<p>They do not have an opportunity to work on the garden, only one lady does this. Corrections had someone grow something around October 2015.</p> <p>The chickens living inside the garden eat everything and need to be confined to a separate area. The women would like to tend to the garden and grow items such as orange trees, tomatoes, strawberries, vegetables etc.</p>
Cross Fit Training	<p>There has been no participation in this training nor was there an understanding of what this training involved. When my investigators explained this training, the women indicated they would like to participate in such a program.</p>
Walking	<p>The prisoners can walk around the big oval on Tuesday and Thursday if they are not participating in the team sport. They can also walk around the female sector in the small area. The women are of the view that the area inside the female sector is too small and not good for walking and would like a bigger, more open space to walk.</p> <p>They also advised that when they do try to walk around the female sector, they are told by correctional staff to only walk up to the basketball hoop area and then they have to come back. Apparently, there is a gap somewhere beyond the basketball hoop where the male prisoners can see in through the hole at the gate.</p>
Soccer	<p>They rarely play soccer games. When it is played, soccer is played in the small area within the female sector and not on the oval. The last time they remember playing soccer was around October/November 2015 and they have not played it since. There is no schedule for when women can play soccer.</p>
Volleyball	<p>Volleyball is not played. One woman commented that the last game was played around 2011.</p>
Softball	<p>The women confirmed softball is played every Tuesday and Thursday from 10am to 11am at the big oval next to the female sector. Once a month on a Sunday, the women play on an oval outside of the prison compound against different communities. The women really enjoy doing this.</p>
Basketball	<p>Prisoners advised that they do not play basketball. Sometimes they shoot at the hoops but that is all. They stated that there is a hoop but no cement, i.e. they cannot play games. They said that they would like cement around the hoop so they can play basketball.</p>
Exercise Bikes	<p>There are two stationary exercise bikes available, one on the low security side and one on the high security side. The women can use them whenever they like. However, the bikes are not very popular with the women and are not utilised.</p>
Cricket	<p>Every now and then the women will play cricket within the female sector. The women advised they do not really like to play cricket.</p>
Painting	<p>The women advised that once they finish breakfast pack, they can go over to the other side of the industry shed to paint. Many women said that they really like painting. They are able to paint Monday to Friday after work.</p>

Sewing	Opportunities are not provided to use the sewing machines. The female prisoners indicated that they would really like to learn to sew and make garments. Some women advised that they know how to operate the sewing machines. An initial visit by my staff to the prison revealed a sewing centre that had a number of machines ready for use. Prison staff advised no lessons had been given to inmates to teach them how to sew and only one non-Indigenous woman had used the machines. More recently, the sewing machines have been transferred for utilisation by the male prisoners. The reasoning provided was that the female prisoners were not keen to use the machines however it was unclear what consultation had occurred with the women to form this view.
Aerobics	The women advised they have never done any aerobics and would not know how to. There is no equipment to assist with aerobic type exercises.
Pool table	This is located in the low security area and not accessible by all women.



Image: Grass area and basketball hoop

435. The female prisoners expressed an eagerness to participate in sports and recreational activities such as netball, soccer, volleyball, high jump, music and board games.
436. They indicated there are inadequate recreational activities to maintain a healthy lifestyle. They only participate in sport two days a week and if there are issues with the weather or limited staff, the female prisoners miss out on their recreational activity that day.
437. Variety in activities was seen as important as well as preference to participate on a daily basis and the ability for all classification levels to participate. Currently, the medium and high security prisoners are excluded from many activities, and, apart from the monthly softball game, no activities occur on the weekend.
438. In relation to softball, the women raised some concerns about who gets to play the game. They advised that there are two captains who choose the people to play on their team, however, these two captains would only pick their own family tribe and not other female prisoners, so some female prisoners do not get to have a turn at all. The captains rarely change. The women prisoners said that this is not fair on a lot of the female prisoners who have no choice but to walk around the oval.

439. The women also stated that they feel disadvantaged compared to the male prisoners who are provided with a lot more recreational activities. They advised that they have limited or no access to the ovals and other recreational facilities available to the male prisoners and are extremely limited in recreational facilities within the female sector.

440. Stakeholders commented:

We understand that women can play softball once a week on the sports field outside of H Block. H Block has one quadrangle only, and no shade areas. We have not observed any other sporting equipment being available.

One recreational room has been observed in one dorm. We understand this recreational room has one TV. We are aware that some dorms have a TV for shared use, but that if one person in the dorm has been sanctioned for disruptive behaviour the TV will not be available for use by anyone on that dorm.

More recently a textile shed has become available for use by women. This shed is separated into an education room and a breakfast packing area. There is an open area for self-guided artwork, where women can independently paint and produce textiles. No formal instruction is provided and there are no computers.

We were advised in May 2015 that women had access to a large sports oval between 1.00pm to 3.30pm each day.

As can be seen from the international standards in place for prisons, access to recreational activities is crucial.

Relevant standards

441. The Nelson Mandela Rules state:

Rule 4

To this end, prison administrations and other competent authorities should offer education, vocational training and work, as well as other forms of assistance that are appropriate and available, including those of a remedial, moral, spiritual, social and health – and sport-based nature. All such programmes, activities and services should be delivered in line with the individual treatment needs of prisoners.

Rule 23

(1) Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.

(2) Young prisoners, and others of suitable age and physique, shall receive physical and recreational training during the period of exercise. To this end, space, installations and equipment should be provided.

Rule 105

Recreational and cultural activities shall be provided in all prisons for the benefit of the mental and physical health of prisoners.

442. Resolution 1990/20 of the UN Economic and Social Council provides:

(b) All prisoners should have access to education, including literacy programmes, basic education, vocational training, creative, religion and cultural activities, physical education and sports, social education, higher education and library facilities;

443. The European CPT Standards provide:

Equality of access to activities

25. Women deprived of their liberty should enjoy access to meaningful activities (work, training, education, sport etc.) on an equal footing with their male counterparts.

444. The *Standard Guidelines for Corrections in Australia* state:

2.53 Wherever possible, prisoners should be allowed access to a range of sports, recreational and cultural activities.

Relevant literature

445. In *Playing in the jail: sport as psychosocial tool for inmates*, Digennaro states:⁹³

Sports can be considered as a viable method of promoting good health, particularly, regular physical activity reduces anxiety and stress, increases self-esteem, helps to control weight and has a positive impact on other health risks.

Generally speaking, inmates have few opportunities to practice sport regularly; they can be considered as a population presenting a high risk of hypokinetic diseases such as heart diseases, obesity, hypertension, osteoporosis and diabetes. Due to the incarceration, movement and occasions to practice sport are very limited with a consequent impossibility for inmates to enjoy the good effects of physical activities: in such a kind of situation, those who are imprisoned retain their fundamental right to enjoy good physical and mental health.⁹⁴

The experience of prison should help inmates to maintain and improve their health, mental and social situation⁹⁵ and sport based programmes are cost-effective way to tackle health problems and foster a general well-being: particularly, physical activity has positive effect for the general mental health of inmates and it can contribute to achieve higher level of

⁹³ *Playing in the jail: sport as psychosocial tool for inmates*, International Review on Sport & Violence – Digennaro, S (2009) - *Playing in the jail: sport as psychosocial tool for inmates* (ISSN 2105-0953) found at: http://www.irsv.org/index.php?option=com_content&view=article&id=91%3Aplaying-in-the-jail-sport-as-psychosocial-tool-for-inmates&catid=56%3Anumero-2--le-sport-et-la-prison&lang=fr&2690788e71c8be06946b85a08c14834c=49b925ba77721d7e2e7d0fe404045f48. It refers to World Health Organisation 2003, *Health and development through physical activity and sport*. Geneva, Wito document production services.

⁹⁴ Ibid, referring to Coyle, A (2002) *A human rights approach to prison management*. London, International centre for prison studies

⁹⁵ Ibid, referring to Coyle.

general wellness.⁹⁶ Therefore, due to the difficult conditions that inmates experience, it seems necessary to help them in dealing with daily problems (for instance: stress control and emotions management) and a direct involvement in sport activities can offer suitable results in this direction⁹⁷.

[Discussing the benefits of prisoners playing sport.] *Firstly, playing sport and taking part in physical activity offers a unique occasion to relax and fight against boredom and this result in a positive effect for inmates due to its reported links to depression, distractibility and loneliness.⁹⁸ Secondly, taking part in sports activity enables inmates to express their needs movement and their rights to take part in educational and cultural activities. From this perspective, sports activities can have a double effect: from the one hand they can contribute to develop a positive well-being and offer creative and relaxing activities; from the other hand they can be part of a wider approach concerning the use of sports as a means to foster education and achieve social goals.*

446. Corrections Victoria states:⁹⁹

[Correctional services should] aim to provide prisoners with facilities and activities that make a positive contribution to good conduct, morale and rehabilitation. Recreation and fitness are essential to maintaining physical and mental health and also provide opportunities for the constructive use of leisure time and development of positive social habits.

447. Queensland Correctional Services states:¹⁰⁰

When determining whether to approve a meaningful activity, the following must be considered:

- a) The activity should be capable of being recorded/accountable;*
- b) The activity can be individual or group participation;*
- c) The activity should contribute to a prisoner's personal development;*
- d) The activity should involve the acquisition of learning and skills;*
- e) The activity should be socially appropriate and or recreational; and*
- f) The activity should encourage social responsibility*

Implementation

A structured plan of meaningful activities is to be developed at the commencement of each calendar year. The plan will provide for the delivery of recreational activities, approved hobbies and education aimed at encouraging prisoners to exercise and participate in a healthy lifestyle.

⁹⁶ Ibid, referring to Scottish Prison Service (2002) *The health promoting prison: a framework for promoting health in the Scottish prison service*. Edinburgh, Health Education Board of Scotland, Woodburn House – Canaan Lane.

⁹⁷ Ibid, referring to Steptor, A (1992) *Physical activity and well-being in Norgan*. N.G (dir), Physical activity and health. Cambridge, University Press.

⁹⁸ Ibid, referring to Coalter, F (2001) *Realising the potential of cultural services: the case of sport*. London PGA publications.

⁹⁹ Corrections, Prisons & Parole (Recreational) Victoria State Government – Justice and Regulation found at: <http://www.corrections.vic.gov.au/home/prison.going+to+prison/recreation/>

¹⁰⁰ Qld Correctional Services Meaningful Activity for Prisoners – Offender Management internet website.

The plan must follow the underpinning outlined in section 2 – principles.

The plan should provide for all prisoners to have an opportunity to participate in at least one hour of meaningful activity per day, including group activities.

Supervision of prisoners by corrective services officers in high security facilities is to be provided for all sporting activities, inclusive of participation in gymnasium and oval.

Recreational equipment

The general manager of a facility must determine suitable recreational equipment to be made available to prisoners, including equipment provided in accommodation areas.

... Recreational equipment to satisfy legitimate needs is to be maintained and supplemented as required from the Offender Amenities Account.

....

Recording of meaningful activities

Corrective services facilities are to maintain a record of prisoner participation in meaningful activities. The record will include:

- a) Types of activity;*
- b) Number of prisoners participating in the activity; and*
- c) Hours of participation.*

NT situation

The NT Female Induction Handbook states:

Recreational activities are facilitated by the Sports and Recreation Officer each week on Tuesdays and Thursdays between 1000-1130 hours. Team sporting activities may be available externally for Open security prisoners. Prisoners may be offered activities between 1300-1500 hours supervised by the Block Officers in the Female Sector.

There is an exercise bike and games within the Sector. Art and craft is permitted but you must enrol with the Sport and Recreational Officer and pay for your materials. When you have made something, you cannot give it to another prisoner or Officers but can arrange to send it out to a family member or a friend. You must submit a Form for approval to do this.

Library - Prisoners will have access to the Library via the library worker each Wednesday.

There is a small library within ASCC and the library assistant tries to source and supply books to the Female Sector. Books must be returned in the same condition as you borrowed them or you will be charged restitution.

448. The Standard Operating Procedure – Female Sector – Post Orders (clause 30) states:

Horticulture

Open and Low Security prisoners can work, sit and relax within the Horticulture area between unlock hours. Prisoners housed within the Demountable are responsible for the care and maintenance of the flora and fauna in the Horticulture area.

High and Medium Security prisoners may work, sit and relax within the Horticulture area but must be supervised by Block Officers.

449. Corrections advises that:

- subject to operational requirements, all prisoners are encouraged to participate in recreational activities each afternoon from 1300 to 1500 hours;
- sports available to female prisoners include football, cricket, softball, soccer and volleyball — they involve around 20 or more participants (depending on the sport, it may be more);
- each activity takes approximately 1 to 1½ hours;
- sports may be played in the area between Juliet Block and the Female Sector (sports oval) or in the space at the front of H Block. This is delivered by the Sport and Recreational Officer and Block Officers. All prisoners within the Female Sector have the opportunity to participate.
- self-managed activities are undertaken in the Female Sector.. These are available to all female prisoners. There is also a walking track of 220m which is utilised by prisoners with disabilities, pregnant women, women with babies and those with chronic health conditions etc.
- once a month, softball is facilitated for Open and Low Security prisoners on the ASCC oval where they play against women from the Amoonguna Community. This is delivered by a Sport and Recreation Officer in conjunction with RecLink.

450. When asked if any consultation was undertaken with women prisoners at the ASWCF in relation to proposed sports program, the response was:

Yes. Sport and Recreational Officers discuss all activities and options with the female prisoners. There has been cross-fit training, and Army fitness assessment and aerobics offered and delivered to female prisoners recently.

451. There is no accessible library facility at ASCC but prisoners can order books from a catalogue.

452. There is a reasonable selection available from the catalogue which includes a number of genres for both men and women. There are approximately 874 books. Only 10 items are in an Aboriginal language — 3 are Old and New Testament Bibles, 5 are dictionaries of terms and pronunciations and 2 are CD based language courses. In effect, there is no Indigenous language literature for an Indigenous population that makes up 9 out of 10 female prisoners.

New Sports and Recreation Proposal

453. Corrections advised of a new Sports and Recreational Proposal for both male and female prisoners stating:

ASCC is putting forward a proposal that RecLink employees conduct some fitness programs with the females. RecLink workers ... have offered to assist with some activities at no cost to the department. Here are some of the programs that are being offered to Corrections for the women:

- *Dance aerobics*
- *Yoga*

- *Pilates*
- *Meditation/Relaxation techniques*
- *Tye Dying*
- *Leadership Activities – Teaching how to encourage others in group activities or games.*
- *Qi Gong – Breathing/Stretching exercises*

The activities can be facilitated inside H Block with little to no disruption to the current procedures in H Block or the prison. The programs can occur in the low side dining room between 1000 hrs and 1200 hrs in place of the sport program that is currently happening on the cricket pitch area, which is subject to staffing levels for the activity to take place.

Consultation with Sport and Recreational Officer ... revealed the RecLink Program with the Female prisoners commenced Tuesday 2 February 2016. The MZ Proposal also commenced but will change to the second proposal at the beginning of next week. As at this date the Female population have access to:

- *The RecLink Program is facilitated on Tuesday between 1000 hrs and 1200 hrs.*
- *Sport is delivered by Sport and Recreational Officers on Thursday (softball, soccer, volleyball) between 1000 hrs and 1200 hrs.*
- *Once a month an organised softball match is played against a RecLink/Amoonguna team. This is played on the ASCC oval and is mainly for Open Security female prisoners who work during the week.*

Ombudsman comment

454. Recreational opportunities are essential from the perspective of maintaining a healthy environment in the prison and facilitating the personal development of prisoners.

455. The issues raised by the prisoners and stakeholders appear valid. There are opportunities for access to sporting and recreational activities and facilities but they appear to be very limited.

456. There is no gymnasium or outdoor facility suitable for physical activities within the female sector. There are set times for organised activities but these are very limited.

457. The options for self-managed recreation are also limited and appear to be underutilised.

458. As for the gardens, my staff observed limited vegetation in the garden beds on their initial visit. They asked about processes in place to foster healthy garden beds. Corrections explained the Senior Industry Officer (SIO) Horticulture took soil samples on 11 March 2015:

The samples were taken to test and indicate levels of nutrients and trace elements present in the soil. This allows the Horticulture Sector to customize a fertilizer program that best suits our cropping needs and gives a bench mark to start from when planting new crops.

459. When questioned about the crops that were grown in the garden beds, Corrections said:

Because of the heat during the summer months, crops were not planted then but Senior Correctional Officer Female Sector advised during autumn, winter and spring, eggplant, cherry tomatoes, basil, chilli and other herbs were grown. The SIO Horticulture advised that ASCC is supplying local markets with spring onions and bok choy and he is looking into growing bush tomatoes which are a source of vitamin C in the Female Sector.

460. Further exploration revealed male prisoners were involved in producing the spring onion and bok choy crops, however no women had been involved in this process.

461. Eight months later my staff again visited the prison and observed the garden beds. There was sparse vegetation and no easily discernible crop.



462. Six months after that, photos were received from Corrections that showed a number of raised beds with several vegetables/herbs newly planted or growing in them.





463. A concerted effort is required to sustain the crops that have been planted and add to them. Essential to this is Corrections including the female prisoners in all facets of the gardening process, for example, the selection of plants, the planting process, harvesting and maintenance.

464. It is accepted that Corrections is making efforts to increase the availability of recreation options.

465. However, the concerns of prisoners suggest that a wholesale review is warranted. It is therefore important for Corrections to review its current sport and recreation programs and facilities for women prisoners.

466. 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.

467. The review should bear in mind the following principles:

- There is a need to increase the frequency of organised activities and the time available for self-managed activities.
- Access should be at an equivalent level and variety to that enjoyed by male prisoners. This does not mean that activities and facilities accessible to women should merely replicate the activities and facilities available to men.
- There should be an extensive variety of activities and facilities to cater for the varying interests and skills of different prisoners.
- It is important to ensure that all female prisoner classifications are provided with activities and facilities suitable for their classification.
- There should be a level of supervision of organised activities and facilities that ensure all prisoners are provided with a realistic opportunity to participate, e.g., ensure team captains are regularly rotated so that all prisoners have a fair go.
- Sports and recreational activities and facilities should be reviewed on a regular basis, in consultation with prisoners, to ensure they remain relevant and of interest to the prisoners.
- An up to date list of sports and recreational activities and facilities should be displayed in each accommodation area within H Block.

468. Development of options should be a consultative process. However, discussions with prisoners suggest that a number of options (listed below) might be considered. I stress that this is not intended to be a prescriptive or exhaustive list. Options for consideration might include:

- provide greater opportunities to tend to the crop garden including growing plants, vegetables, fruits etc. Consider fencing off the chickens from the main garden area;
- ensure that women are permitted to walk around the full perimeter of the female sector. Undertake any work or repairs required to avoid male prisoners being able to look into the female sector;
- provide a suitably surfaced area for a full or half-size basketball court;
- review the current situation with the stationary exercise bikes to determine if they are utilised. If not utilised, consider taking away the bikes and replacing them with another stationary exercise machine which is popular amongst the women;

- assess all of the sewing machines and fix the broken machines (if possible). Sewing machines to be made available on a regular basis along with training on their operation (ideally leading to some form of accreditation).
- the range of board or table games could be extended;
- purchase more Indigenous literature including story books and audio books to be stocked at the library. Once books are purchased, it would be important to encourage and promote access to these books by the Indigenous prisoner population.
- if suitable literature is limited, consider engaging with stakeholders to produce audio-recordings from relevant communities to maintain connection with community and culture.

CHAPTER 15 - UNDERLYING SUPPORTS

Induction

469. In 2016, ASCC produced a female specific induction handbook. Prior to 2016, ASCC did not have a female induction handbook and women prisoners were only given the Legal Handbook provided to male prisoners.

470. The *Female Induction Handbook* is now provided to all female prisoners upon reception. It includes detailed information in relation to many aspects of the ASWCF. Women prisoners also receive induction from ASCC Prisoner Services soon after reception.

Communicating content

471. Currently the *Female Induction Handbook* is in English. The profile for women prisoners discussed earlier shows that English is generally their 2nd, 3rd or 4th language. Also, many women incarcerated at the ASWCF have limited numeracy and literacy skills.

472. The *Bangkok Rules* state:

2.1: Adequate attention shall be paid to the admission procedures for women and children, due to their particular vulnerability at this time. Newly arrived women prisoners shall be provided with facilities to contact their relatives; access to legal services; information about prison rules and regulations, the prison regime and where to seek help when in need in a language that they understand; ...

473. The *Standard Guidelines for Corrections in Australia* provide:

1.4 All prisoners should be inducted into the prison by undergoing a formal reception process as soon as practicable after receipt that provides key summary information necessary to the prisoner understanding the prison regime and the requirements placed on prisoner.

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

474. It is essential that prison processes are well understood by women prisoners. Failure to adequately inform them will immediately place them at greater risk of non-compliance and limit their chances to participate in programs and activities.

475. Ideally, the *Female Induction Handbook* should be provided in several languages spoken most commonly by female prisoners.

476. Given language and literacy issues, other options for communicating information on induction should be considered, for example:

- producing audio versions of the Handbook or at least essential parts of it (in English and Indigenous languages);
- producing versions that communicate as much as possible by utilisation of images, e.g. in a graphic or story book style.

Consultation and review

477. The *Female Induction Handbook* is a significant and welcome step in implementing a women specific approach.
478. However, it is my understanding that the development process only involved two senior correctional officers, one of whom works in the female sector of the prison.
479. I consider that it would have been beneficial to elicit and incorporate women prisoner's feedback in the development process. This would have assisted in identifying women's needs and enabling them to be met, and would have encouraged women to buy into the new policies and procedures.
480. I also note that the Handbook contains information which inaccurately reflects a number of recreational options as being available when prisoners could not recall them having been conducted.
481. Now that the Handbook is available as a baseline, it is important to review it in the near future, in consultation with prisoners and key stakeholders, to ensure that it is comprehensive, relevant and accurate.

Culture and religion

482. The *Correctional Services Act* provides:

Subdivision 7 Religion and belief systems

59 Performance of religious practices

- (1) *To the extent practicable, a prisoner at a custodial correctional facility may perform the usual practices associated with the prisoner's religion or belief system (including attending services or ceremonies held at the facility).*
- (2) *Items of personal property reasonably required for the performance of those practices are allowable items for the purposes of section 45.*
- (3) *However, if the General Manager considers it appropriate to do so in order to maintain the security and good order of the facility, or the prisoner's health or wellbeing, the General Manager may prohibit the prisoner from:*
 - (a) *performing a practice mentioned in subsection (1); or*
 - (b) *possessing an item mentioned in subsection (2).*

60 Religious and spiritual advisors

The Commissioner must take reasonable measures to ensure that every prisoner has access to a religious or spiritual advisor of the prisoner's religion or belief system.

483. The *Female Induction Handbook* states that women have the right to practice the religion of their choice.¹⁰¹ From observations of my staff, there does not appear to be any obvious facility or area where women can practice religious ceremonies or undertake other religious practices within the female sector.

¹⁰¹ Page 4.

484. Given the overwhelming majority Indigenous makeup of the population, it is important to consult with prisoners regarding places that can be allocated to or devoted to cultural activities and ceremonies.

485. The Indigenous Cultural Precinct mentioned earlier is a clear example of such an initiative. It is important that initiatives of that type, developed in consultation with prisoners, be promoted. It is essential that such initiatives meet the needs of female prisoners.

486. I hasten to add that simply because a person has an Indigenous background, it does not mean that they hold to particular cultural or religious beliefs. There should be no assumption that all Indigenous people hold to a homogeneous set of beliefs. The needs of each prisoner will vary depending on their individual beliefs.

Legal assistance

487. A stakeholder commented:

Another issue raised ... is the lack of appropriate facilities for lawyers to take instructions from clients, and we were told of incidents of lawyers seeing women in their accommodation space, which means all the other women are asked to leave, both compromising the client's privacy and depriving women of access to space they are accommodated in.

Relevant standards

488. The *Nelson Mandela Rules* provide:

Rule 61 – 1. Prisoners shall be provided with adequate opportunity, time and facilities to be visited by and to communicate and consult with a legal adviser of their own choice or a legal aid provider, without delay, interception or censorship and in full confidentiality, on any legal matter, in conformity with applicable domestic law. Consultations may be within sight, but not within hearing, of prison staff.

2. In cases in which prisoners do not speak the local language, the prison administration shall facilitate access to the service of an independent competent interpreter.

3. Prisoners should have access to effective legal aid.

489. The *Standard Guidelines for Corrections in Australia* state:

1.26 Visitors should be treated with respect and visiting facilities should be provided that are conducive to prisoners receiving visitors in as dignified a manner as is consistent with the security and good order of the prison.

NT situation

490. The *Female Induction Handbook* provides¹⁰²:

Professional Visits – Lawyers

Professional visits are held by appointment and every effort is made to accommodate requests for visits. The person who you need to speak to must telephone to book an appointment with you.

¹⁰² Pages 11, 12 and 17.

Legal Advice

You have a right to legal representation and your lawyer or a representative will visit you upon request.

491. The *Standard Operating Procedure – Female Sector – Post Orders* provide:¹⁰³

Visits

All visits are to be conducted in conjunction with NTDCS Directive 2.15.4 and Standard Operating Procedure 16.3 Prisoner Visit Regimes.

...

Professional visits are visits other than personal visits, including Legal visits, Community Corrections, External program facilitators, Counselling services, etc. and may take place in the Female Sector, with the approval of the Officer in Charge. Ensure Professional visits are approved on IOMS and if held in the Female Sector entered in the Journal.

All prisoners may receive special visits outside of the normal regime applicable to any prisoner, on the authority of either;

- a. The Officer in Charge (Weekends and post 1600 hrs Weekdays)*
- b. An Area Chief Prison Officer*
- c. A Deputy Superintendent*
- d. The Superintendent.*

492. Corrections advise:

Visits between legal representatives and female prisoners are facilitated in the Management Zone (MZ) Sector Visit Centre. However, from time to time and dependent on resources, legal visits have occurred in the Female Sector.

To ensure privacy for the legal representative and female prisoners, staff will supervise legal visits with a line of sight but out of earshot.

Ombudsman comment

493. It appears that the practice of lawyers meeting with female clients in their accommodation area is not uncommon.

494. This practice 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.

495. 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.

¹⁰³ Page 14.

Legal Handbook

496. The *Legal Handbook*, also referred to as the 'Inmates Law Book' was produced by the NT Legal Aid Commission with the assistance of the Law Society Public Purposes Trust in September 2003. This book was written with input from prisoners and ex-prisoners.

497. The Handbook helps prisoners understand what happens when a person is:

- Arrested
- Released on bail
- Held on remand
- Appearing in court
- Sentenced
- Dealing with the media
- Inside prison
- Released on parole
- Transferred
- Released from prison.

498. The Handbook was updated by the NT Legal Aid Commission in July 2008. This version is called *Inside/Outside: (a guide for prisoners and their families)*. It is a useful tool for both male and female prisoners to provide them with better understanding about the legal system and useful practical information.

499. The Handbook was last updated almost 9 years ago. An updated edition would no doubt be of considerable benefit to prisoners.

500. The Handbook is only produced in English. Again, translation into Indigenous languages would be of great benefit.

501. Either of these projects would be worthy of support from Law Society Public Purposes Trust, Corrections, or the NT Government.

Making complaints

Prisoner concerns

502. On visiting the ASWCF, my officers arranged interpreters and consulted with a range of female prisoners to gain an appreciation of their understanding of the complaint process. Less than 5 said they were aware of the process and of those, none were able to clearly explain the steps involved. They advised that they are not informed or educated by Corrections on how to go about making complaints or about the processes involved.

503. A number indicated they were reluctant to make complaints, giving various reasons such as:

- Lack of awareness of complaint procedures and little assistance provided to make complaints;
- Fear of reprisals. When they do make a complaint, correctional officers would say things like: *why are you complaining for, we will throw you back in the G Block;*

- Belief their complaints will not be listened to and will be ignored, won't be taken seriously;
- Completing the complaint form is overwhelming and no assistance is provided;
- Cannot be bothered to complain as nothing changes.

504. One prisoner said that when she requested a form to make a complaint about a correctional staff member, the correctional officer questioned her about why she wanted the form and advised that they did not have any forms available.

505. The feeling that complaints are a pointless process was a common thread expressed by the women.

506. Prisoners advised that when the opportunity arises, they usually put forward their complaints through the elders who visit from time to time or wait for professional bodies such as the Ombudsman to visit to make complaints.

507. A majority of women said they were unaware of the external complaint bodies they can complain to or that the contact numbers are provided next to the prisoner telephone system.

Relevant standards

508. The *Nelson Mandela Rules* provide:

Rule 56

1. *Every prisoner shall have the opportunity each day to make requests or complaints to the prison director or the prison staff member authorized to represent him or her.*
2. *It shall be possible to make requests or complaints to the inspector of prisons during his or her inspections. The prisoner shall have the opportunity to talk to the inspector or any other inspecting officer freely and in full confidentiality, without the director or other members of the staff being present.*
3. *Every prisoner shall be allowed to make a request or complaint regarding his or her treatment, without censorship as to substance, to the central prison administration and to the judicial or other competent authorities, including those vested with reviewing or remedial power.*
4. *The rights under paragraph 1 to 3 of this rule shall extend to the legal adviser of the prisoner. In those cases where neither the prisoner nor his or her legal adviser has the possibility of exercising such rights, a member of the prisoner's family or any other person who has knowledge of the case may do so.*

Rule 57

1. *Every request or complaint shall be promptly dealt with and replied to without delay. If the request or complaint is rejected, or in the event of undue delay, the complainant shall be entitled to bring it before a judicial or other authority.*
2. *Safeguards shall be in place to ensure that prisoners can make requests or complaints safely and, if so requested by the complainant, in a confidential manner. A prisoner or other person mentioned in paragraph 4 of rule 56 must not be exposed to any risk of retaliation, intimidation or other negative consequences as a result of having submitted a request or complaint.*

3. *Allegations of torture or other cruel, inhuman or degrading treatment or punishment of prisoners shall be dealt with immediately and shall result in a prompt and impartial investigation conducted by an independent national authority in accordance with paragraph 1 and 2 of Rule 71.*

509. The Australian Standard, *Guidelines for complaint management in organizations*, is a valuable guide to best practice complaints management. Implementation of the guidance set out in this Standard can:

- (a) provide a complainant with access to an open and responsive complaints process;*
- (b) enhance an organization's ability to manage complaints in a consistent, systematic and responsive manner;*
- (c) enhance an organization's ability to identify trends and eliminate causes of complaints and improve the organization's operational effectiveness;*
- (d) encourage and support staff to improve their skills in complaint management;*
- (e) provide a basis for the ongoing review and analysis of the complaint management system, resolution of complaints, and process improvements made; and*
- (f) reduce the likelihood of complaints developing into ongoing disputes.*

510. The *Standard Guidelines for Corrections in Australia* provide:

1.22 *Prisoners should be informed of the procedures for making complaints at the prison and through external grievance resolution authorities.*

1.23 *Requests and complaints by prisoners are to be able to be made at any time and shall be handled promptly and effectively by the prison. A review system should be implemented to ensure all complaints are addressed.*

1.24 *Prisoner complaints or grievances that are not resolved by the prison may be submitted by the prisoner to an authority external to the prison for an independent assessment and determination. Prisoners should be informed about these external resolution processes in the prisoner's own language where practicable, and provided with the means for making complaints to an external authority on a confidential manner.*

NT situation

511. The *Female Induction Handbook* provides:¹⁰⁴

Complaints

If you have a problem, talk to your Senior Correctional Officer (SCO). If you are not satisfied with the solution, you can ask to talk to a Chief Correctional Officer.

If these options fail, you may submit a RASP and talk to the Superintendent in confidence on a Superintendent's Parade. Although you should try to resolve your concerns with staff and management if still not satisfied, you may raise your concerns to the Ombudsman Office, the Official Visitor or Health Commissioner (see the pre-set numbers listed next to the PTS).

Ombudsman

If you have any concerns, please attempt to resolve them with prison staff or by a RASP first.

¹⁰⁴ Pages 15 and 18.

Letters which you send to or receive from the Office of the Ombudsman are protected correspondence and not opened by prison staff. The Ombudsman is able to investigate an action by the Department and will look at all matters raised by prisoners.

512. The *Handbook* includes a section called 'Requests and forms' and details the types of forms available to make requests depending on the type of request. The Ombudsman's contact details are provided in another section of the *Handbook*.

513. When asked what information is provided to the female prisoners about making complaints, Corrections advised:

The SCO is approachable and will attend to prisoner's concerns as they identified. However, on notice boards in the Female Sector there are posters which identify the Official Visitor Program where prisoners can bring any concerns they may have. Next to the Prisoner Telephone there is a list which identifies pre-set numbers on the Prisoner Telephone System (PTS) related to prisoner complaints (legal, Health Commission, Ombudsman's Office etc.). Additionally, there are legal handbooks given to prisoners on reception which give an overview of advocacy ...

Ombudsman comment

514. The majority of women prisoners say they have limited knowledge of the complaint process or how they can make a complaint, whether internally within ASCC or to Corrections head office or externally to independent offices.

515. Clearly there are also concerns about whether complaining will achieve anything beyond raising a risk of retribution.

516. There are contact details in English for various complaint bodies in a prominent position next to phones. In some regards, I believe the concerns of prisoners in this regard have been overstated.

517. However, in a prison setting, where prison officers have a high degree of control over every aspect of a prisoner's life, prisoners can be vulnerable to abuse, inhumane or simply unreasonable treatment. For this reason, 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.

518. I consider it is important for Corrections to review its complaint management processes in line with relevant standards. This should be done in consultation with prisoners, stakeholders and relevant complaint bodies.

519. It should be done taking into account cultural sensitivities of female prisoners.

520. Consideration needs to be given to whether this should be conducted as part of a broader review of Corrections' complaints management procedures. However, if there is a broader review, it should not lose sight of the particular interests and concerns of women, and Indigenous women in particular.

521. At the heart of consideration should be an appreciation 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.

522. Bearing these factors in mind, it will be essential to focus not only on developing policy but also communicating the policy and procedures to potential complainants and providing realistic and safe options for them to make complaints.

523. This will involve providing a variety of alternate mechanisms for lodging a complaint where the existing process is unsuitable because of cultural differences, a lack of written English skills on the part of the prisoner, or the nature of the complaint.

524. All these factors call for special consideration and consultation in promoting an environment in which complaints are accepted as a welcome and key measure in improving the business services and care provided by Corrections.

525. Points to be considered will include but not be limited to:

- communicating as much as possible in language;
- making information and forms freely available, not merely on request;
- training officers on their roles and responsibilities in relation to complaints including:
 - maintaining confidentiality;
 - the assistance they are required to provide to female prisoners in taking complaints and making all forms readily available;
 - ensuring that prison officers do not “censor” or “determine” if a complaint is worthy of submission;
 - reinforcing that making a complaint is a right available to the female prisoners and no complaint should be ignored or simply dismissed;
- the need to ensure that female prisoners are made aware of the complaints process and their right to complain, including regular reinforcement with the use of interpreters as necessary.

Interpreters

526. The use of interpreters within ASCC appears to be limited, particularly with regard to using interpreters to assist prisoners in understanding processes and procedures.

Relevant standards

527. The *Nelson Mandela Rules* provide:

Rule 54

Upon admission, every prisoner shall be promptly provided with written information about:

- a) The prison law and applicable prison regulations;*
- b) His or her rights, including authorized methods of seeking information, access to legal advice, including through legal aid schemes, and procedures for making requests or complaints;*
- c) His or her obligations, including applicable disciplinary sanctions; and*
- d) All other matters necessary to enable the prisoner to adapt himself or herself to the life of the prison.*

Rule 55

1. *The information referred to in rule 54, shall be available in the most commonly used languages in accordance with the needs of the prison population. If a prisoner does not understand any of those languages, interpretation assistance should be provided.*
2. *If a prisoner is illiterate, the information shall be conveyed to him or her orally. Prisoners with sensory disabilities should be provided with information in a manner appropriate to their needs.*
3. *The prison administration shall prominently display summaries of the information in common areas of the prison.*

528. The *Standard Guidelines for Corrections in Australia* provide:

1.4 *All prisoners should be inducted into the prison by undergoing a formal reception process as soon as practicable after receipt that provides key summary information necessary to the prisoner understanding the prison regime and the requirements placed on prisoner.*

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

1.6 *A further or extended period for assessments and orientation should also be provided where practicable, using interpreters where necessary in order to maximise prisoners' understanding of information, and to aid better assessment.*

1.24 *Prisoner complaints or grievances that are not resolved by the prison may be submitted by the prisoner to an authority external to the prison for an independent assessment and determination. Prisoners should be informed about these external resolution processes in the prisoner's own language where practicable, and provided with the means for making complaints to an external authority in a confidential manner.*

1.73 *Where necessary a prisoner should be allowed to use an interpreter when making a defence. Indigenous prisoners should be allowed to obtain culturally relevant advice and assistance to present a defence.*

Other references

529. The Queensland Anti-Discrimination Commissioner has stated:¹⁰⁵

Best practice would have the prison authorities routinely accessing a telephone interpreter if they are discussing important issues with a prisoner, as soon as there is an indication that an inmate is not confident in English and comprehension skills. Such prisoners should have access to interpreters at the time of their incarceration, and throughout it, for discussions about their case management, health visits, and any other issues of particular significance. Failing to provide an interpreter in such circumstances may constitute indirect discrimination under the ADA.

¹⁰⁵ Anti-Discrimination Commission Queensland, *Women in Prison*, (2006), pages 117-118.

NT position

530. The *Female Induction Handbook* provides:¹⁰⁶

Interpreters

If you need an interpreter, the prison can arrange for someone from the Interpreter Services to come into the prison to help you.

531. When asked for the total number of times an interpreter was used to assist female prisoners at ASWCF in 2015, Corrections responded:

NTDCS Directive 1.8.5 Assistance provides guidelines for the use of accredited interpreters in correctional centres. However, the ASCC reception/discharge sector advised they have no records for a request for interpreter assistance from a female prisoner during 2015.

Ombudsman comment

532. The female prison population consists almost entirely of Indigenous women, many of whom have very limited or no English. 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 any true appreciation of what the speaker is talking about.

533. Effective communication between prison staff and prisoners is essential to understanding prison regime, protocol, decisions and so on. In many cases, it would appear women prisoners entering the corrective system fail to attain knowledge of prison processes due to language barriers.

534. ASCC's policy in relation to interpreters puts an onus on the prisoner to advise correctional staff if they need an interpreter. A lack of knowledge of their rights and an Indigenous person's unwillingness to accept help (for whatever reason) will hinder access to interpreters.

535. Simply assuming a prisoner understands a communication because they nod or agree is not sustainable. This may work for communication at the most basic level about relatively minor matters but is destined for failure when any level of complexity is introduced into a conversation. It is certainly fraught with danger if the conversation has the potential to result in any significant adverse consequence for a prisoner if misunderstood.

536. 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.

537. Nor is reliance on other prisoners to communicate information in language ideal. There can be no guarantee that information will be translated accurately or without added commentary.

538. 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.

¹⁰⁶ Page 18.

539. 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.
540. Corrections should also regularly provide written and oral information to prisoners on availability of interpreters in a range of languages.

CHAPTER 16 - CHILDREN IN PRISON

Stakeholder concerns

541. A stakeholder commented:

We hold particular concerns about the safety and wellbeing of women at the ASCC who are pregnant or have their baby staying with them. We understand that women and their babies may be required to share a demountable room with women who may have previously perpetrated violence against children. This places babies at risk and causes serious anxiety for the mother. Further, it is our understanding that the ASCC does not provide assistance in terms of nappies, formula and food for babies at ASCC and that this responsibility rests with the family. In circumstances where the ordinary financial supports that can be accessed by a new mother in the community are not available, it is concerning that alternative options have not been explored.

Relevant standards

542. The Bangkok Rules provide:

Rule 2.2

Prior to or on admission, women with caretaking responsibilities for children shall be permitted to make arrangements for those children, including the possibility of a reasonable suspension of detention, taking into account the best interest of the children.

Rule 29

1. *A decision to allow a child to stay with his or her parent in prison shall be based on the best interests of the child concerned. Where children are allowed to remain in prison with a parent, provision shall be made for:*

a) *Internal or external childcare facilities staffed by qualified persons, where the children shall be placed when they are not in the care of their parent;*

b) *Child-specific health-care services, including health screenings upon admission and ongoing monitoring of their development by specialist.*

2. *Children in prison with a parent shall never be treated as prisoners.*

Rule 49

Decisions to allow children to stay with their mothers in prison shall be based on the best interests of the children. Children in prison with their mothers shall never be treated as prisoners.

Rule 50

Women prisoners whose children are in prison with them shall be provided with the maximum possible opportunities to spend time with their children.

Rule 51

1. *Children living with their mothers in prison shall be provided with ongoing health-care services and their development shall be monitored by specialists, in collaboration with community health services.*
2. *The environment provided for such children's upbringing shall be as close as possible to that of a child outside prison.*

543. The *Standard Guidelines for Corrections in Australia* provide:

2.58 If the Administrating Department provides for children and infants to reside with their primary care giver in prison, comprehensive and well-structured policies and programmes should be developed where the interests of the children are paramount.

2.59 Assessment processes for determining the placement of a child in a custodial environment should include appropriate input from the relevant external agencies.

2.60 Children and infants should be allowed to reside with their primary care giver in prison only after the Administrating Department is satisfied that it is in the best interest of the child/ren to do so and there is no mechanism for the primary care giver to complete her/his sentence in the community (for example via home detention).

2.61 The accommodation for primary care givers and their children should, wherever possible be domestic rather than custodial.

2.62 While prisoners are responsible for the care of their children living in the prison, the Administering Department should take reasonable steps to ensure a safe environment for children.

Other references

544. The *Kyiv Declaration on Women's Health in Prison* states that:¹⁰⁷

If children are involved, the best interest of the children must be the main and determining factor in decisions regarding women's imprisonment, including putting the needs of the children first when considering whether and for how long the children should stay with their mother in prison.

545. A recent article, *Prison baby: Motherhood on the inside*, recounts the views of a mother who gave birth to, and cared for, her child in prison.¹⁰⁸ The following extracts give a sense of a positive experience of raising an infant while in custody:

... Tarrengower is not what you imagine a prison to be.

No cells, no bars, no concrete floors.

No razor wire, barely a fence or a locked door. Minimum security.

...

¹⁰⁷ Clause 4.2.

¹⁰⁸ Jane Cowan, ABC News, 27 February 2017.

The real punishment is the separation from your family, your supports. And the loss of your freedom. You have your rights taken away from you.

...

Out on bail there was rehab. You got clean. Your partner too. That's when the little one was conceived.

Unplanned, but wanted.

By the time you arrived at Tarrengower you were 17 weeks along.

Your son was born in custody, has lived almost every day of his short life in jail. Prison baby, you joke.

After 18 months for drug trafficking and dealing in the proceeds of crime, even the guards have a soft spot for him. There are other kids in here but he's the favourite. Then again, you're biased.

There have been stays on the outside with grandparents, fortnightly visits with his father who's incarcerated in a nearby men's prison. Serving time for the same crime and due to be released on the same day. How romantic.

But the other prisoners have been your son's immediate family, watching him grow first in your belly and then into the incredibly social, happy toddler he is now. Just began walking. So proud of himself.

It's harder for the other women. Their children are on the outside. They're trying to parent from a distance. You are lucky, you know.

This time has been a blessing. This bonding. Life has been consumed — like any mother's — by cycles of feeding, bathing, napping, changing. Playtime.

Your time has flown because of him.

...

The floorboards creak as you lean over to lift your son out of his crib, heavy with sleep.

He doesn't know he's in prison.

Everything is different now. Everything.

There is someone else to live for.

You are a mother.

546. Provision is made in the policies or legislation of all of states and territories for the accommodation of children with their mother in prison. A brief overview of some provisions in other jurisdictions follows.

547. The Australian Capital Territory Correctional Services' *Corrections Management (Women and Children Program) Policy* (2010) provides:¹⁰⁹

Meals

ACTCS will make available food suitable for children, pregnant women and breastfeeding mothers. The caregiver is responsible for preparing meals for herself and the child in the kitchen of her cottage and will be allocated additional money in her cottage food budget.

¹⁰⁹ Page 8.

Breastfeeding a Hospitalised Baby

Where a breastfeeding mother is resident at the AMC while her child is hospitalised, the Superintendent will have regard to the prisoner's classification, the best interests of the child, the welfare of the prisoner and operational requirements in considering the following options:

- *granting a local leave permit for the prisoner under section 205 of the Act;*
- *arrangements made for a prisoner to be hospitalised with the child;*
- *arrangements made for the mother to be escorted to the hospital to feed her*
- *child; or*
- *arrangements made for the mother to express milk which will be transported by the AMC to the hospital.*

Health, Safety and Parenting Programs

All female prisoners will complete a Community Living Skills program. The program includes information on occupational health and safety, code of conduct, blood and body spills, communal living and safe food handling. A parenting course will be provided to caregivers and other female prisoners which will include information on parenting skills, modelling/attachment behaviours, education on child development, positive discipline skills, and information on nutrition, hygiene and safety.

548. Western Australia - Policy Directive 10 - Prisoner Mothers/Primary Carers and their Children – Policy 1.1 provides:¹¹⁰

Women prisoners are able to care for their young babies or children in prison where it is considered to be in the best interests of the child and the management and security of the prison is not threatened.

549. The Queensland Food and Nutrition Policy and Implementation Plan (2009) provides:¹¹¹

Queensland Corrective Services (QCS) is committed to improving the health and well-being of staff, prisoners and children who are accommodated in correctional centres through the provision of nutritious and safe food.

The challenge for the Agency is to continue to provide nutritious food to all prisoners, including women prisoners and their children, and to minimise the development and progression of chronic diseases through education and promotion of healthy life choices.

In addition to cultural needs, nutritional requirements change over the lifespan and are different for men, women and children.

QCS needs to ensure food services meet the unique nutritional requirements of all sub-groups within the prisoner population and of children who reside with their mothers in custody.

¹¹⁰ Page 2.

¹¹¹ Minister's Foreword page 2 and pages 5 and 7.

NT situation

550. The Correctional Services Act provides:

Subdivision 6 Children

57 Commissioner may permit child to reside with prisoner

(1) *This section applies if:*

- (a) *a female prisoner gives birth to a child while she is a prisoner; or*
- (b) *at the time a female prisoner became a prisoner she has or had parental responsibility for a young child:*
 - (i) *of whom she is the mother; or*
 - (ii) *under a court order.*

(2) *At the request of the female prisoner, the Commissioner may consent to the child residing at a custodial correctional facility with the prisoner.*

(3) *The Commissioner must not consent unless the Commissioner considers that all of the following apply:*

- (a) *it is in the best interests of the child to reside at the facility with the prisoner;*
- (b) *the security and good order of the facility would not be threatened by the child residing at the facility;*
- (c) *there is suitable accommodation at the facility for the child;*
- (d) *the child is not the subject of a court order awarding custody of the child to a person other than the prisoner;*
- (e) *the child has been immunised in accordance with the recommendations of the National Immunisation Program.*

(4) *The Commissioner must revoke the consent if the Commissioner considers a matter mentioned in subsection (3)(d) or (e) no longer applies.*

(5) *The Commissioner may revoke the consent at any time.*

(6) *For the purpose of determining what is in the best interests of the child:*

- (a) *the Commissioner may make enquiries and obtain information as the Commissioner considers appropriate; and*
- (b) *a person or organisation with relevant information about the child is authorised to disclose the information to the Commissioner.*

(7) *In this section:*

mother means the female parent (within the meaning of section 17 of the Care and Protection of Children Act) of a child.

parental responsibility, see section 22 of the Care and Protection of Children Act.

young child means a child who is under the compulsory school age within the meaning of section 38(1) of the Education Act.

551. The ASCC *Standard Operating Procedure – Female Sector – Post Orders* states: ¹¹²

Pregnant Females and Mother and babies

Female prisoners who are identified as pregnant when received into ASCC will have access to ante-natal care during pregnancy and post natal care after the birth.

A pregnant prisoner must apply for her child to reside with her by completing an Application for a Child to be accommodated in a Correctional Centre in accordance with NTDCS Directive 2.4.6 Inmate Mothers and their Children.

If operations allow, pregnant females will be housed in a single cell in the Low Security Side. ¹¹³

552. NTDCS Directive – *Inmate Mothers and Their Children – 2.4.6* states: ¹¹⁴

5.7.1 The inmate is responsible for all costs associated with the care of a child accommodated with her, for example, nappies, baby goods, baby formula.

5.9.2 The Primary Health Care Provider does not provide health care to children accommodated in a correctional centre.

5.10.3 Medication is to be paid for by the mother and the medication is to be stored in a secured office and provided to the mother for administration to the child as required.

553. It would appear from the above that where children are residing with their mother in prison, the mother has an obligation to provide for all of the child's needs including nappies, baby formula and medication. In light of 5.9.2 above, it is not clear how the health care needs of children residing with their mothers are met.

554. The *Hamburger Report* commented: ¹¹⁵

Of concern to the Review Team, was the accommodation of a two month old baby with its mother in the wing. The Review Team was not reassured when informed that the presence of a baby or child in the wing can be a calming influence on other prisoners.

After reviewing Directive 2.4.6 Inmate Mothers and their Children the Review Team is uncertain if any risk assessment is taken of the other prisoners living in the same accommodation area as the mother and her infant/child, before approval is granted for the infant/child to reside with its mother. If not, the presence in a normal accommodation area is considered to be an unacceptable risk for the infant/child.

It is also unclear from the directive if any risk assessment is undertaken of the prisoner mother via the Department of Family and Community Services, to ensure that there are no circumstances which might make the placement of a child with its mother in prison 'not in the best interest of the child'. It is also unclear if there is any child advocate/expert involved in the decision making around what is in the best interest of the child.

¹¹² Queensland - Food and Nutrition Policy and Implementation Plan May 2009 – Minister's Foreword page 2

¹¹³ Page 8.

¹¹⁴ Pages 4, 5 and 6.

¹¹⁵ Pages 123 and 124.

...

Recommendations

117. That suitable accommodation is provided for children residing with their prisoner mothers. If possible this should be as domestic in style as can be achieved, and should provide a safe, grassed area for mothers to play with their children.

118. That in the interim, the suitability of the accommodation for prisoner mothers and their infants/children at Alice Springs is reviewed.

...

121. That Directive 2.4.6 Inmate Mothers and their Children are reviewed to ensure that all risks are addressed in relation to approval for an infant/child to reside in prison with its mother, particularly risk assessments of the mother and other prisoners residing in the same accommodation area, and the prisoner carers nominated by the mother.

122. That a child advocate/expert is involved in the decision making around what is in the best interest of the child when requests for a child to be accommodated in prison with its mother are considered.

Ombudsman comment

555. It is potentially open under the existing legislation for not just an infant but a child or children of up to around 5 years of age to stay with their mother in prison. However, it is understood that, in most cases, children other than infants are not approved to stay in the prison.

556. The national and international standards make it clear that the primary consideration must be what is in the best interests of the child.

557. Clearly, 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. This will depend on an assessment of the individual circumstances, including the availability of other suitable family members as carers. There also needs to be consideration of any risks a particular mother might present to the child.

558. Weighed against that presumption will be the potentially negative impacts of a child being raised in a prison environment. Again, these are likely to be less prominent when a child is an infant and less aware of their surroundings.

559. There must also be consideration of risks to the child from other prisoners. It is important to assess those risks in an individual case and make a decision in the best interests of the child.

560. However, it would be problematic for a prison authority to rely on the limitations of existing infrastructure as an ongoing basis for refusing to allow a child to stay with their mother. Having established provisions that allow young children to live with their mother, it is incumbent on Corrections to provide suitable and safe accommodation and facilities for them.

561. It would be a hollow gesture if the scheme established by Parliament could be avoided by the simple statement that existing facilities do not provide suitable and safe accommodation.

562. Nor, given the emphasis of the relevant standards on the best interests of the child is it appropriate to take a policy position that no child should live in prison.

563. It is therefore necessary for Corrections to maintain accommodation, facilities, practices and procedures that appropriately and safely support women residing with their children in prison.

564. As long as an appropriate system and facilities are in place, it is then a matter of deciding in an individual case what is in the best interests of the child.

565. I consider it is important for Corrections to review its existing policies and facilities to provide a suitable and safe environment for mothers with young children.

566. I acknowledge that this approach creates challenges in terms of administration of prisons, particularly when the numbers involved may be small and the call for use of facilities intermittent. Even so, it is a challenge that must be squarely faced.

567. Without limiting the scope of a review, it should include consideration of:

- compliance with international and national standards and best practice;
 - providing separate accommodation for mothers with children;
 - the potential to have accommodation shared with or adjacent to a family member or support person if the mother requests;
 - maintaining facilities suitable for babies and young children, for example, bathing and changing facilities, play area or playground;
 - background checks for the mother;
 - background checks for other prisoners who may interact with the child;
 - ensuring that appropriate food is available for the child and that the other basic needs of the child will be met;
 - ensuring that appropriate medical and ancillary health assistance and support is available to the mother and the child;
 - establishing a support plan for the mother so that the roles and responsibilities of the mother and Corrections staff are clearly understood and agreed.
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