

**REPORT
OF THE
INQUIRY
INTO THE INCIDENT
AT
CASUARINA PRISON
ON
25 DECEMBER 1998**

19 MARCH 1999

MR ALAN PIPER
DIRECTOR GENERAL
MINISTRY OF JUSTICE

In accordance with your instruction to me dated 29 December 1999, to conduct an inquiry into the incident at Casuarina Prisons on the 25 December 1998, I am pleased to present the report of the inquiry team.



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19 March 1999

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Chapter 1

Background to the Inquiry and Methodology

1.1 The Inquiry Team

- 1.1.1 The Attorney General, the Hon Peter Foss, QC MLC visited Casuarina Prison on Boxing Day, the day after the incident. After seeing the damage caused to the prison and after discussions with staff, he immediately directed that an inquiry be established.
- 1.1.2 On 29 December, 1998, the Acting Director General of the Ministry of Justice, Mr Alan Piper, appointed Mr Les Smith, AM, retired Electoral Commissioner for Western Australia and Consultant, to conduct an inquiry into the incident having regard for the terms of reference.
- 1.1.3 The Inquiry team was constituted by Mr Smith, Dr David Indermaur, B. Sc. (Hons) M Psych, Ph. D (Law) UWA, Senior Research Fellow at the Crime Research Centre, University of Western Australia, Mr Simon Boddis, BA (Hons) University of Newcastle Upon Tyne, M.Sc, Applied Criminology Psychology, London University and C.Psychol and Mr Camis Smith, B.ED, Curtin University, Director, Aboriginal Policy and Services, Ministry of Justice.
- 1.1.4 Mr Boddis worked in a number of prison establishments as a Psychologist in the United Kingdom from 1986 to 1994. From 1994 to 1997 his primary role was to assist the Chief Inspector for H M Inspectorate of Prisons for England and Wales to drive change in the Prison Service by identifying areas of good and poor performance and helping establishments plan their future in models of excellence. He helped

introduce a systematic methodology for Inspectors to follow and he was in charge of the research and development function and co-wrote a number of thematic reviews. In March 1996, he was asked by the Foreign and Commonwealth Office to be part of a team that undertook a study of the Namibian Ministry of Prisons and Correctional Services. A report, with recommendations, was produced in four weeks.

- 1.1.5 From 1997 to 1998, Mr Boddis lead his unit in helping to manage a significant business process redesign exercise in HM Prisons throughout 130 disparate sites and headquarters. He is currently head of the Criminal Justice Section as part of the Criminal Policy Directorate in the Home Office where his main responsibility is to take forward and help coordination of the criminal justice system and develop initiatives in the area of criminal justice.
- 1.1.6 Dr Indermaur has worked as a Psychologist and a Clinical Psychologist in the Western Australian Department of Corrections from 1976 to 1981. His experience included assessing and treating prisoners and conducting research into the behaviour of prisoners. Following some study in Canada after 1981, he returned to the Department of Corrections and, in 1987, he was promoted to the position of Principal Planning and Research Officer in Head Office. In January 1988, he assisted Mr John McGivern with the inquiry into the riot at Fremantle Prison. In 1987 and 1988, he co-ordinated a Commonwealth funded study into the use of drugs and alcohol by prisoners. He has been at the Crime Research Centre since 1993 and he has been engaged in research into the perceptions of offenders, public attitudes to sentencing, the causes of violent crime, crime prevention and drug crime patterns. Dr Indermaur teaches at the University in the fields of criminology, victimology and penology.

1.2 Terms of Reference for the Inquiry

The terms of reference for the Inquiry approved by Mr Piper were:

“1. To inquire into and report on:

1.1 Causes of the incident at Casuarina Prison on 25 December 1998;

1.2 Effectiveness of the response of the Offender Management Division to the incident;

1.3 Adequacy of the procedures and facilities to deal with the incident; and

2. To make recommendations about how such an incident might be prevented in the future”.

1.3 Methodology of the Inquiry

1.3.1 An advertisement inviting written submissions to the Inquiry was published in “The West Australian” on Wednesday 6 January 1999. Submissions in writing about the terms of reference were to be forwarded to the Inquiry team by Friday 22 January 1999. Submissions were to be in an envelope marked “Confidential – Casuarina Prison Inquiry”. The advertisement appears at APPENDIX 13.

- 1.3.2 On 7 January 1999 the Superintendent of Casuarina Prison issued the following notice to all prison officers at Casuarina Prison:

"NOTICE TO PRISON OFFICERS

*INQUIRY INTO THE INCIDENT AT
CASUARINA PRISON ON 25 DECEMBER 1998*

Attached is a copy of an advertisement which the Ministry of Justice published in "The West Australian" on Wednesday 6 January 1999.

Prison Officers who wish to do so are welcome to make a written submission to Mr Les Smith. There will also be an opportunity for prison officers to be interviewed by members of the Inquiry team on a confidential basis and more information about the timing of these interviews will be provided later.

SUPERINTENDENT"

- 1.3.3 In order to ensure consistency and an equal opportunity to make submissions to the Inquiry, the following notice was issued to all prisoners at Casuarina on 7 January.

“NOTICE TO PRISONERS

*INQUIRY INTO THE INCIDENT AT
CASUARINA PRISON ON
25 DECEMBER 1998*

Attached is a copy of an advertisement which the Ministry of Justice published in “The West Australian” on Wednesday 6 January 1999.

Prisoners who wish to make a written submission to Mr Les Smith may do so by using the standard yellow envelope designed for complaints to the State Ombudsman and marking the envelope “Confidential – Casuarina Prison Inquiry”.

There will also be an opportunity for prisoners to be interviewed by members of the Inquiry team on a confidential basis, and more information about the timing of these interviews will be provided later.

SUPERINTENDENT”

- 1.3.4 The Inquiry was started within five days of the incident and the process represented a quick response by the Ministry of Justice to establish the facts in an independent way.

Due to the short period for written submissions to be lodged in the holiday season, extensions of time beyond 22 January 1999 were allowed for submissions to be lodged. Written submissions were received during January and February from prisoners, prison officers, private citizens and organisations with an interest in matters before the Inquiry. During January and February members of the Inquiry team interviewed prisoners, prison officers, and some other senior members of staff and representatives of some organisations. Organisations whose

representatives were interviewed included the Western Australian Prison Officers Union, the Ombudsman and members of his staff, the Prisoners Advisory Support Service, the Aboriginal Justice Council, Commissioner Gregor of the Industrial Relations Commission, Deaths in Custody Watch Committee, Aboriginal Medical Service, Aboriginal Legal Service, a member of the Aboriginal Visitors Scheme who was representing the community generally at the meeting with the Deaths in Custody Watch Committee and the Western Australian Police Taskforce at Casuarina. The Inquiry team also met representatives of the Metropolitan Noongar Circle of Elders. There was a high degree of co-operation from all of these people in assisting the Inquiry team and useful information was made available.

- 1.3.5 The findings and recommendations in this report are the result of extensive consultation, research and deliberation by the Inquiry team. In reaching its conclusions, the Inquiry team considered the comments and suggestions in the written submissions received and the views expressed in the meetings it held. It also considered substantial amounts of written material as set out in the Bibliography. All of this information was considered in the context of the terms of reference for the Inquiry.
- 1.3.6 Throughout the report, the Inquiry team has refrained from naming staff or prisoners so that should the report be made public, there can be no criticism that anyone has been identified unfairly or to their detriment.
- 1.3.7 The report is structured so as to provide background information, commentary on the importance of accountability in the framework of managing prisons followed by chapters which focus specifically on the incident and the terms of reference.
- 1.3.8 The terms of reference for the Inquiry set out in section 1.2 are almost identical to the terms of reference for the inquiry into the Fremantle Prison riot on 4 January 1988. The Inquiry team has applied a broad interpretation of the terms of reference and has considered any matter it

believed to be relevant to the Inquiry in preparing the findings and recommendations in the report.

1.3.9 The report has been compiled from the Inquiry team's best understanding of the information available to it. Every effort has been made to establish the facts and ensure the matters reported are accurate. In addition to the persons interviewed mentioned in paragraph 1.3.4, the team also consulted with those most closely associated with the matters relevant to the terms of reference after a draft of this report had been developed. They were the Superintendent and Deputy Superintendent of Casuarina Prison, the Director of Health Services, the Acting Director of Prison Operations, the Assistant Director of Training and Support Services and the Acting Executive Director, Offender Management. That consultation process involved taking these senior administrators through a draft of the report and obtaining their comments. This process contributed to establishing the facts and the accuracy of the content of the report. However, there were a number of matters of understanding, interpretation and emphasis where differences emerged. The Inquiry team has worked to ensure it is independent from the interests of any individual or group. The team understands that the Ministry of Justice will prepare a formal response to the report. In our view this is where differences should be highlighted. This response should also detail plans to address the problems identified in the report. But to ensure management discipline, the response must be a collective Ministry response. Separate responses by individuals or groups of staff would not be helpful to the work of the Ministry or aid the recovery process. Similarly, it would be counterproductive to focus the response to blaming any individual.

1.3.10 The inquiry team presents this confidential report to the Director General as a general analysis of aspects of the operation of the Ministry of Justice that may be related to the incident at Casuarina Prison on Christmas Day 1998. The report is designed to allow the Director General to be fully informed about all relevant aspects of the Ministry in relation to the

incident. The report is not designed as an investigation into the performance of any member of staff or any criminal matter and should not be read as such.

1.4 Acknowledgments

In preparing this report, the Inquiry team received considerable information from persons and organisations by way of written submissions. That information was supplemented by comments obtained at interviews with prisoners, staff and representatives of organisations. The Inquiry team thanks all of those persons and organisations for the contribution made. The submissions and comments have been taken into consideration in compiling this report. Thanks are also given to Mrs Jouli Kalafatas of the Court Services, Ms Jane Howells of Aboriginal Policy, Services in the Ministry of Justice and Ms Katie Bryson for preparing the manuscript for the report in a quality fashion.

Chapter 2

Current Accountability Framework

2.1 Introduction

2.1.1 Accountability is a central focus of Government. Ensuring that a rigorous accountability framework is in place for the administration of prisons is an important responsibility for the Offender Management Division of the Ministry of Justice.

2.1.2 Casuarina Prison is a major prison in Western Australia and its recurrent expenditure of near to \$16m a year represents close to 9% of the Offender Management Division's expenditure of near to \$180m in 1997/98. This represents a significant portion of the Division's budget and it is therefore imperative that there is a strong accountability framework for the management of prisons, clearly defined through statute and reinforced by policy and practice.

2.2 Accountability in Government

2.2.1 There are various descriptions available that address the concept of accountability in government. Each is necessarily influenced by the predominant topic then under consideration. For instance, in January 1989 the Burt Commission reported to the Premier. Although the Burt Commission concentrated primarily on the investment activities of government, some of the observations in its Report have relevance to the concept of accountability in government. In particular, the Inquiry team found the following comment by the Burt Commission of value:

“...each government agency should be subject to the control of a Minister of the Crown and through that minister it should at all times be ready and able to account to the parliament for all that it has done in the exercise of its statutory authority, for the manner in which it has done it; and for the ends sought to be achieved by the doing of it. It is an idea which is fundamental to and which, in practice, conditions the operation of responsible government.”

- 2.2.2 In May 1998 the Government of South Australia published “Prudential Management Framework” which applies to all public sector agencies in South Australia in the delivery of projects. That publication contained a helpful description of accountability which has some application in the context of prison administration.

“Accountability is the relationship between those who control or manage an entity and those who have authority over them. It can be defined as the ability to call those responsible for a decision to account and answer for their conduct.

In the public sector, Government is ultimately accountable to parliament and to the community for:-

- *Its policy and financial administration;*
- *The efficiency with which it manages public programs;*
- *The application and use of public resources;*
- *The probity of its actions; and*
- *The consistency and fairness of the processes used to deliver activities.*

The ultimate responsibility for Government decisions and the monitoring of management effectiveness is vested in Ministers individually and Cabinet collectively.”

2.2.3 The Public Sector Management Office in the Ministry of the Premier and Cabinet in its publication "Accountability in the Western Australian Public Sector" refers to the accountability of CEOs generally. The publication states that, in the context of Government and public sector administration, accountability can be understood as:

"the capacity to make employees and other office holders in the public sector answerable for the manner in which they exercise the authority conferred on them by the Parliament or government which they serve."

2.2.4 In addition to any specific provisions which may exist in statutes empowering some governmental activities, the accountability of Government to the community through Parliament is primarily obliged through the operations of the *Financial Administration and Audit Act 1985* and the *Public Sector Management Act 1994*. Some of the additional mechanisms for scrutinising governmental activities are the *Parliamentary Commissioner Act 1971*, *Anti-Corruption Commission Act 1988*, *Freedom of Information Act 1992* and inquiries by Select or Standing Committees of the Parliament. The *Prisons Act 1981* provides the legal framework for the establishment, management, control and security of prisons and the custody and welfare of prisoners. That statute is supported by the Prisons Regulations 1982, the Director General's rules made under the Act and the standing orders for each particular prison.

2.3 Financial Administration and Audit Act 1985

2.3.1 The vast majority of State public sector agencies are subject to the *Financial Administration & Audit Act 1985* ("FAAA").

- 2.3.2 The *FAAA* was introduced to improve the financial administration, reporting and audit requirements of Western Australian government departments and statutory authorities. The *FAAA*, as stated in its long title, makes provision for:

“the administration and audit of the public finances of the State and certain statutory authorities, to authorise and regulate the investment of certain public moneys, to provide for the office and functions of the Auditor General, to repeal the Audit Act 1904 and to make provision for related or incidental purposes.”

- 2.3.3 Under the *FAAA*, Ministers are ultimately accountable to Parliament for the financial transactions of the agencies under their control. In addition, by sections 52 and 54 of the *FAAA*, the concept of CEOs of departments and boards of management of statutory authorities being “accountable officers” and “accountable authorities” respectively, is introduced. Each is made responsible to their Minister for the financial administration of the bodies under their control.
- 2.3.4 The *FAAA* requires the Auditor General to audit the Treasurer’s Accounts, Departmental accounts, the accounts of statutory authorities and other accounts as the Treasurer may require. All audits must be performed in such manner as the Auditor General thinks fit, in accordance with auditing standards and practices and having regard to the character and effectiveness of internal controls and internal audit.
- 2.3.5 Under section 80 of the *FAAA*, the Auditor General is enabled to audit accounting and financial management systems to determine their effectiveness in achieving or monitoring program results. Under that section, the Auditor General may also at any time, conduct any investigation considered necessary, concerning any matter relating to the accounts, money, public property, efficiency and effectiveness of departments and statutory authorities.

2.3.6 Section 58 of the *FAAA* provides that:

“The Treasurer may prepare and issue and amend instructions: ... the “Treasurer’s instructions” with respect to financial administration including the principles, practices and procedures to be observed in the establishment and keeping of accounts.”

2.3.7 Section 58(4) of the *FAAA* provides that every accountable officer, accountable authority and officers shall comply with the Treasurer’s Instructions.

2.3.8 The Auditor General reports to both Houses of Parliament, under section 95 of the *FAAA* at least once in each year. The Auditor General may draw attention to any case in which the functions of accountable officers or accountable authorities were not adequately or properly performed.

2.3.9 The Auditor General has a significant role in assuring that all of the accountability principles and criteria are complied with when Parliament has conferred responsibility on an agency. Through its Minister, an agency is required to account to Parliament for all that is done in the exercise of its authority, the manner in which it has done it and the ends sought to be achieved by the doing of it. The Burt Commission noted:

“The Auditor General’s mandate extends beyond conventional concepts of verifying the accuracy and fairness of financial accounts (through compliance, financial and attest audit) to encompass a wide variety of examinations and investigations into ‘value for money’ issues which embrace economy, efficiency and effectiveness.”

2.3.10 The Burt Commission commented further on the role of the Auditor General as follows:

“The Commission notes the importance of the independent role exercised by the Auditor General and the extension of his mandate which goes beyond that of normal private sector auditing and, the Commission’s view is that the Auditor General should be responsible for the audit of all government agencies and their subsidiaries.”

2.3.11 The vision and mission of the office of the Auditor General reflect the statutory responsibilities of the Auditor General under the *FAAA*. The vision is to “lead in performance auditing” and the mission is:

“Through Performance Auditing enable the Auditor General to meet Parliament’s need for independent and impartial strategic information regarding public sector accountability and performance.”

2.3.12 Paragraph 2.3.5 refers to the power of the Auditor General under section 80 of the *FAAA* to audit the efficiency and effectiveness of departments and statutory authorities. Performance examination reports have been tabled in State Parliament since April 1995. One tabled in October 1997 was Report No. 6 – “Waiting for Justice – Bail and Prisoners in Remand”. Some observations about that Report are made in paragraph 5.2.9.3 of this Report.

2.3.13 It is noted that section 11 of the *Prisons Act 1981* refers to the *FAAA* and that the latter Act’s provision regulating the financial administration, audit and reporting of departments applies to and in respect of the Ministry of Justice and its operations. The annual report of the Ministry shall include a report on the state and conditions of all prisons in the State.

2.4 Public Sector Management Act 1994

2.4.1 The *Public Sector Management Act 1994* sets out the responsibilities for the Minister for Public Sector Management, the Commissioner for Public Sector Standards, Statutory Boards of Management and CEOs. The publication "Accountability in the Western Australian Public Sector" states:

"By clarifying the roles of these key players in government, the Act highlights a range of legal, management and reporting accountabilities which are fundamental to the proper administration of the public sector which is a shared public duty, performed in trust for the community of Western Australia."

2.4.2 Under section 29(1) of the *Public Sector Management Act 1994*, the function of CEOs is to manage their departments or organisations. Paragraphs (a) to (o) set out the specific requirements that are to be met by CEOs. The emphasis of those requirements is on performance and achieving results.

2.4.3 The functions set out in section 29(1) of the *Public Sector Management Act 1994* are supported by the requirement under section 47 of that Act for CEOs to enter into performance agreements with their board or Minister. Where there is a board, the agreement is approved by the portfolio Minister and in other cases, by the Minister for Public Sector Management. The agreements provide for the intended achievements of the agency for the coming financial year in line with agreed outcomes required by government. In addition, CEOs commit to progressing whole of government policy initiatives and good management strategies such as customer focus and program evaluation. At the end of the agreement period, CEOs must present a report on their performance. This provides boards of management and Ministers with the opportunity to clarify

achievements, identify concerns in a formal manner and better define future strategies and measurable objectives for the agency.

2.4.4 The *Public Sector Management Act 1994* also sets standards of public sector management. It establishes broad accountability requirements for the administration of public sector agencies and for the behaviour and performance of persons employed in the public sector. The *Public Sector Management Act 1994* refers to the application of standards of integrity, equity, merit and probity while emphasising the need for effective and efficient operations.

2.4.5 The Commissioner for Public Sector Standards plays an important role in reinforcing accountability in government. The Commissioner is an independent statutory office holder reporting directly to Parliament.

2.5 The Parliamentary Commissioner Act 1971

2.5.1 This Act provides a safeguard for citizens against administrative decisions and actions by public sector bodies (including local government authorities) which may be unfair or wrong. The Parliamentary Commissioner has the jurisdiction to investigate complaints of this nature and this provides another avenue of external review which reinforces agencies' accountability to Parliament and the community.

2.5.2 Section 67 of the *Prisons Act 1981* supplements the powers of the Parliamentary Commissioner in relation to prisoners. The section refers to letters written by prisoners and it is expressed in the following terms:

"67 (1) Any letter written by a prisoner and properly addressed to -

(a) the Minister;

(b) the chief executive officer;

(c) the Parliamentary Commissioner for Administrative Investigations; or

(d) *the Commonwealth Ombudsman*

shall be dispatched by the superintendent to the addressee, without being opened or read.

(2) *The superintendent or an officer authorised by the superintendent may open and read any letter written by a prisoner, other than a letter of the kind specified in subsection (1), and may open and inspect any parcel which a prisoner desires to be dispatched or made available to any person.*

(3) *Where it appears to the superintendent that the contents of a letter or parcel of the kind referred to in subsection (2), or any part of the contents of such a letter or parcel -*

- (a) *may jeopardise the good order or the security of a prison;*
- (b) *contain a threat to a person or property; or*
- (c) *constitute or are expressed in a code;*

the letter or parcel may be returned to the prisoner, or sent to and retained by the chief executive officer, or destroyed or otherwise dealt with by order of the chief executive officer.

(4) *Subject to subsections (2) and (3), the superintendent shall cause to be dispatched to the addressee any letter written by a prisoner and any parcel which a prisoner desires to be dispatched to any person.*

(Section 67 amended by No. 47 of 1987 s.11; No. 113 of 1987 s.32)"

NOTE: It is proposed that reference to the Office of Health Review be included in Section 67(1).

- 2.5.3 The Parliamentary Commissioner has commented about his role in respect of prisoners in his annual reports as at 30 June, 1997 and 1998. Some observations about those comments are made in paragraph 5.2.8.6 of this Report.

2.6 Anti-Corruption Commission Act 1988

- 2.6.1 The existence of the Anti-Corruption Commission, which reports to Parliament, emphasises the public's right to expect the highest levels of integrity and proper conduct in government. The *Anti-Corruption Commission Act 1988* establishes a process for the independent investigation of allegations of corruption, criminal activity or serious improper conduct on the part of public officers. The process is also subject to monitoring by a Joint Standing Committee of Parliament.

2.7 Freedom of Information Act 1992

- 2.7.1 This Act enables a person to obtain access to documents held by agencies and local government bodies. If an application is made, then the relevant body may have to disclose certain government documents that could then be subject to public scrutiny.

2.8 Enabling Statutes

- 2.8.1 Legislation creating a statutory authority often includes specific accountability measures for the authority, which usually operate in addition to the other statutory accountability mechanisms set out above.

2.8.2 For example, the *Prisons Act 1981* makes provision for the establishment, management, control and security of prisons and the custody and welfare of prisoners. The purposes of the Act are given further effect by the Prisons Regulations 1992, the Director General's rules made under section 35 of the Prisons Act and the written standing orders made by the Superintendent of a prison under section 37 of the Act. More comment is made about these specific provisions relating to prisons in paragraphs 2.10 and 2.11.

2.9 Parliamentary Committees

2.9.1 Parliament has the capacity to inform itself about the administration and management of prisons through the system of Select or Standing Committees.

2.9.2 Terms of Reference may be given to Parliamentary Committees by either House of Parliament or both Houses, which may constitute the authority to examine any matter related to public sector administration. In pursuing their investigations, the Committees may require evidence from witnesses and the production of documents and information. Standing committees with substantial oversight of the public sector include:

- (a) Standing Committee on Estimates and Financial Operations (Legislative Council);
- (b) Standing Committee on Public Administration (Legislative Council);
and
- (c) Public Accounts and Expenditure Review Committee (Legislative Assembly).

2.10 Prisons Act 1981, Prisons Regulations 1982, Director General's Rules for the Offender Management Division and Casuarina Prison Standing Orders

2.10.1 The Act sets out extensive provisions relating to the duties and powers of prison officers, the security of prisons, removal of prisoners to another prison, medical treatment of prisoners, searches and restraint of prisoners, use of force where there is a serious breach of security, prison offences, welfare programmes for prisoners and discipline of prison officers.

2.10.2 The Regulations contain machinery and operational provisions which supplement the statutory provisions. The Director General's rules are made under section 35 of the Act. The rules are for the management, control and security of prisons generally or a specified prison and for the management, control and security of prisoners and the management of officers of the Ministry. The rules made are published so as to bring relevant rules to the attention of officers, persons visiting prisons and prisoners. Section 37 of the Act gives power to a superintendent of a prison to make and issue written standing orders with respect to the management and routine of that prison. Extensive standing orders have been issued by the Superintendent of Casuarina Prison which set out detailed procedures under the headings of officers, administration, security, communications involving prisoners, prisoner management and medical arrangements.

2.11 Regulatory Review of Casuarina Prison

2.11.1 Another recent significant initiative of the Ministry of Justice which contributes to the accountability framework is the implementation of a regulation model for Offender Management. Under the model, the Regulator provides independent advice to the Director General and Attorney General on strategic policy and evaluates how effectively

outcomes have been delivered having regard for national and international benchmarks.

2.11.2 The Offender Management Division is currently progressing a significant change management program to improve the quality, cost effectiveness and competitiveness of prison services. Increasing the capacity of the prison system is also a critical priority given the increasing accommodation demands. The first regulatory review is of Casuarina Prison. A draft report of Stage One of the review undertaken by KPMG was prepared in December 1998 and, after some minor changes, it was accepted as a final report on 10 February 1999 (hereafter referred to as the KPMG report). The report focuses on processes, standards and performance at Casuarina Prison. Stage Two of the review, due for completion later in 1999, will involve a more detailed review of prison operations, particularly social outcomes and specialist areas.

2.11.3 The Offender Management Division Business Plan for 1998/99 – 2002/03 describes the Offender Management role as to:

- Protect the community and reduce re-offending by adults and juveniles;
- Manage offenders given custodial and community based court orders;
- Develop policies and programs aimed at preventing crime and reducing recidivism;

2.11.4 The key outputs in the Division in pursuing its role are:

- Custody and Containment;
- Care and Wellbeing;
- Rehabilitation and Reintegration;
- Reparation.

2.11.5 The roles of the Ombudsman and the Auditor General would remain unchanged under the regulator model.

2.12 Occupational Safety and Health Act, 1984

2.12.1 Another statute which has important significance for the administration of prisons is the *Occupational Safety and Health Act 1984*.

2.12.2 Part V of that Act gives the WorkSafe Western Australia Commissioner the power to appoint inspectors. Inspectors have wide powers under section 43 of the Act to enter, inspect and examine any workplace. A "workplace" means a place, whether or not in an aircraft, ship, vehicle, building or other structure, where employees or self-employed persons work or are likely to be in the course of work.

2.12.3 On 3 April 1998 an inspector from WorkSafe Western Australia issued to the acting Executive Director, Offender Management, the following six Improvement Notices under section 48 of the Act.

2.12.3.1 No.101983 in relation to prison officer training in emergency management.

2.12.3.2 No. 101984 in relation to the use of physical force by prison officers.

2.12.3.3 No. 101985 in relation to the use of chemical agents by prison officers.

2.12.3.4 No. 101986 in relation to prison cell extractions.

2.12.3.5 No. 101987 in relation to evasive self defence and holds and training of prison officers.

2.12.3.6 No. 101988 in relation to maintaining and providing a safe working environment.

NOTE: On 29 October, 1998, WorkSafe Western Australia advised that it was satisfied that there had been compliance with Notice No. 101986.

2.12.4 WorkSafe Western Australia reviewed these Improvement Notices in July and November 1998 and at the time of finalising this report, Notices No. 101983 and 101987 had been extended to 30 June, 1999, and 101984 and 101985 to 5 July, 1999, to allow the Ministry of Justice time to complete the improvements. Some questions had been raised in respect of No. 101988 as to the jurisdiction of WorkSafe Western Australia to investigate the matter under the *Occupational Safety and Health Act*. More comment about these Improvement Notices and staff training is made later in paragraph 5.2.9.3.

2.13 Summary

- 2.13.1 The Inquiry team notes that there is a substantial accountability framework already in place. However, in later chapters, emphasis is given to the need to ensure these accountability obligations are adequately satisfied in the management of prisons.
- 2.13.2 Having regard for the importance of accountability outlined in this Chapter, it will be recommended that the organisational structure and processes of the Ministry and the Offender Management Division be reviewed to ensure compliance with all accountability and responsibility requirements (see recommendation 9.2.3).
- 2.13.3 Section 2.11 refers to the regulatory review of prisons. It is recommended that this be used to achieve an effective mechanism to ensure that every aspect of the operations of prisons are subject to qualified inspection on a random and regular basis (see recommendation 9.2.13).

Chapter 3

What Happened During the Incident

3.1 Introduction

3.1.1 In the afternoon and evening of Christmas Day 1998 a major disturbance took place within Casuarina Prison. At the height of the incident some 100¹ prisoners were free in the prison grounds. Over \$250,000 worth of damage was incurred, and 21 staff and two prisoners needed hospital treatment. Over 30 other prisoners needed urgent medical treatment to deal with the effects of drugs overdoses. Four weeks after the disturbance 10 of the staff involved were still on sick leave. At the height of the riot several staff were besieged by violent prisoners and believed they were going to be killed. Between 20 and 30 prisoners suffered life threatening drug overdoses. For about two hours staff were not in effective control of the prison grounds. Prisoners involved did not seem to have serious specific grievances. We found no evidence that the riot was planned in advance. There was no credible intelligence provided that suggested a serious incident would take place on Christmas Day. Some 30 prisoners had to be transferred to other prisons in Western Australia. That the incident was eventually resolved without loss of life or more serious damage was due to the immense bravery of a small number of Prison Service staff. No attempt was made by prisoners to escape.

¹ Staff estimates of the number of prisoners involved at the height of the riot range from about 70 to some 140. In addition to the prisoners at loose in the compound staff estimate that some 60 others in Units 1, 2 and 3 were involved in disruption within the Units after the muster at 18.00.

- 3.1.2 At "unlock" on 25 December 1998 the prison held 529 prisoners - 462 sentenced prisoners and 67 remands. This represented a number of some 30% over the design brief for Casuarina. A more detailed prisoner population breakdown is provided later in the report and in APPENDIX 4.
- 3.1.3 In the absence of objective data, the timings for the incident rely on eyewitness testimony of prisoners and staff and staff incident reports. Given the nature of the disturbance and the height of emotions it is not surprising that timings differ between individuals. There were timing discrepancies between staff incident reports. The absence of an incident log from the start of the incident was not helpful (Note paragraph 5.2.1.6). All timings given below are, therefore, approximate.

3.2 December 25 1998 – Timetable of Events

- 10.00 – 11.20 The Superintendent tours the establishment and reports that the atmosphere was quiet and relaxed.
- 15.30² S/O Response monitors prisoners (about 8) moving *en masse* between Units 3 and 4. S/O reports that the episode appears unusual and reports this to S/O Recovery and informs Response team that they would return to the area between Units 3 and 4.
- 15:30 All prisoners secured in units for muster.
- 15.40 Unit 1 calls muster (71) through the Self Care Unit.
Unit 2 calls muster (70) through the Self Care Unit.
- 15.45 Last time the computer room in Unit 3 is attended by an officer before reported break in.
- 15.45-16.15 At some stage during this period the medicine cabinet located in the computer room in Unit 3 is broken into and a significant amount of prescription medication stolen. There is no evidence of forced entry to the computer room and the conclusion – agreed with by staff – must be that the door had been left unlocked without a staff presence in the room.
- 16.00 Unit 3 calls muster (80) to Self Care Unit. Prisoners released from all units to recreation.

² Based on the Incident Report of S/O Response as do all passages in the timetable pertaining to S/O Response.

- 16:15 S/O in Unit 3 is told by a member of his staff that the unit's medicine cabinet had been broken into. The S/O calls the Security S/O and the S/O in charge of the establishment. At the same time two prisoners are detained in Unit 1 suspected of receiving a bag of drugs through their cell window.
- 16:15 S/O Response intercepts radio call for Recovery to attend Unit 3. He dispatches response officers with Recovery "2" to Unit 3.
- 16:20³ S/O Response approaches Unit 3 and notices large group of prisoners outside a particular cell window which (after being informed of the medicine cabinet break in) he then investigates and apprehends prisoner X. This prisoner is placed in handcuffs and moved to the S/O's office. However prisoner Y attempted to obstruct officers in moving the prisoner. Prisoner Y then demanded the release of prisoner X and becomes highly abusive and threatening. This prisoner (Y) is leading 30-40 prisoners gathered outside the front of Unit 3 making threatening gestures and shouting out. S/O Response then tries to engage prisoner Y and calm him down. At this time S/O Response notices two other prisoners breaking up pieces of concrete on the path between A/C wing and tossing the smaller pieces into the gardens area next to the "mob". Two other prisoners are also (one holding a medical crutch like a club) yelling at the other prisoners "stay here brothers, these fucking white dogs can't take our brother away" and "Fuck these screw dogs." Other prisoners are yelling out and pointing to staff - "Release "X" or you'll have a fucking riot" - "Bring "X" out or you're all fucked." S/O Response continues during this time to calm the leading prisoner down, however he refuses to listen and tells S/O Response "Five fucking minutes to have X out, out here or you're all fucked, we'll have a

³ Based on the Incident Report of S/O Response as do all passages in the timetable pertaining to S/O Response.

fucking riot!” After conferring with the S/O Security, X is released from handcuffs, S/O Response returns to continue to try and talk down the situation. However, three prisoners refuse to listen and continue to incite other prisoners, other staff arriving are threatened and verbally abused by prisoners in the mob, and prisoners continue to break up concrete and pass these to other prisoners. The majority of prisoners are now armed. Prisoner X is released with the request that he calm the situation down, with this the mob disperses.

- 16.20 Nurse arrives at Unit 3 to see what medicines were taken.
- 16.30-16.40 A substantial number of pills are found in Unit 1. The Senior Officer’s window in Unit 1 is broken by a missile. A “small bin liner” of prescription drugs is found in Unit 1.
- 16.30 Phone call from Casuarina TSS control room officer (front gate) officer to S/O TSS informing him that there was a problem – that the medicine cabinet has been broken into and staff had attended the unit.
- 16.35 Phone call from Casuarina TSS control room officer (front gate) officer to S/O TSS to say that staff have control of the problem in Unit 3 but now heading to another situation in Unit 1.
- 16.40 S/O Recovery comes out of Unit 3 and asks both teams to make their way quietly to Unit 1 where an incident is developing. On their arrival Prisoner Y is again leading a mob demanding the release of “our two brothers” with threats “You got ten minutes or we’re coming to get them.” The S/O’s window has been smashed and there are now several groups of prisoners from the eastern end of Unit 1 to the pathway in front of the unit. Some prisoners give the impression of inciting a riot and are arming themselves with weapons. Prisoner Y again makes demands

combined with threats and directly confronts at least one officer. Another prisoner in the wing demands his medication and then incites other prisoners and smashes the window in the control room with a pool ball. Officers are trying to disperse prisoners outside the units, but at the same time groups of prisoners are forming with various ring leaders trying to incite action by prisoners. Prisoners are also seen passing around something – presumably drugs.

- 16.45 S/O Security phones Superintendent and Asst Superintendent Security and informs them of the incident where staff were threatened and prisoners released.
- 17.00 Between 70 and 100 prisoners are outside Units 1, 2 and 3 facing some 15 staff. The atmosphere was described as increasingly confrontational. Staff continue to attempt to calm prisoners by talking to them. A telephone call is made to inform the Assistant Director, Training and Support Services (TSS).
- 17.10 Mob is swelling and individual prisoners starting to make demands.
- 17.10 Superintendent receives a call on his mobile telephone whilst on his way to the prison to inform him that a rock has been thrown through the window of the Senior Officer's office.
- 17.15 S/O in charge of TSS notifies members "stand to" which requires many phone calls to be made to members of the unit.
- 17.30 Prisoners seen making piles of missiles. Attempts made to confine prisoners to Unit 1. Pool balls hurled at control room – distress screen barrier raised. Superintendent arrives at the prison.

- 17.45 Command Post established in the Boardroom. Senior Officer from TSS arrives as he has been monitoring internal Casuarina radio messages.
- 17.50 Radio call tells S/O Recovery that prisoners are moving on the infirmary. Response team deployed on out-patients path.
- 18.00 End of recreation period – all prisoners should be locked into units. A group of about 70 refuse. Large numbers of windows are smashed in Units 1, 2 and 3. Staff retreat into unit control rooms. Eight staff are trapped in Unit 3 control room –two Unit 4 staff retreat to the roof space above the S/O's office. It is believed that a prisoner broke into the Unit 4 control room and operated the wing doors releasing prisoners from Unit 4. Windows in control rooms are broken by a variety of weapons. Self Care Unit, Special Handling Unit, Sex Offenders Treatment Program Unit, Infirmary, Induction and Orientation Unit, Units 5 and 6 are locked down with prisoners secured in cells.
- 17.50-18.15 The majority of prisoners at loose begin to move across the compound towards the infirmary. They are met by a small number of officers – not wearing protective clothing - outside the infirmary gate. The prisoners are deterred from attacking the infirmary. Instead the group proceed to break and enter the Education Centre destroying some computers and smashing the majority of windows. The majority of windows in the administration block are broken. The gymnasium is broken into and equipment stolen. Unit 6 is locked down. Attempts are made to start fires at the front of Unit 2 and behind Unit 4. Eight staff are barricaded in Unit 3 control room. Other prisoners have swung up to target other units. Prisoner Z armed with a length of steel in one hand and another weapon in his other points to S/O Response and says "Let's murder these white scum! - Kill these fucking screw dogs! - I've had it let's

murder them. - We're going to kill you cunts!" Other prisoners then cheer. Prisoner Y then tells S/O Response "...you're prejudiced you screws, that's what this is all about".

- 18.20 A number of staff are attacked and injured as they run back to the grill gate in the administration area.
- 18.30 The Asst Director in charge of the TSS arrives at the Administration building. The Superintendent in charge of Casuarina Prison hands over responsibility for the resolution of the incident to the Asst Director TSS.
- 18.35 The prisoners return to outside Unit 3. Prisoners inside Units 1, 2 and 3 continue to attack the control rooms. Prisoners attack the door protecting the roof space in Unit 4. At some stage the medicine cabinet in Unit 4 was broken into.
- 18.35 Approximately seven equipped members of the TSS enter about 25 metres into the main compound from the administration grill gates. They are charged by a group of prisoners and sustain attacks from missiles. The officers retreat back behind the administration grill gates.
- 18.40-19.10 A squad of about 15 staff comprised of the seven TSS (including a dog handler and dog) and Casuarina staff enter the compound in response to desperate calls from staff in Unit 3. Staff have no firearms, a number of chemical sprays, a variety of riot equipment but at least half the staff have no protective equipment. They are met with a hail of missiles - those staff at the front with shields attempt to protect those at the rear. Staff advance in a line towards the prisoners and engage prisoners in hand to hand combat. The A & C wing entry door in Unit 3 is dislodged from its hinges by prisoners attacking using a metal food trolley. Prisoners retreat to Units 1, 2, 3 and 4. Twenty one

prisoners climb onto the roof of Unit 2. The process starts of locking those prisoners at liberty into cells.

- 19.16 Acting Director Prisons Operations arrives.
- 19.30 The first of 21 prisoners taken to the Infirmary for treatment as a result of drug ingestion arrive.
- 19.45 Staff take control of units and progressively report that prisoners have been secured in their cells.
- 20.10 Units 2 and 3 reported secure.
- 20.15 Fire reported outside Unit 4 (apparently started internally with lit pillows).
- 20.20 Acting Director General of the Ministry of Justice arrives.
- 20.45 After a period of negotiations the last prisoners climb down from the roof (video). The muster is initiated.

3.3 December 26 1998 – Timetable of Events

- 01.25 Prisoners transferred to Albany.
- 05.10 Control of the inner perimeter handed back to Superintendent of Casuarina Prison.
- 08.00 A video recording of the establishment reveals a large amount of exterior broken windows. Weapons used by prisoners include metal bars, sports equipment, lumps of concrete, pool cues and balls.

- 10.45 Drugs found in Unit 1.
- 11.15 Drugs found in Unit 3.
- 15.35 Syringe found on prisoner.

NOTE: Based on the information made available to the Inquiry team, the above timetable of events is the most accurate which can be compiled. There may be some minor uncertainty about some of the times.

Chapter 4

Background on Casuarina Prison and the Ministry of Justice. Comparison with Other Riots

4.1 History of Casuarina Prison

4.1.1 Design and Description

- 4.1.1.1 Casuarina Prison is an open design prison (see APPENDIX 1). Work began on the establishment in the late 1980s with the prison finally being opened in 1991. The cost of building the establishment was over \$100 million – which for 360 beds in mainstream accommodation equated to over \$260,000 per bed. This made Casuarina one of the most expensive prisons built in Australia. When it opened it was claimed that Casuarina was the most modern and sophisticated maximum security prison in the southern hemisphere.
- 4.1.1.2 The prison was planned and built on the assumption that it would assume the role as the State's major maximum security prison, taking over that role from the antiquated Fremantle prison which had been subject to a riot and fire on 4 January 1988.
- 4.1.1.3 The plans for the operation and commissioning of the prison show that the prison was originally designed for 260 prisoners in five standard units each holding 52 prisoners. A self care unit was to accommodate another 48 and the infirmary and special purposes would hold 86 giving a total of 394. At a later

stage in the design process another 52 bed standard unit was added bringing the standard units accommodation to 312 and the total accommodation to 446.

- 4.1.1.4 Standard accommodation consisted of six two storey main units divided into two separate halves. Each half is designed to hold 26 prisoners in reasonably sized single cells – see APPENDIX 2. Each half of the unit can be locked down by use of interior grill gates. Internal sanitation is provided in all cells though, surprisingly, only cells in the self care unit are provided with showers. Each half of a unit is provided with a large association room. There is an extensive use of interior and exterior glass to provide an airy interior.
- 4.1.1.5 Between the association rooms there is a diamond shaped staff control room. This provided observation into both association areas and into the entrance foyer. In addition each unit contains the Senior Officer's office and a computer room.
- 4.1.1.6 The other main prisoner accommodation is the self care unit. This is designed to hold trusted long term prisoners. The design is based around a courtyard and the buildings are separated from the main prisoner accommodation. Prisoners in the self care unit cook for themselves and have showers in their cells.
- 4.1.1.7 Casuarina was built with a range of workshops and education areas. A large well equipped infirmary is provided as a resource for the whole state rather than exclusively for the use of the establishment. A multi-functional inmate Induction and Orientation Unit (IOU) was built to provide an initial assessment centre although it has never been used in this way. Instead the IOU provides special management cells including persons placed there for observation, punishment or protection. This area adjoins the Special Handling Unit which was designed

to hold the State's most dangerous prisoners and those considered to be of high escape risk.⁴

4.1.1.8 A large oval was built behind the main living units. In addition each unit has access to a tennis court and a small but well appointed gym is available. A well designed open visits area is provided.

4.1.1.9 Central to the prison is a large grassed compound which is pleasantly landscaped with trees and shrubs. There is no internal fencing in the compound.

4.1.1.10 Perimeter security is high and comprised of several barriers. An armed response at the perimeter is available in case of attempted escape.

4.2 Regime Philosophy

4.2.1 The design of the prison was expected to complement and enhance the regime. The ethos of the prison was established on the basis that a stable long term prisoner population would be fully employed with prison officers taking a leading role in tackling prisoners' problems. Prisoners would be divided into a maximum group size of 52 and then managed by a small team on a decentralised, semi - autonomous basis. This is generally referred to as the "unit management" approach. This approach was designed to put each officer in a central welfare role with a small number of prisoners.

⁴ The Special Handling Unit was first formed in Fremantle Prison as a result of a recommendation of the McGivern Inquiry.

- 4.2.2 The regime was designed to provide each prisoner with a full active working day. Visits and other social activities were scheduled to take place after the working day. Prisoners were to be allowed out of their cells for 14 hours a day. Casuarina operated a "free-flow" movements system in which prisoners made their own way to activities. Prisoners were free to use all areas of the compound during recreational periods.

4.3 Use of Casuarina on 25 December 1998

- 4.3.1 The basic philosophy of the regime had remained the same since the prison opened despite a population which was now well over 500. Prisoners were still unlocked for some 14 hours a day though a substantial minority were not involved in constructive activities during the day. Prisoners in normal location – and self care – were free to use the compound during periods of recreation. The compound remained open.
- 4.3.2 The use of accommodation had slightly changed. Units 1 to 4 continued to contain mainstream prisoners. Unit 5 was partially for prisoners who required limited protection and for inductions. Unit 6 contained prisoners requiring a higher level of protection from other prisoners. Despite its population Unit 6 was not fenced off from the remainder of the prison.

4.4 Other Riots and Confrontations

- 4.4.1 The Fremantle riot on 4th January 1988 is the only other major Western Australian riot in recent memory that bears comparison to the Casuarina riot.

4.4.2 In regard to similarities and differences there are some important points to note. Both riots occurred on a holiday when prisoners were largely unoccupied. Both riots were preceded by a confrontation with prison officers regarding their actions concerning an individual prisoner. In both situations, prison officers gave the impression of acquiescing to prisoner demands. The riots were not planned apart from a degree of haphazard planning on the day and the generation of a mob mentality amongst the involved prisoners. In both cases the tension built up over a period of time facilitated by informal prisoner meetings. Finally, on both days there was a low number of senior staff in the prison as troubles developed.

4.4.3 The major differences and similarities between the two riots are detailed below;

SIMILARITIES & DIFFERENCES BETWEEN THE CASUARINA AND FREMANTLE RIOTS	
Same or Similar	Different
<ul style="list-style-type: none">• Overcrowding• Boredom – lack of occupation• Festive (summer) season• Outside normal routine (holiday)• Significant gain of inmate power preceding the riot• Negotiation with prison officers before riot• Less than sufficient staff numbers• Fires lit at Fremantle – attempts made at Casuarina• Standoff situation between prisoners and staff prior to riot.• Ringleaders and mob• Exploitation of opportunity – fairly spontaneous	<ul style="list-style-type: none">• More focused grievance (Fremantle)• Multiple sites of attack (Casuarina)• Surprise element (Fremantle)• Hostages taken (Fremantle)• SHU and Self-care unit existed (Casuarina)• An Aboriginal dimension

- 4.4.4 In examining the causes of the riot in 1988 overcrowding was noted in the McGivern report as was the presence of a number of minimum security prisoners and others who could have been placed elsewhere in the system. The lack of muster control through the use of appropriate placement of lower security prisoners was also noted. The most commonly expressed grievance of prisoners in 1988 was not their physical conditions but the perceived arbitrary, unfair and punitive attitudes of prison officers with whom they came into contact. Visits and the availability of work were also areas of concern.
- 4.4.5 In reviewing the recommendations of the subsequent McGivern Report of 17 February, 1988, it is notable that some of them have not been implemented in either spirit or letter. Furthermore many of the underlying factors found to be causes of the Fremantle riot emerged as relevant in the present analysis. The adage that those who do not learn from history are bound to repeat it is apt.
- 4.4.6 In particular, the recommendations in section 6.6 of the report concern the management of prisoners and recommend *inter alia* the establishment of a formal grievance procedure. In concluding John McGivern reiterates that any action will have no lasting effect unless the Department is able to establish an atmosphere in which prisoners believe they are being treated reasonably and fairly. This goal may not be quite as distant as it was in 1988, but is still some way off.

4.4.7 The incident at Casuarina was of a very serious nature. Should it be described as a riot? According to Adams (1994) riots are likely to include seven characteristics.⁵ However the incident on Christmas Day lacked at least one of these defining characteristics (it was not directed towards achieving a change and/or expressing a grievance). If it can be conceptualised that the prisoners' demands were for drugs and the protest was about a lack of drugs it is possible to conceptualise the incident as a riot – more aptly labelled a “drug riot”. This concept may be useful as there is some suggestion that a number of “riots” can be thought of in this way. For example the infamous and bloody riot at the penitentiary of New Mexico in 1980 shared many of the features of the WA Christmas Day “riot” of 1998. There was overcrowding, a building up of prisoner numbers relative to staff numbers and capacity, there was a lack of participation in prisoner recreation programmes and occupation leading to boredom, there was a systematic breakdown in leadership and direction due to rapid turnover at the highest levels of the organisation and, critically, the riot sprang from the actions of a few intoxicated inmates who had consumed home-made beer. “Initial success was gained by a few intoxicated men who had decided to act” (Useem and Kimball, 1989, p 101). One of the first targets in that riot was also the pharmacy, which when broken into led to many inmates consuming prescription medication indiscriminately. The other major target, where most deaths occurred, in the Santa Fe riot was the area containing protection prisoners.

⁵ (1) They are part of a continuum of activities. (2) They involve dissent and/or protest. (3) They involve an interruption to the regime. (4) They involve a take over by prisoners of all or a part of prison resources. (5) They are temporary. (6) They involve groups of prisoners. (7) They are directed towards achieving a change and/or expressing a grievance.

4.4.8 In studying and understanding prison riots it is necessary to be critical of the assumption that there is a "rational" reason for the riot. Actions by nature have motivation, but to assume that these are logical is unwarranted. Riots, like violent crimes, often occur without the perpetrators carefully calculating the costs and benefits (see Chapter 5 and the discussion of the specific causes of the incident).

4.4.9 Previous Recent Riots in Australia

The Port Phillip riot, 1998

A riot occurred in the Port Phillip correctional facility in March 1998. This is a private prison. The riot began with a deliberately lit fire and then 48 prisoners took over one unit of the prison and completely vandalised it. The prisoners in the unit took no hostages and eventually gave up to the authorities. An extensive report into the riot was undertaken for Cabinet by Victoria's Corrections Commissioner, Mr John Van Groningen, who was appointed to a taskforce to investigate problems at the prison.

Yatala, Adelaide in 1996

The riot in the Yatala Labor Prison in Adelaide involved a tense 11-hour siege which involved more than 100 heavily armed police. A number of prison guards were held hostage. The guards all suffered cuts and bruising inflicted by the prisoners who bashed them.

4.5 Ministry of Justice and Offender Management Division Background

- 4.5.1 The Ministry was formed on 1 July 1993 with the merger of the major justice departments – with the notable exception of the police. The Crown Law Department was integrated with the Department of Corrective Services and Juvenile Justice from Family and Children's Services. It provides a range of distinct services and functions. In 1997/98 the Ministry of Justice operated with nearly 4,000 staff spread over 120 locations. The budget for the Ministry was some \$322.6M.
- 4.5.2 The Offender Management Division of the Ministry "manages adult and juvenile offenders in custody, and in the community. It aims to reduce re-offending, contribute to the protection of the community and direct offenders towards law-abiding lifestyles" (Ministry of Justice Annual Report 1997/98).
- 4.5.3 The stated principles of the Offender Management Division were custody, care and wellbeing, rehabilitation and reintegration and reparation. There was a draft Prisons Directorate Business Plan for 1998/99 – 2002 but this had yet to be implemented by February 1999.

Chapter 5

Causes of the Incident (Term of Reference 1.1)

5.1 Introduction

- 5.1.1 In the analysis of the causes of any event, explanations can range from the general to the specific. There are dangers in explanations that focus too heavily at either end of that continuum. Explanations that focus only on those factors that are obviously involved (in this case the "stolen drugs") offer not so much an explanation as a description of events. On the other hand explanations that seek to link an event with a range of diffuse factors can lead to unwarranted speculation and conjecture. This is also unhelpful. Our purpose in seeking to explain the riot has only one major aim: to provide a comprehensive and cogent understanding of the factors that were related to the riot so that steps may be taken to prevent such events in the future. It is a concern with prevention rather than blame or minimisation that has guided the Inquiry team. Many factors have been drawn to the team's attention. The task has been to provide a logical explanation about how these factors relate to the event in question.
- 5.1.2 In this Chapter, the major causal factors are discussed first (5.2) and then a model presented which draws these together in a framework that shows how they are interrelated (5.3).
- 5.1.3 The team has rejected the explanation that the causes of the riot can simply be traced to the events at Casuarina on Christmas Day. It is useful to think in terms of a continuum of explanation so that some causes are seen as proximal (specific) with others being more distal. There is a tendency amongst some to examine only the immediate effects whilst

others would wish to concentrate only on more distant causes. However, the full picture has to be examined so that an understanding of how these factors interact can be appreciated.

- 5.1.4 Seeing the full picture is important because a focus on what happened specifically on Christmas Day denies the fact that the riot could have been much worse and, equally importantly, that it could have happened at another time and in a number of prisons within Western Australia. The Inquiry consistently led the team to serious problems in the Ministry of Justice since its formation and particularly with the Offender Management Division. Although the focus on prison conditions was the centre of most prisoners' and officers' explanations, given the consistency with which structural problems of the Ministry and the Division emerged in the accounts of those at senior levels, it would be impossible not to consider their importance and how they relate to prison conditions.

5.2 Causal Factors

5.2.1 Specific Causes on Christmas Day

- 5.2.1.1 The immediate or proximal causes can be thought of in terms of the events that actually happened on the day – the stealing of drugs, subsequent intoxication, an unresolved confrontation between prisoners and staff, prisoners becoming more aggressive and the relative weakness of staff and limited resources to respond to a serious disturbance.
- 5.2.1.2 By most accounts the events which unfolded on the afternoon and evening of Christmas Day 1998 at Casuarina began with the breaking into of a medicine trolley in Unit 3. The Inquiry has found it impossible to fix this time with any accuracy. The first formal notification is around 16.15 but staff incident reports note a group of prisoners acting "suspiciously" some 30 minutes earlier. Prisoners' reports place the start of the incident

earlier. The ease with which prisoners gained access to the medicine cabinet in Unit 3 and the large amount of drugs available contributed to subsequent behaviour.

5.2.1.3 The confrontations between the recovery squad and prisoners X, Y and Z were also crucial. Prisoner X was viewed by staff as a disruptive discipline problem and two days before the incident had been transferred to Canning Vale. But Canning Vale – after X arrived with a prison escort - refused to accept him and he was returned to normal location at Casuarina. A wide belief, shared by most prisoners, was that prisoner X was released because the officers concerned were threatened by a large and growing group of mainly young prisoners who demanded the release of the prisoner X. It is reasonable to assume that this action, combined with the prisoners' intoxication, resulted in subsequent emboldenment. This reflects the problems staff were faced with when often their only viable management strategy – when large numbers of prisoners were unlocked - was acquiescence. The other problem this illustrates was the limited number of management options available to staff regarding known troublemakers.

5.2.1.4 There is no doubt that staff were surprised and shocked by the ferocity of the prisoners' demands. But the Inquiry found no evidence of forward planning by prisoners. Prisoners could not identify a specific cause or grievance that led up to the incident. Some undoubtedly felt that prisoner X was being unfairly treated. Others have noted that the holiday period over Christmas was one of boredom even though a number of recreational structured activities were organised over the Christmas period (see APPENDIX 3 which sets out the recreation programme put in place for 1998 Christmas/New Year period). There were no other organised activities taking place on Christmas Day. Others have noted that at a time when

most wished to be with families it was difficult to make telephone calls.⁶ No visits were allowed on Christmas Day though the Inquiry team was told that many prisoners' families would not visit on Christmas Day and that – in the interests of fairness – no visits was preferable to the granting of visits to a lucky minority. However, that explanation has been questioned by some. Elsewhere in Australia, visits to prisoners are allowed in South Australia, Victoria, Australian Capital Territory and New South Wales. The latter state provides an extra shift on Christmas Day to assist staff with coping with the visits. Queensland, Northern Territory and Tasmania do not allow visits on Christmas Day apparently due to the extra costs involved.

5.2.1.5 In the weeks leading up to the incident staff had made some significant drug and illegal alcohol finds. This, coupled with an increase in searching visitors, may have meant a scarcity of illegal intoxicants within the prison. This may have provoked prisoners into more desperate measures to obtain drugs. It is interesting to note that drugs were stolen out of the infirmary on December 5th - some three weeks before the riot. The Inquiry was told that prisoners were well aware of the units' medicine trolley contents and that unit cleaners were frequently put under pressure to take drugs from medicine trolleys. It is also clear that the doors to the computer room offices were rarely locked during the day as officers frequently entered and left but there was no constant staff presence in the room.

⁶ In fact one of the prison's phones in Unit 3 was broken and for that reason at least one phone call was made for a prisoner in the "computer" room in which the medicine cabinet was stored.

5.2.1.6 The paucity of independent and or objective evidence in helping the Inquiry outline what happened has given the team cause for concern. Although an incident log was kept on a whiteboard in the command post and was later compiled in a typed report, it was not initially made available to the Inquiry team. When it was, it was noted that the first time recorded was 17:40. In addition, there were no independent observers or external reports or video taping. Comment on this and other issues appear later in the report.

5.2.2 The Social & Psychological Mechanism of the Riot

"That so few can have so much control"⁷

5.2.2.1 Based on the accounts of both officers and prisoners the process by which the riot actually took place appears quite clear. Officers were disturbed and frightened by the ferocity of the prisoners' attacks which, apart from the initial attempt to reach the infirmary were characterised by vandalism, attacking officers and trying to get out of the units. The central elements and sequence are:

- A disinhibitory factor (intoxication);
- Large groups of prisoners massed together;
- Aggressive troublemakers able to make trouble (focal point);
- A large mass of prisoners to follow;
- Actions which broke the "spell" of control;
- Massed action – deindividuation.

⁷ The testimony of an officer directly involved in the riot.

5.2.2.2 It is important to grasp the frenzy of aggression and violence that characterised the actions and the motivation of prisoners in the riot. By the accounts of both prisoners and officers there was no specific grievance that was motivating the prisoners. It is necessary, therefore, to think about this event in terms of what is known about acts of collective violence. Much has been written in this area, and it is not difficult to see how, given the circumstances, such violence can erupt in a prison context. The central element is a formation of a crowd which has the power that the individuals who merge into it are seeking. For most prisoners involved there was an intense expression of aggression. The urge to gain control that characterises most violent crime is itself consuming and the lure of collective violence for the individual is the sense of power that comes by merging with the group. The central process that releases the inhibitions is one of deindividuation.⁸ Deindividuation describes the process by which the normal inhibitions and fears that control the individual are released because the feeling of individual responsibility is no longer felt and the individual is now part of a powerful force. First hand accounts convey the picture of massive and repeated acts of indiscriminate violence directed at the officers in the units accompanied by a din of abusive language and threats. The effects of the medication itself contributed only by providing a disinhibitory or suggested effect. The effects of deindividuation and the "adrenalin rush" of power are likely to be more relevant here.

⁸ The process of deindividuation is used in many explanations of collective violence such as soccer hooliganism. Deindividuation is an important factor in a prison because so many individuals with the capacity to participate in collective violence are confined in the same controlled space. It must be considered a constant and serious risk in prisons and the process involved needs to be properly understood by all managers and staff.

- 5.2.2.3 Good prison management does manage by dispersing and neutralising known troublemakers so that they can not produce the spark which insights the riot. However, there were two serious limitations to management at Casuarina.
- 5.2.2.4 First, a prisoner claimed to be a known troublemaker to prison authorities who allegedly played a focal role in the riot was recognised and transferred to Canning Vale. However, despite agreeing to the transfer Canning Vale refused to accept this prisoner and he was returned to Casuarina. Secondly, Casuarina does not have the capacity to quickly respond to remove troublemakers in an incident and officers tend to depend on a process of non-confrontation.
- 5.2.2.5 In the initial confrontation a prisoner was apprehended on suspicion of secreting drugs and then another prisoner aggressively demanded his release. This initial challenge to authority may have been a defensive, fear based response given that many prisoners may have had drugs at this point. The act of challenging authority quickly grew in amplitude as a "mob" quickly formed behind the leading prisoner. The officers in the situation had no choice, their bluff had been called and once this happened the scene was set for escalating violence.
- 5.2.2.6 Tentatively, limits of prisoner power were stretched and tested. Those prisoners who wanted to reap maximum disruption were threatening and encouraging others to follow. It is a great testimony to the capacity of the officers and the process of interactive management that it took almost one hour before the gathering mob (formed with no specific grievance but facilitated by a group of "leaders") finally broke out into indiscriminate acts of violence.

- 5.2.2.7 Another dimension in the development of the riot is to understand how prisoners could get caught up in such a futile and "irrational" action. Any thinking person would realise that let alone the immediate physical danger to self and others, the actions ultimately will have a price, which is likely to be very heavy in the circumstances. However, the prisoners have their own system of reward and punishment, which are well known.
- 5.2.2.8 Bullying and the system of prisoner power are highly linked to the distribution of drugs in the prison. This means that prisoners wield power and can threaten others that non-involvement will be costly and involvement will be rewarded. One officer tells how during the riot a prisoner told her that he would rather face a punishment of the system than the beating that he would receive from the - (identifies the leaders).
- 5.2.2.9 A struggle was ongoing for the hour from the initial confrontation to the break out of the riot between the pressure to join the mob and defy authorities or to comply with the officers involved. The officers involved did a truly commendable job of slowing this process down until help arrived. If they had not done this, the riot may well have happened at about 4.30pm with disastrous results.

5.2.3 Casuarina – More General Causes. The Prisoner Population

5.2.3.1 As indicated in paragraph 4.1.1.3, Casuarina was designed to hold a total of 446 prisoners but had for several years run in excess of that number. On the day of the incident the prison held 529 of whom 67 were remands. At the time of finalising this report, the number of prisoners at Casuarina had increased to 648.

5.2.3.2 Full details of the prisoner population profile are included at APPENDIX 4. However a brief breakdown shows that:

- Over 60% of the prisoners were either serving sentences or had been charged with violent offences including sexual offences;
- 104 prisoners were serving sentences of less than a year and an additional 93 were serving less than two years;
- 138 prisoners were serving sentences of longer than 5 years.

5.2.3.3 Figures show that aside from being overcrowded the prison was no longer holding sentenced long term prisoners but was also having to deal with increasing numbers of younger remand prisoners many without a significant history of being in prison (though many had been through the juvenile justice system) – traditionally a far more volatile population to manage. The mixing of remand and sentenced prisoners in an unstructured way is not desirable and is in contravention of United Nations codes. Little changes to the regime had been made to accommodate the population changes. Over half the prison was classified as medium as opposed to high risk. The prisoner throughput was high, meaning that staff did not always have

opportunities to form relationships and prisoners did not have the same stake in the prison as long termers would have.

- 5.2.3.4 Many officers have pointed to the volatile mix of prisoners held in Casuarina. In particular they point to the fact that many younger prisoners, especially Aboriginal prisoners, are harder to engage, as the unit management model requires. There has been much discussion in terms of a growing attitude of defiance and increasing use of drugs amongst Aboriginal prisoners as well as an attitude of prisoners intimidating staff (often associated with the threat of self harm).
- 5.2.3.5 The age of prisoners held in Casuarina is not significantly different from other prisons. However, given the design of Casuarina and the expectation that a degree of maturity is assumed, the incorporation of young and remand prisoners unsuited to the open Casuarina environment has to be considered a major factor contributing to the riot on Christmas Day.
- 5.2.3.6 Unlike the riot in Fremantle prison, the Casuarina riot had a significant Aboriginal dimension. This is revealed in the figures provided below. This is despite the fact that the total proportion of Aboriginal prisoners at Casuarina is only 20%, considerably lower than the average for the State (33%). Furthermore, the initial incident leading up to the riot as well as the last act of defiance (on the Unit 2 roof) involved Aboriginal prisoners.

5.2.3.7 The Aboriginal dimension is of concern and requires some reflection based on the following points:

- A number of staff and managers interviewed by the Inquiry team spoke of a growing sense of defiance among young Aboriginal prisoners. In order to understand how this may occur it is worthwhile considering those circumstances which are likely to contribute to defiance by young Aboriginal prisoners.
- The contemporary lifestyle of Aboriginal people today has many factors which compound the growing frustration felt by particularly younger members of the community. Whilst education is accessible, in most cases the notion of its purpose is questionable in the light of limited work opportunities for a vast number of school graduates. Aboriginal people represent a significant rate of the unemployed population within our society and are still the most disadvantaged group in any comparative statistical assessment concerned with social justice and equity issues.
- Due to the demands of urban society and all that it represents it is increasingly difficult for traditional practices of Aboriginal culture to be maintained. Many past practices are impaired and are fast losing some of their relevance due to competing demands and limited access to areas of significance to Aboriginal custodians of traditional law.
- A consequence is a gradual breakdown of those value systems, obligations and respect for what traditional law preserved. It can be argued that the loss of language and culture may for some contribute to a loss of an individual's identity and feeling of acceptance within their community. It could be further argued that this may then lead to a

general disregard of property, respect for others including elders and any form of controlling influence which may be applied to prohibit activities which give a form of recognition of individuals through alternative means, such as 'bucking the system' whatever the system is.

5.2.3.8 Although some of the major instigators may have been Aboriginal, actually more non Aboriginal prisoners were identified by staff as being involved in the riot (63 compared to 44 Aboriginals). This group largely constituted those drawn into the riot as a mob, although significant acts of violence were apparently initiated by non Aboriginal prisoners, particularly in the units.

5.2.3.9 Statistics on the riot based on number of individuals identified as being involved by staff

	No. of prisoners involved	No. of prisoners in Casuarina 25/12/98	Involvement rate
Aboriginal	44	116	38%
Non-Aboriginal	63	413	15%

5.2.3.10 Statistics based on the number of separate incidents reported by staff during the riot.

	Number of Incidents	Number of prisoners	Intensity of involvement
Aboriginal	208	44	4.73
Non-Aboriginal	163	63	2.59

5.2.3.11 In general, Aboriginal prisoners had about twice the rate of involvement and twice the intensity of involvement compared to non-Aboriginal prisoners.

5.2.4 Effects of Overcrowding

5.2.4.1 Overcrowding has been mentioned from many quarters as a central factor in the explanation of the Christmas Day riot. There is a range of evidence that greater prisoner numbers placed a strain on the system which led to critical reductions in levels of vigilance, control and amenities. Overcrowding not only led to increased strain on resources but contributed to staff and prisoner stress. Overcrowding is not the direct result of increasing numbers of people coming to prison, but of the inadequacy of plans to deal with the greater numbers. Such plans might include changes to regimes, an expansion in the available places in key services that prisoners access such as telephones, visits, work, medical services and recreation. Further, the greater and more varied numbers of prisoners in the open spaces of Casuarina led to security concerns that were not addressed. The security of the medical cabinets and quantity of medication they contained are a prime example of this.

5.2.4.2 There was a marked desire amongst some members of the Offender Management Division not to blame overcrowding as a contributing factor for the riot. Indeed the very use of the word "overcrowding" was anathema to some. However, figures show that the average prison muster had steadily grown since the prison was opened and that by November 1998 had reached a figure of 550. The slightly lower figure on Christmas Day was because no receptions had been received that day.

- 5.2.4.3 Staff prisoner relationships were – as far as could be judged – reasonable but the ever increasing throughput must have inevitably lead to a straining of relationships. Overcrowding in itself is not inevitably the cause of disturbances but if it occurs in an unplanned way without a supporting infrastructure then regimes are bound – at the best - to buckle causing stresses and strains that are eventually exposed. With overcrowding, the management focus almost inevitably becomes crisis centred to the detriment of focused strategic planning. The policy failures that had failed to provide sufficient prisoner places in the State are documented elsewhere in this report.
- 5.2.4.4 A strength of the prison service is its capacity to cope. However, this is also a weakness – a desire not to call a problem by its true name and to develop clear contingency plans is certainly part of the pattern of denial leading up to the Christmas Day riot.
- 5.2.4.5 The effects of overcrowding are pernicious because they stress every aspect of the system and then set off dynamics which lead to a secondary level of damage. For example, prison officers are called in to work extra shifts. This leads to greater stress leading to a less receptive and attentive attitude. This interacts with a prisoner who is finding it harder to access medical staff, telephone calls and has had another prisoner put in his cell. The two negatives interact to produce an altercation which may not be effectively dealt with leading to a third negative and so on.

- 5.2.4.6 The term "overcrowding" is actually an oxymoron, because the condition that spells mismanagement is "crowding" - that is too many people in a facility or space. It accurately defines the condition that existed at Casuarina on Christmas Day and in the days leading up to it - too many prisoners for the available facilities. With proper management and planning, staffing, services and facilities can be increased to cope with growing numbers so that while numbers grow access to services remain at adequate levels. Overcrowding is thus not really about gross numbers - it is about management and resource capacity.
- 5.2.4.7 The effects on Casuarina of having to deal with such large numbers of prisoners were not difficult to find. The prisoner Induction and Orientation Unit (designed so that staff could get to know prisoners and properly introduce them to the prison and regime) had never functioned as intended. Unit 5 became an induction unit but the weight of prisoner numbers meant that a full induction became impossible. In the 19 months before the riot the Inquiry was told that the unit had to deal with some 3000 new receptions - the equivalent of the total prisoner population turning over every five months. In effect, many prisoners were being directly allocated to units with staff often having little idea who they were dealing with. This factor combined with the extra numbers meant that the unit management system was severely stretched. There was no sentence management or planning system which could formally drive staff / prisoner relationships.

- 5.2.4.8 The prisons' infrastructure was equally strained. The reception area – designed for a small number of receptions – was totally inadequate for the numbers that had to be dealt with. The last six months had produced over 5000 movements in and out of the prison. There was no proper area for medical interviews in reception. Despite the increased numbers little extra employment or activities were provided which led to large numbers – over 150 a day - of prisoners unemployed. The policy was not to lock these prisoners in their cells. The presence of these prisoners in the units caused extra pressure on staff/prisoner relationships.
- 5.2.4.9 A significant number of prisoners did not have access to constructive activities and many passed their time not actively engaged – unhealthy for any establishment and in direct contrast to the stated aims of the prison regime. On Christmas Day the prison was 164 activity places short. The programmes being run for prisoners were unable to deal with all referrals – a source of tension for prisoners whose parole is often dependent on attending such programmes. The social/psychological effects of having no job/occupation can reinforce negative self esteem perceptions and increase hostility and negative feelings towards authority.
- 5.2.4.10 Casuarina's strength – its space – was limited by the increased numbers. Prisoners were, according to staff, finding it more difficult to escape trouble. Two prisoners in a cell designed for one can increase tension and resentment – the escape route of being locked in a single cell was denied prisoners. The recreational areas and facilities such as telephones and visits were becoming harder to access. Bullying in the form of extortion (stand-overs) was a growing problem. It was this

issue that had persuaded management to change the issue of distributing medication from the infirmary to the units.

5.2.4.11 Despite the increasing prisoner numbers the regime had not been significantly altered. There was no curtailment in the number of prisoners unlocked for general recreation and little attempt made to juggle work spaces so that all prisoners could take part in some activities. Extra programmes were not provided. There did not appear to be concerted plans for increasing the number of workshops or education facilities. Instead increasing numbers of staff were provided to manage the larger numbers of prisoners.

5.2.5 Staff

5.2.5.1 There was an increased and large use of call back demands on off-duty staff. Staff and WAPOU raised numerous concerns that focused on safe staffing levels and the lack of staff training. The staff arrangements did not allow for all officers to be regularly allocated to the same work areas. This in turn seriously undermined the unit management philosophy which was based around small groups of staff working on a regular basis. The consequence was that the amount of knowledge staff had about prisoners suffered. In addition, staff who had yet to complete their basic training course are now (post riot) being drafted in to help increase officer numbers. Retired staff are also being brought back to cover some functions.

5.2.5.2 There was no Occupational Safety and Health representative at Casuarina. The staffing situation at Casuarina before and since the riot appears to be critical. Apart from the apparent inappropriateness of the 12 hour shift linked with the demands of a unit management regime, there appears to be minimal control over the number of 12 hour shifts which are worked consecutively. The Inquiry was told in interviews with officers about the frequent occurrence of officers working a large number of 12 hour shifts "back to back". This has to be stressful for the officers concerned and reduces the quality of their service. This will reduce the level of safety and thus control. Officers are also highly resentful of the pre-paid on-call system. The inadequate level of training for prison officers is mentioned later in this section.

5.2.5.3 The general attitude amongst the staff appears to be of "resigned resentment". Staff and managers at all levels throughout the Prison Service feel victimised and misunderstood by prisoner advocacy groups and the Ombudsman. They feel that these groups dominate media coverage of prison issues and "their side of the story" is not put sufficiently. Staff concern when they discovered the medicine cabinet had been broken into was that of prisoner overdoses from drugs. This concern may have actually been to the detriment of the more pressing concern (at that time) of control and illustrates a culture where staff try to "second guess" critics. That prisoners use the threat of suicide or self harm as a tool to intimidate them and the system generally is of great concern to the staff.

5.2.6 Prisoners

- 5.2.6.1 Prisoners the Inquiry team spoke to⁹ were principally concerned with events after the riot, in particular the lock down and perceived excessive use of force by prison officers.
- 5.2.6.2 Many of the prisoners actually mentioned in a disparaging way the fact that the medicine trolleys were left unguarded in a maximum security prison and thus they blame the riot on lax security.
- 5.2.6.3 Many prisoners did not have sympathy with the rioters, but this was tempered to some extent by the fact that this lack of sympathy was because the rioters were unsuccessful in achieving anything. In this sense prisoners were expressing the view that they did have generalised grievances and they were not averse to using force to press their demands. They just wanted the use of force to be effective. This bodes ill for the future. Many prisoners and staff commented that if the riot had been planned, if the prisoners were able to act in a more concerted and directed manner, they would have been able to cause major disruption, kill officers and other prisoners, take hostages and possibly escape.
- 5.2.6.4 There was a fear expressed by some prisoners of being "taken down the back", that is, placed in punishment cells. It was apparently this fear that prompted the first significant act of defiance on Christmas Day. However this may have related to the fact that the particular prisoner in question had just returned from an extended period of close supervision in

⁹ 42 prisoners responded to the invitation to speak to the Inquiry team. In most cases a structured interview form was used. The greatest proportion of prisoners spoken to were in Unit 1 which was being used as a 'management' unit largely for prisoners suspected of being involved in the riot. Twenty five prisoners also made written submissions to the inquiry.

“section 43”. It is impossible for us to know for certain that abuses do or do not occur “down the back”. Section 43 of the Prisons Act states:

“(1) For the purpose of maintaining good government, good order or security in a prison, the chief executive officer may order, in writing, the separate confinement in prison for such period not exceeding 30 days as is specified in the order.

(2) The chief executive officer shall inform the Minister forthwith of every order made by him under subsection (1).

(3) Every cell used for the separate confinement of a prisoner under this section shall be of such a size and so ventilated and lighted that a prisoner may be confined in that cell without injury to health and every prisoner in separate confinement shall have the means of taking air and exercise for not less than one hour each day at such times and for such other periods as the Chief Executive Officer may direct”.

5.2.6.5 Many prisoners complained about the excessive use of force by the prison officers. Complaints about excessive use of force include during the course of the riot, after the riot and as a general practice. Many prisoners attributed the violent behaviour of prisoners in the units during the riot to what they perceived to be the excessive use of force against prisoners outside the units during the riot. The largest category of complaints concerned the use of force by prison officers in the days immediately following the riot. Concerns included the use of the rope hobble and being forced to walk fast with these on so that the rope cut into the skin above the ankle. A number of

prisoners showed the Inquiry team cuts and scars apparently from the use of rope hobbles. Other complaints concerned force being used against prisoners whilst being extracted from the cell. Prisoners often complained of prison officers entering the cell and "jumping" prisoners. It is impossible during the course of this Inquiry to comment on the accuracy of these complaints. A number of prisoners reported that mace was used on them as a means of restraint and punishment. The Inquiry team comments elsewhere that current practices should be reviewed to achieve improvements in the method of dealing with disruptive prisoners and gaining control with minimal use of force (see paragraph 8.3.3.4).

5.2.6.6 The team did not speak to any prisoners who admitted the use of violence to any great extent. All prisoners were invited to make written submissions to the Inquiry or be interviewed by members of the Inquiry team. (Note: paragraph 1.3.3). Only a small proportion took up the offer.

5.2.6.7 Prisoners did not name one specific grievance for the events on Christmas Day, but there was no shortage of stated grievances. Many of these were attributed to overcrowding. The list of grievances include the following:

- Lack of access to programmes in order to obtain parole
- Lack of access to medical treatment
- Strip searching of visitors
- Attitude and behaviour of prison officers
- Being double bunked in cells
- Difficulties in getting phone calls
- Welfare issues not being addressed
- Visiting Justice seen as unfair and one sided
- Adequacy of food

- Accumulating altercations between staff and prisoners
- Increasing distance between officers and prisoners

5.2.6.8 Most prisoners did not think that the riot was planned.

5.2.6.9 One of the most commonly cited grievances was the attitude of prison officers towards prisoners. Many prisoners said that they felt the contempt and disregard shown by officers to them (as they perceived it). Prisoners would typically cite instances of capricious, abusive or dismissive behaviour on the part of officers. It is reasonable to conclude that many prisoners feel strongly on this issue without necessarily attributing blame to prison officers. There is little doubt that the issue of officer-prisoner relations is a key variable in the life of prisoners, as indicated by any serious inquiry into prison life (for example the Wolff inquiry). As noted earlier this issue was identified as the major issue underlying prisoner discontent by McGivern in the inquiry into the Fremantle riot.

5.2.6.10 Prisoner welfare groups were becoming aware of the increasing tension (see APPENDIX 9 letter from Outcare to Acting Executive Director, Offender Management and A/Executive Director's reply).

5.2.7 Drugs

5.2.7.1 Drugs occupy a central place in any analysis of the riot. First, the effects of drugs have been seen by many to be a direct contributor to the unruly and defiant behaviour of the prisoners that culminated in the mob violence that was the riot. Second, it was presumably prisoners' craving for drugs that motivated them to break into the medicine trolley in Unit 3 and for the large number of prisoners to consume them indiscriminately. Almost everyone the Inquiry team spoke to admitted that drugs

and offenders' craving for them had become a significant issue in prisons. This has been known for some time and the Offender Management Division invests considerable resources into drug interdiction, from strip searching of prisoners and visitors to conducting random urine tests.

5.2.7.2 Drugs constitute one of the principal targets or attractions of prisoners in the riot and generally. This demand for drugs may be a result of one or more of the following factors:

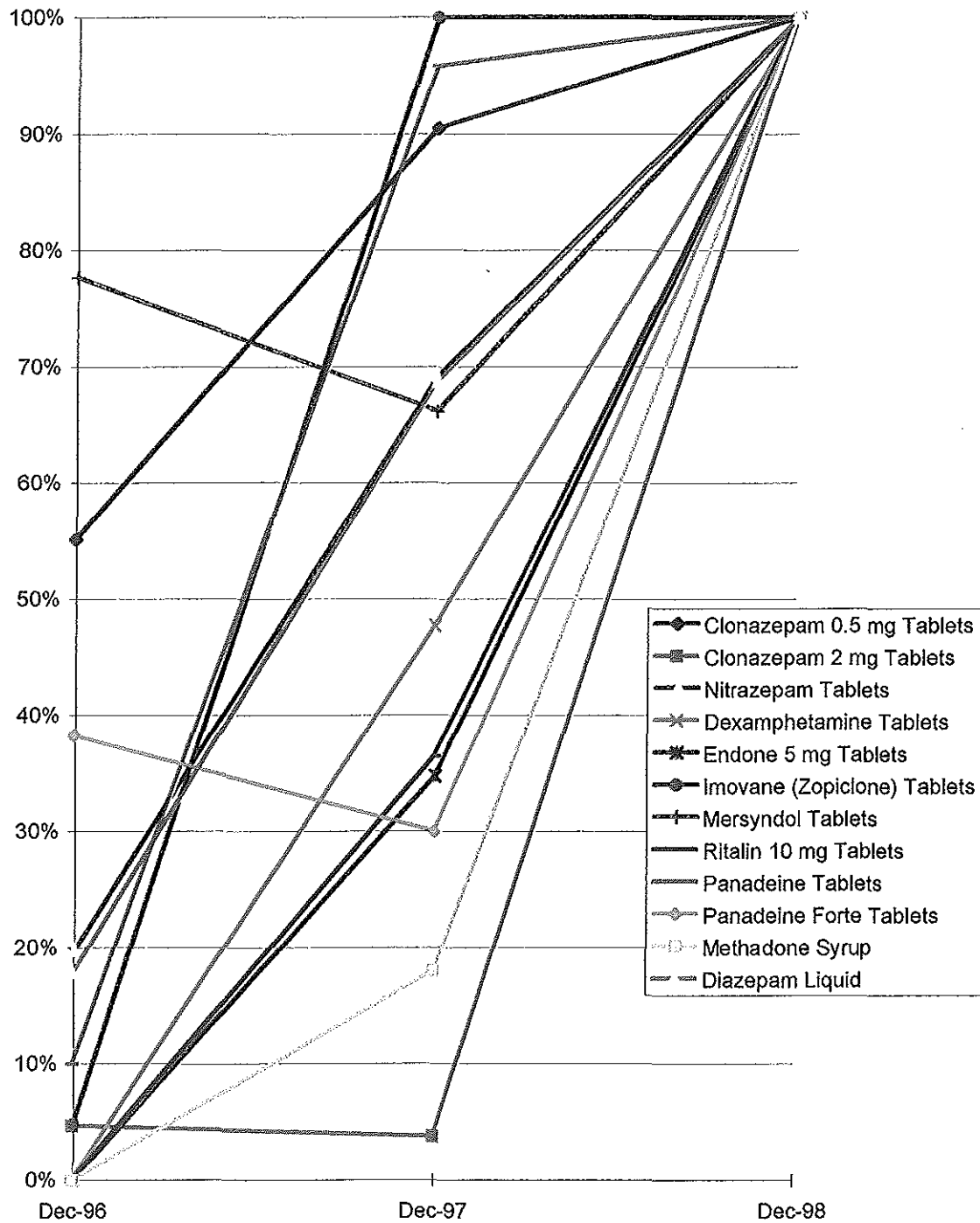
- A large and increasing number of drug using/dependent prisoners;
- Successful interdiction by management resulting in a lack of normal illicit supplies;
- The festive season and its association with intoxication;
- The emotional issues associated with Christmas and the holidays;
- Increased use and reliance upon prescription medication as a result of the effects of overcrowding and greater pressure on the medical staff;
- A growing increase in the prescription of drugs.

5.2.7.3 In regard to the first point there are indications of widespread use of drugs by offenders in the community. Surveys of offenders are showing high levels of drug abuse by prisoner populations. Given the increasing number of remands entering Casuarina Prison this effect is likely to be enhanced. Many accounts also suggest that young Aboriginal prisoners are also increasingly involved in drug use including polydrug use, opiate abuse and the abuse of prescription medication. This is a relatively new phenomenon.

- 5.2.7.4 In regard to the second point, given the increasing demand for drugs, successful control is likely to have implications in other parts of the system and the demand on medical staff for prescription medication is noted.
- 5.2.7.5 In regard to the third point, there is mixed evidence as to whether home made alcohol was consumed on Christmas Day. If it was, it could have disinhibited the prisoners and set up the conditions for the riot. If it was not, it could have increased the demand for other drugs.
- 5.2.7.6 This situation needs to be seen in the context of changes in the society from which prisoners come. Various indications, despite their inadequacies, point to growing drug use amongst offender groups, particularly in regard to opiates which are now fairly cheap and widely available. Drug use amongst offender groups is now so widespread it is probably more than likely that an offender entering a prison such as Casuarina (and other prisons) has a drug problem. It may be wise in fact to assume as a matter of course that prisoners are drug dependent rather than not. In the wider community, many young offenders are putting pressure on medical practitioners for benzodiazapines, or minor tranquillisers, either directly for their psychoactive qualities or as a way of managing their dependence on opiates. The key targets inside prison, as outside, are "schedule 8 drugs" including the highly prized dexamphetmines and Ritalin used to treat Attention Deficit Hyperactive Disorder (ADHD).
- 5.2.7.7 In prison the demand for drugs is evidenced in a number of ways. First, the amount of illicit drugs in the prison, the number of overdoses due to opiates, and more recently the pressure to get psychoactive drugs from medical staff.

5.2.7.8 The increases illustrated in Figure 1 appear to support the concern expressed by Health Services and elsewhere concerning increasing prescription drug use amongst prisoners. Figure 1 represents one way of summarising the data contained in Appendix 5. Because the level of the rates change depending on the drug, the most efficient way to summarise the changes is to focus on changes in the rates by converting the three figures available for each drug into a range, with the highest point of the range being taken as 100% and the lowest possible point in the range (0) as 0%. From this high point, each other year can then be judged as a proportion of that point. The changes in prescription rates could also be described by listing the increases based on the December 1996 figure. This then restricts the Inquiry team to those drugs where the figure in 1996 was not zero. Using this common procedure, Panadeine Forte use increased by 164%, Nitrazepam increased by 88.2%, Clonazepam 0.5 mg tablets increased by 82%, Clonazepam 2 mg tablets increased by 1,818%, Diazepam liquid increased by 464%, and Mersyndol increased by 29% etc. The drugs selected and listed in Appendix 5 were those chosen by the Pharmacy Department in response to the request for information in regard to the prescribing patterns of psychoactive drugs, that is, medications with well known psychoactive qualities. More details about the procedure for constructing Figure 1 are contained in Appendix 5.

**FIGURE 1:
Rate of Selected Prescription Drug Use
by Casuarina Prison
December 96, 97, 98.**



NOTE: This graph does not include Morphine or Temazepam. This figure displays the increasing rate of consumption of psychoactive drugs at Casuarina Prison by measuring orders for drugs in December 1996, 1997 and 1998. The graph is produced by converting the range in the prescription rate for each drug to a percentage (0 - 100). Once changes in prescription rate were standardized in this way, they are plotted. For most drugs the highest point reached in the three year range is 1998 and therefore 100% is reached for these drugs in 1998.

Full details for each drug are contained in Appendix 5.
Data was provided by the Pharmacy Department of the Ministry of Justice.

5.2.7.9 The reasons for the escalation in prescription rates largely centre on the increasing drug use in the community generally and the use of psychoactive drugs as either a substitute or a self-management strategy. In prisons it is almost certainly the former. Taking psychoactive drugs often fulfils the same purpose as the consumption of illicit drugs. It relieves the boredom and stress as well as "escaping" the reality of prison. The demand for drugs may also reflect overcrowding pressures. With an increased demand for the same number or reduced services, as well as other frustrations for both officers and prisoners, it is easy to understand how the demand for "psychoactive escapes" would increase.

5.2.7.10 There are other motivators that can also be considered. One of the major concerns of all staff working in a prison over the past few years has become "deaths in custody". This factor was mentioned by a number of persons interviewed by the Inquiry team. Avoiding a death has become probably the main priority amongst operational staff. Staff are understandably motivated to do "whatever it takes" to avoid this outcome. Most prisoners know this and it is alleged that they will threaten suicide or self harm (as evidenced by the comments made by the prisoners on the roof of Unit 2 during the riot) as a means of coercing staff to get what they want. Medical staff are particularly vulnerable and the prescription of psychoactive drugs as an "insurance" against a possible suicide must be seen as a possibility. Some have argued that both the staff and the prisoners are managing overcrowding through an over-reliance on drugs. For prisoners getting psychoactive drugs can be an escape, a way of exerting authority over other prisoners in prison and a reaction to bullying. For staff, prescription medication may provide a "quick fix" way of staving off prisoner demands. In this view the increased prescription rates can be seen to be an effect of both overcrowding and increased intimidation of staff.

However, as with individuals, this management strategy is precarious and acts to disguise problems rather than dealing with them. The acquiescence to prisoners' demands for drugs may solve immediate problems, but in the process creates a monster. Even at the height of the assault on a unit control room, prisoners were apparently shouting out for drugs. The Christmas Day riot can be seen as a representation of the Offender Management Division's drug problem getting out of control.

5.2.7.11 The greater pressure put on nursing staff may result in a tendency to deal in the easier way with a prisoner rather than the best way. Many prisoners see medical staff with the sole purpose of getting drugs. To deny the prisoner access to what he wants is stressful and time consuming. Medical staff know that such a denial may lead to a prisoner complaint to the Ombudsman and an investigation. It is easy to imagine that many doctors and to some extent nurses (who have a limited capacity to provide psychoactive drugs at their own discretion) would be more likely to acquiesce to prisoner demands as the pressure builds.

5.2.7.12 The riot on Christmas Day reflects the delay in tackling the growing drugs crisis in prisons and indeed the reactive crisis management that has come to characterise the operations of the Offender Management Division, particularly in terms of prisoner services. The growing use of prescription drugs was not monitored and it was well known but no concerted action has been taken. At Casuarina the lines of prisoners at the infirmary grew so long that the medication parade became an unruly mob. The prison management apparently could not control the standovers for drugs that took place in the large open spaces that prisoners returning from the infirmary had to traverse before they reached the relative safety of their units.

Services; paragraph 5.2.8.6 – the Ombudsman’s report for 1998; paragraph 5.2.8.7 – Prisons Regulatory Review of Casuarina Prison; paragraph 5.2.9.3 – Report No. 6 of the Auditor General).

5.2.8.2 The Inquiry team has noted the comments in the August 1996 interim report of the Royal Commission into the City of Wanneroo about the management style and practices in the Ministry of Justice. The following comments were made at paragraphs 2.7.6 and 2.7.7 of Chapter 2 of that report:

2.7.6 *“There is no doubt from the evidence of all officers of the Ministry of Justice at the time that in mid 1994 the agency was not a happy place of employment. Among its senior officers at least there appears to have been a pervading climate of low morale, lack of loyalty to the Minister and the Ministry, mistrust, corridor gossip and rumour – mongering, factionalism and fear leading to a pre-occupation with personal survival. There is no doubt this Commission has barely scratched the surface of the malaise that then afflicted and may well still afflict the Ministry. It has done so to the extent necessary to establish why the matters that do concern it were dealt with as they were and no further.”*

2.7.7 *“While I believe, in the circumstances, a recommendation is inappropriate, I make the observation that the nature and extent of the management problems in the Ministry of Justice disclosed in the course of this investigation were shocking. Unless there has been a fundamental change in management and culture since June 1994 the situation clearly requires robust attention. Such issues*

- *Internal factional conflicts*
- *Run down and inappropriate capital expenditure*
- *Facilities that fail to meet UN recommended standards and in some cases fail to meet legal minimum standards under Australian law*
- *Mismanaged capital programmes with massive overruns in time and cost when projects are approved.*
- *Overcrowded accommodation*
- *Inadequate programmes for prisoners leading to boredom, frustration and anger.*
- *Inadequate funding.*
- *Failure to make significant progress in the adoption of (Muirhead) Royal Commission Deaths in Custody recommendations.*
- *Boil over of inter-racial tensions and frustrations”*

These are all recognised precursors to potential destructive riot conditions” (Inquiry team’s emphasis).

5.2.8.5 The report also noted that:

- *“the Adult Offender Management System of Western Australia has serious deficiencies in the quality and quantity of its physical infrastructure and of the management systems that operate out of that infrastructure*
- *the Adult Offender Management System is exhibiting a significant number of symptoms, recognised as precursors of the ultimate breakdown conditions in prisons – RIOT I (their emphasis)*
- *the most serious single problem is overcrowding of prisons*

- *the second most serious problem is obsolete existing infrastructure. Every single facility has serious deficiencies – including the Casuarina Correctional Centre*

5.2.8.6 The Ombudsman's report for 1998 noted that:

"The WA Prison System

In Chapter 4 of this report I comment on the inquiry I commenced this year into the incidence of deaths in the State's adult prisons. Although my report on that inquiry is not yet completed, it is possible to say at this time that, in my opinion, the increased number of deaths of prison inmates in this State has been a reflection of a system that has not coped with the demands placed upon it.

In my opinion there can be no doubt that the adult prison system in this State has become stretched to almost breaking point in most aspects of its operations. There have been many and varied reasons for this, some of which are largely beyond the control of the Ministry of Justice and its personnel (e.g. sentencing policies) and some of which reflect inadequate planning and management of the system in the past. The system has fallen into serious disrepair and it will take a long time and concerted effort to bring things back to a reasonable footing. The situation may well get worse before it gets better although I am encouraged by a number of initiatives that the Ministry has undertaken this year.

In many respects the deaths of inmates are only the tip of the iceberg. The vast majority of prisoners struggle to cope with the pressures of overcrowded (and, in some cases, quite inadequate) physical conditions; daily regimes that are, in many respects, bureaucratic, inflexible and which are frequently administered in a "high-handed" and unempathetic way; a prison discipline system that can, at best, be regarded as heavily weighted against the prisoner; and health recreational and work facilities that are overtaxed and inadequate. At the same time prisoners display a wide range of physical and mental states. Many suffer from chronic medical (often drug-related) conditions and many are severely disturbed from a wide range of causes. Many are genuinely remorseful for their crimes and are fearful of what will happen to them in prison, and what will happen to their families outside.

In the end, and despite the best efforts of those prison personnel who try to help, a number do not cope – and resort to suicide or other forms of self-harm as the only "solution".

The community reaction to deaths of prisoners displays the real ambivalence of society to imprisonment. On the one hand is a common sense of unease that persons who are (involuntarily) in the care of the State should die while in that care. On the other hand is the (understandably) widely held belief that prison is the best and only appropriate place to put offenders who threaten society's sense of security and the, apparently, equally widely held view that prison sentences should be longer. Equally prevalent is the "out of sight, out of mind" attitude – that sees the community effectively ignore what happens in our prisons until we are confronted with deaths or the prospect of "trouble" because of overcrowding.

At the end of the day, what penalties are imposed for particular offences and how long each prisoner serves are matters for the State's Parliament, the judiciary and, to a lesser extent, the Parole Board. They are, largely, not matters over which the Ministry of Justice has much control.

New proposals in relation to sentencing, parole and remission for prisoners will almost certainly see more people imprisoned for longer periods. The Ministry will be required to house and care for those people within a system that is already over-extended to a dangerous degree.

What happens to inmates while in prison does matter. Apart from the obviously unacceptable events like prison deaths, the fact is that prisoners do get released eventually – and become someone's neighbour. How they behave and deal with being back in the community will be heavily influenced by what has happened to them while they were imprisoned and what support services are available in the community. It is by no means clear that we are doing a very good job on either of those fronts at the moment. Building one or more new prisons will ease one aspect of the problem in the short term. What is more important, in my opinion, is the development and implementation of strategies (with adequate resources) to address comprehensively the way prisons can and should operate in this State. There is a long way to go."

- 5.2.8.7 The internal Prisons Regulatory Review of Casuarina Prison – Report on Stage 1, which was undertaken in November 1998 noted that key areas which needed improvement included “grievance processes, staff training, performance measures and regulatory arrangements”. The report also noted the negative effects being caused by overcrowding which included increased

pressure on staff, inability to occupy all prisoners constructively and the general difficulty in meeting prison needs.

5.2.8.8 The effects of the dysfunction referred to in 5.2.8.1 were not hard to find. The failure of the Offender Management Division to properly cater for the steadily rising numbers of prisoners since 1991 was of serious concern to the Inquiry. It left all prisoners and staff vulnerable to the effects of major disturbances. The major part of the responsibility for the riot needs to be taken by those who did not prepare and provide for the growing number of prisoners.

5.2.8.9 In tracking where this responsibility lay and where decisions were taken to avoid building prisons, the Inquiry team was frustrated to some extent in the early stages of the Inquiry by some difficulty in locating official files which may have shown the decisions taken to defer the 1992 proposal to commence planning and preliminary works for the new Canning Vale maximum security prison of 200 beds. However, towards the end of the Inquiry, old Department of Corrective Services files were retrieved from archives which show the sequence of these decisions. Reference to this early history is included in paragraph 5.2.8.10.

5.2.8.10 The consequences of overcrowding caused by deferring the building of a new prison to cope with the increasing numbers of prisoners and the other symptoms of the dysfunction described earlier, were observed most graphically on Christmas Day, 1998. The story, however, stems back to 1991. In the following list, the key points in this developing problem are detailed.

1991 Prison projections show the need for a new prison. Design brief prepared, presented by the (then) Minister to Treasury.

1992 In May, the (then) Minister responsible for Corrective Services announced plans for a new 200 bed prison to be constructed at the Canning Vale complex. New Executive Director, Corrective Services, appointed from 10 June 1992.

Division 26 of the budget papers for 1992/93 highlight on page 224 the following:

- The daily average muster of prisoners increased significantly during 1991/92, primarily due to prisoners being sentenced to longer terms of imprisonment.
- The proportion of serious and violent offenders in the daily average prison muster was increasing.
- The effect of the two above factors was to increase demand for maximum and medium security prison accommodation.

The budget papers for 1992/93 show in the capital works programme that \$1.8m was allocated for planning the new maximum security prison at Canning Vale and \$0.8m was the proposed expenditure on the planning of the prison in that financial year.

At a hearing of the Legislative Assembly Estimates Committee on 15 October 1992 (Hansard pages 584 and 585) the then Minister for Justice in reply to a question stated:

"The new prison will be deferred this year, but consideration was given for a location at Canning Vale. It will not be activated this year".

The then Executive Director of Corrective Services recommended that the \$0.8m approved for planning the new prison be reallocated. On 4 December 1992, the Under Treasurer advised the Executive Director that the Treasurer had approved the reallocation of the \$0.8m to the proposed program of urgent minor works.

1993

Change of Government in February.

On 31 March, 1993, the then Executive Director, Corrective Services informed the then Hon Attorney General that it appeared that with the completion of Albany Prison redevelopment in November 1993, the Department would have sufficient accommodation and flexibility to handle the anticipated prison muster for the next few years.

In a major March 1993 review of the Department of Corrective Services capital works program for 1992/93, 1994/95 and 1995/96 prepared for the Hon Attorney General and the Under Treasurer, it was stated that the project for a new prison at Canning Vale was deferred whilst prison musters had remained static with just sufficient capacity in the system to cover peaks. The impact of new initiatives in sentencing prisoners and reducing prison numbers was being monitored before embarking on a further facility expansion. Therefore, funding for preliminary planning was deferred to 1994/95 and 1995/96.

In the minute of 1 April 1993 from the Executive Director, Corrective Services to the Hon Attorney General which accompanied the review of the capital works program, the Executive Director made the following comments:

"Canning Vale - new Maximum Security Prison

This project is currently deferred. The funding allocated for 1992/93 was redistributed in December 1992 (with Treasury approval) to eight smaller projects which are currently in various stages of procurement, with funding to be expended prior to June 30, 1993".

Later in the same minute, the Executive Director also commented:

"However, I propose deferring the allocation for the new prison to the 1994/95 financial year".

There was no mention of any funding for planning a new prison in the later budget papers and capital works programs for the years ending 30 June 1994, 1995 and 1996.

An analysis of State prison musters was prepared by the Ministry's Strategic and Specialist Services Division in November 1993. The report also commented on providing sufficient prison accommodation in the short and long term. The report noted that unless strategies aimed at reducing musters were effective, there would be a need to build a new maximum security prison in two stages to cater for 150 prisoners (50 of whom could then be transferred from existing prisons) by 96/97 and another 180 prisoners by 00/01. Another maximum security prison would need to be built for another 200 – 300 prisoners by 06/07 if the current trend continued. There was no evidence in the capital works programs to indicate that action was taken on this analysis in 1994/95 or 1995/96.

- 1994 Ministry of Justice fails to provide forward estimates or other necessary financial advice to Treasury about the need for a new maximum security prison. No forward capital or plant estimates made. Staff training budget "disappears". Availability of prison beds in metropolitan area forestalled by expanding regional facilities in 1993/94 (where they are not needed as much).
- 1994 - 1996 Major disruption in the Offender Management Division caused by internal conflict, investigations into senior managers and other controversy.
- 1995 Failure to act when projections continue to show need for more prison space in the metropolitan area.
- 1996 In January, the CEO leaves, and interventions by Minister. Plans started to develop new prison at Wooroloo. Acting CEO for most of the year. New CEO appointed in November, 1996.
- 1998 In February, the (then) CEO leaves and current CEO takes up post on acting basis. Plans for South Wooroloo Prison developed.
- 1999 Acting CEO confirmed in the position in February.

The consequences of dysfunction were evident to the Inquiry team in various areas. It particularly concerns upper level management which has failed to provide for the necessary leadership and accountability mechanism to ensure the delivery of services.

5.2.9 Prison Management

5.2.9.1 Security and Control

There was a failure, as is illustrated throughout this report, to concentrate on the core business of any Prison Service – security and control. Security and control are vital to ensure a safe environment and framework for prisoners and staff. Without such an environment any other work undertaken with prisoners is of minimal benefit. The most basic aim of any reputable prison service when dealing with prisoners – harm reduction and minimisation is compromised. Prisoners have to be free from intimidation and feel secure whilst staff need to have the confidence to positively engage with prisoners.

5.2.9.2 Use of Force

Very few staff had received – since their initial training – training in self-defence and removing difficult prisoners from cells. The Inquiry was told by both staff and prisoners that the reaction to an incident in a cell was to flood the cell with officers in order to subdue and remove the prisoner. The problems with training meant that proper procedures were not always followed. Prisoners were restrained with rope hobbles and handcuffs. The hobbles could cause skin abrasions and sometimes bleeding. The limited training in dealing with disruptive prisoners would not have improved officers' confidence in dealing with such prisoners. The current system

of cell removal was potentially dangerous to staff and prisoners. Prisoners told us that chemical sprays and hobbles were sometimes used as restraints. Prisoners – rightly or wrongly – had concerns about “going down the back” – being placed in the isolation cells.

Some prison administrators disagreed with the Inquiry team’s views on this and argued that all staff were sufficiently trained in the use of force. However, aside from initial training, officers the team spoke to had not received any refresher training often after several years in the job. The criticism of the method of removing disruptive prisoners from cells came from some staff and prisoners. Some staff considered they were inadequately trained in self defence. The views on the lack of proper training are reflected in the WorkSafe Western Australia Improvement Notices referred to in section 2.12 and later in paragraph 5.2.9.3.

5.2.9.3 Staff Training

Aside from the initial officer training course, staff training was almost non-existent. Few staff had been trained in dealing with serious incidents. Superintendents had not received “serious incident” training for some years. However (and fortunately) a large exercise designed to train for a major prison disruption was carried out at Canning Vale prison by the TSS in the week before Christmas. Senior officers were not trained to manage prisons despite being in charge for long periods of time and often at vulnerable times. Many of the staff working in prisons – the industrial officers and nurses are prime examples – had received no, or very little, security training. It was clear that few Senior Administrators at Head Office focused on security and control issues. There was no atmosphere of thinking in security terms from staff at all levels. This can be shown in the

apparent failure of anyone to realise the lack of security presented by the medicine cabinets in terms of their location, construction and types of medication held.

On 3/4/98 the Ministry of Justice was assessed by WorkSafe WA as failing to provide a safe working environment in regard to the use of force against violent prisoners. Many of these failings were attributed to lack of training – few have been addressed (Note section 2.12 in Chapter 2). Paragraph 2.3.12 refers to the performance examination report No 6 of the Auditor General – “Waiting for Justice – Bail and Prisoners in Remand” tabled in State Parliament in October 1997. Part of that report refers to Prison Officer performance and staff training.

Some pertinent comments in the report which are still relevant include:

“Proficiency of prison officers is essential if Government is to effectively discharge its duty of care responsibilities to remand prisoners and to maintaining prison security. Prison officers need to be alert and trained in early detection and management of risk situations. Skills particularly useful include:

- *communication skills that diffuse potential conflict situations;*
- *resuscitation and first aid skills to deal with self harm and assault victims;*
- *prisoner restraint; and*
- *firefighting and evacuation skills”.*

These skills are important for preventing deaths in custody and minimising acts of self harm by prisoners. The report noted:

“These skills are also important for staff welfare. Twenty per cent of time lost by prison officers under workers’ compensation claims is attributable to injuries occurring during assault and restraining prisoners. Related to this is that most prison officers have not received updated restraint training. These findings were made during a Ministry of Justice review in November 1996 to determine the cause of the Ministry’s increased workers’ compensation premium from \$2.84M in 1995-96 to a forecast \$6M in 1997-98.”

The actual workers compensation premium in 1997-98 was \$3.98M for the Ministry of Justice and it is estimated to be \$4.98M for 1998-99. The cost of premiums for the Offender Management Division is near to 87% of the total cost of premiums for all of the Ministry of Justice.

The report continues:

“In January 1997, prison officer training levels were found inadequate by an internal occupational health and safety audit using WORKSAFE WA methodology. The audit rated training and risk assessment levels:

- training received a 30 percent rating; and*
- hazard identification, risk assessment and control received a 35 percent rating.*

These ratings are well below the acceptable rating of 60 percent.”

The report notes that since the January 1997 review, training had commenced in cardio-pulmonary resuscitation, handling prisoners with infectious diseases and identifying prisoners at work risk. However, prison management advised the Auditor General's staff that often prison staff could not attend training as they were required for essential daily functions. The Inquiry team was informed that releasing staff for training was still a problem particularly with the rapidly increasing prisoner population. The October 1997 report identified other training needs including prisoner restraint, emergency procedures and first aid which had not been addressed.

5.2.9.4 Serious Incidents

The Inquiry team noted that Director General's rule 3E and Emergency Procedure 7 of Casuarina prison standing order 3F set out some procedures for major prison disturbances. The former consists of eight short paragraphs on one and a half pages and the latter has twelve brief dot points on a half page. However, there was no contingency plan which adequately detailed developed operational procedures for a serious incident and testing of procedures was spasmodic.

The run down of a tactical support response and the apparent lack of a credible alternative in prisons was identified as a problem. There was a lack of a clear command structure above prison level. There was a gross lack of appropriate equipment. Paragraph 7.4.11 sets out details of the Memorandum of Understanding between the Director General and the Commissioner of Police. The apparent lack of co-operation between the police and the prison in the management of serious incidents is lamentable.

5.2.9.8 Grievance Procedures

The internal grievance procedure for prisoners is badly flawed, there is little transparency and it relies too much on the whims of staff and managers. Prisoners tended to send grievances direct to the Ombudsman. This in turn leads to staff feeling victimised as part of a system they have no control over. It was pleasing to learn that grievance procedures are subject to a major review by the Ministry. As Woolf (1990 section 14.327, p. 416) noted;

A fair and ordered grievance procedure with proper avenues of appeal and clear reasons given will help to create a climate in which prisoners feel they can be heard. This should make the day to day life of the prison more relaxed and reduce the likelihood of disturbances erupting.

5.2.10 External Factors

5.2.10.1 In considering the causes of the riot it is possible to note that some factors are outside the control of the Ministry of Justice and the Offender Management Division. These include the growing drug use in the general population and the possibility in growing defiance amongst some prisoner groups. However, it could also be argued that understanding, anticipating and addressing these problems are a responsibility of the Ministry of Justice and particularly the Offender Management Division. It is likely that given the levels of overcrowding such responsibilities fell down the list of priorities. Overcrowding can be seen as an ever present factor affecting almost all of the operations of the prisons and therefore needs to be considered a central or focal concern. Overcrowding is something that is clearly the responsibility of the Offender Management Division to avoid and manage.

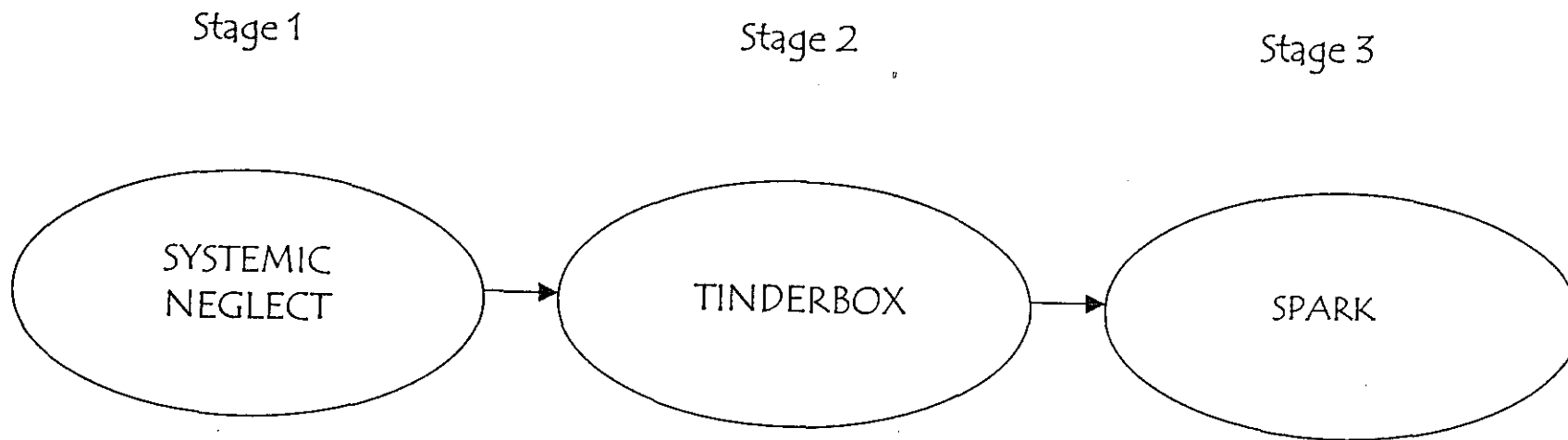
5.2.10.2 The history and problems within the Offender Management Division are worthy of more consideration and the causes should be closely examined so that problems can be avoided in the future. But there is a current and pressing concern to ensure the safe management of the prisons at the present time. This requires urgent attention and will require innovative planning on all fronts: classification, modification, increased staffing and building.

5.2.10.3 Apart from the urgent requirements to provide services, certain procedures need to be established to prevent the systems failure that occurred through most of the 1990s. These will be discussed in Chapter 7.

5.3 Overall Structure of Causes

5.3.1 The causal factors outlined in section 5.2 do not exist in isolation. Indeed the interactions between the causal factors are as important to understand as the factors themselves. In seeking to explore how the causal factors relate to each other the Inquiry team has developed a three stage model based on the assumption that the Christmas Day riot could have happened at another time given the conditions that had developed at Casuarina. This is a view widely held by officers and others. This leads to a "tinderbox and spark" type explanation. The question naturally arises what caused the "tinderbox" to form and the answer that the Inquiry team proffers is a period of some systemic neglect and dysfunction between 1991 and 1996. The three stage explanation is outlined in Figure 2. Each of Figures 3, 4 and 5 show detail in each stage, however they are directly joined by the lines at the right and/or left side of the figures.

Figure 2: A General Explanatory Model For the Casuarina Riot



CHARACTERISTICS

- ◊ FAILURE TO PROVIDE FOR EXPANDING PRISON POPULATION.
- ◊ FAILURE TO PROVIDE SUPPORT & DIRECTION TO ACHIEVE PRIMARY GOALS OF CORRECTIONS.

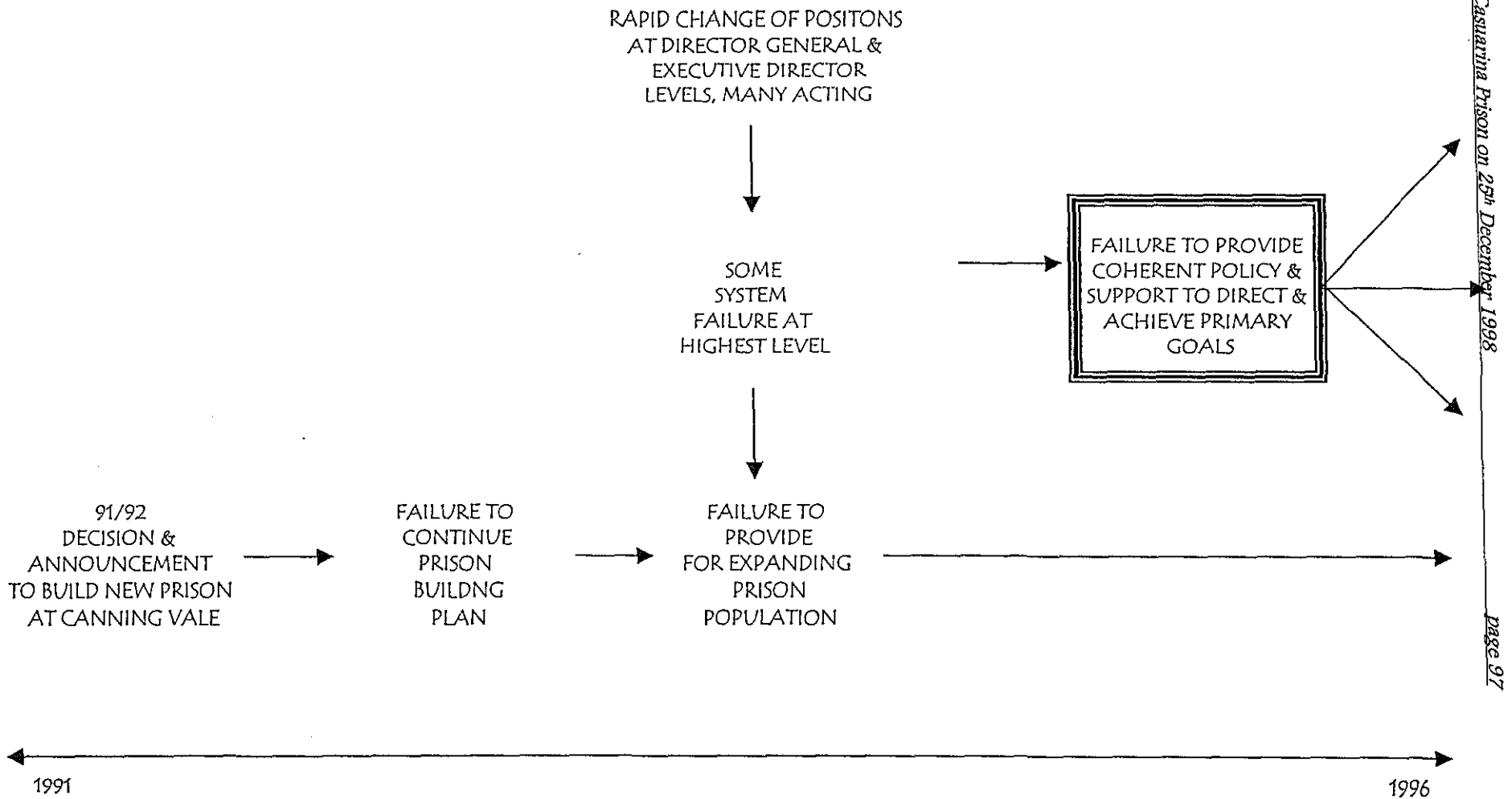
- ◊ AN OVERCROWDED PRISON SYSTEM MANIFESTING VARIOUS SYMPTOMS OF STAFF AND PRISONER STRESS.
- ◊ DECREASED SERVICES TO PRISONERS AND FAILURE TO ADDRESS GROWING DRUG PROBLEM.

- ◊ MINIMAL CONTROL CAPABILITY COMBINED WITH MAXIMIZED CONDITION FOR DISRUPTION.
- ◊ DRUG INTOXICATION, CONFRONTATION, COLLECTIVE VIOLENCE

5.3.2 Stage 1: Systemic Neglect

This stage was set between 1991 and 1996 and involved the gradual decline in the ability of the Offender Management Division to provide a structure, resources or direction for the good management of prisons. Principally, and most importantly, during this stage the plans to build the new prison that were announced by the (then) Minister in 1992 were shelved, despite the projections showing the need for secure beds in the metropolitan area. In this period the Ministry of Justice was formed providing a more complex structure which distanced those in senior positions in the Offender Management Division from responsibility for the state of the prisons. In this period many of the conflicting divisions in the prisons administration were formed and a growing sense of mistrust and defensiveness grew. At the end of this period, a concern with economies led to a diminution of training and the introduction of the 12 hour shift. To exacerbate these problems the ensuing period saw the changes in CEOs, Executive Directors of Offender Management and other senior management positions interspersed with long periods of acting arrangements. The Offender Management Division lacked continuing clear direction which set the scene for the creation of the "Tinderbox".

**Figure 3:
Causal Factors at Stage 1**



5.3.3 Stage 2: The "Tinderbox"

This stage describes the prisons in 1997 and 1998, but particularly the last six months when prison musters rose rapidly in prisons which were now poorly equipped to cope. This provides the general conditions that made a riot possible. However, it is important to understand how the prisons got to be in such a poor state (stage 1). The following factors which characterise the "tinderbox" are the effects of "systemic neglect" (stage 1).

5.3.3.1 Local management became disempowered

The mistrust that had built up meant that Superintendents became distanced from, and hostile to, management at head office (and vice versa). It appears more budgetary control was taken away from Superintendents and certainly many Superintendents appear to feel that they have little capacity to plan when they must continue to cope with increasing musters.

5.3.3.2 Extremely limited effective training

In this period, training ran down and there was little provision for updating the training of prison officers. Especially important was the limited training in emergency procedures, dealing with difficult prisoners, control and restraint training and succession training. The lack of a coherent strategy meant that control equipment was removed from Casuarina without any thoughts for the consequences of such an action.

5.3.3.3 The organisation became affected by internal power battles, a range of internal investigations and court cases involving senior management and operational staff.

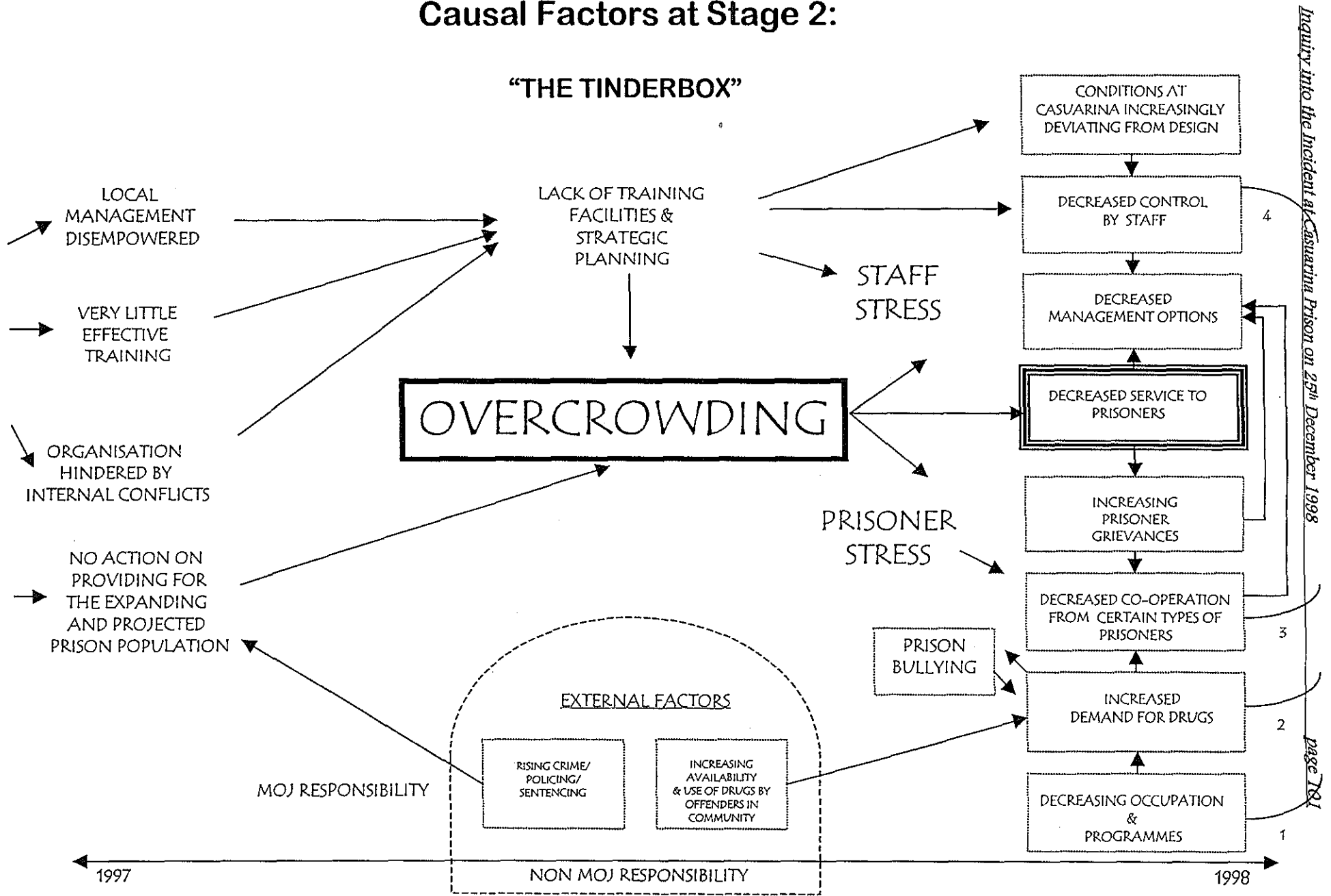
5.3.3.4 There was an over-concern with cost rather than performance. No contingencies or plans were implemented in stage 1 for the ever growing prison population. Tactical management was at a low ebb and issues were not being resolved at the highest levels.

5.3.3.5 Through the intermediate factors of overcrowding and the insufficient training, facilities and procedures there was an increase in officer and prisoner stress with the following specific effects:

- Obvious dysfunctional conditions at Casuarina prison – there was now clearly a mismatch between the design of the prison, the unit management philosophy, staff working conditions, and the type and numbers of prisoners. This partly contributed to a decrease in control ability by staff. This decreased ability in turn also contributed to the other effects of overcrowding.
- Decreased service to prisoners and the opportunity that this afforded management to directly shape and monitor their behaviour.
- Decreased management options. The range of options staff had to manage prisoners lessened as the system became overcrowded.
- Increasing prisoner grievances and alienation. As access to services became more difficult and both staff and prisoners became more stressed, prisoner grievances and alienation grew.

- Prisoner bullying including intimidation and stand-overs were apparently frequent and increasing and officers appeared to be able to make few inroads to prevent it in the more difficult circumstances.
- It is possible that as prisoner numbers grew prisoner defiance grew, especially amongst younger prisoners (now increasingly disengaged from authority).
- Prisoner demands for drugs were growing, partly reinforced by the growing availability of psychoactive substance via the nurses and doctors.
- Both occupation and alternatives to drug use became more distant as access to jobs and recreation decreased.

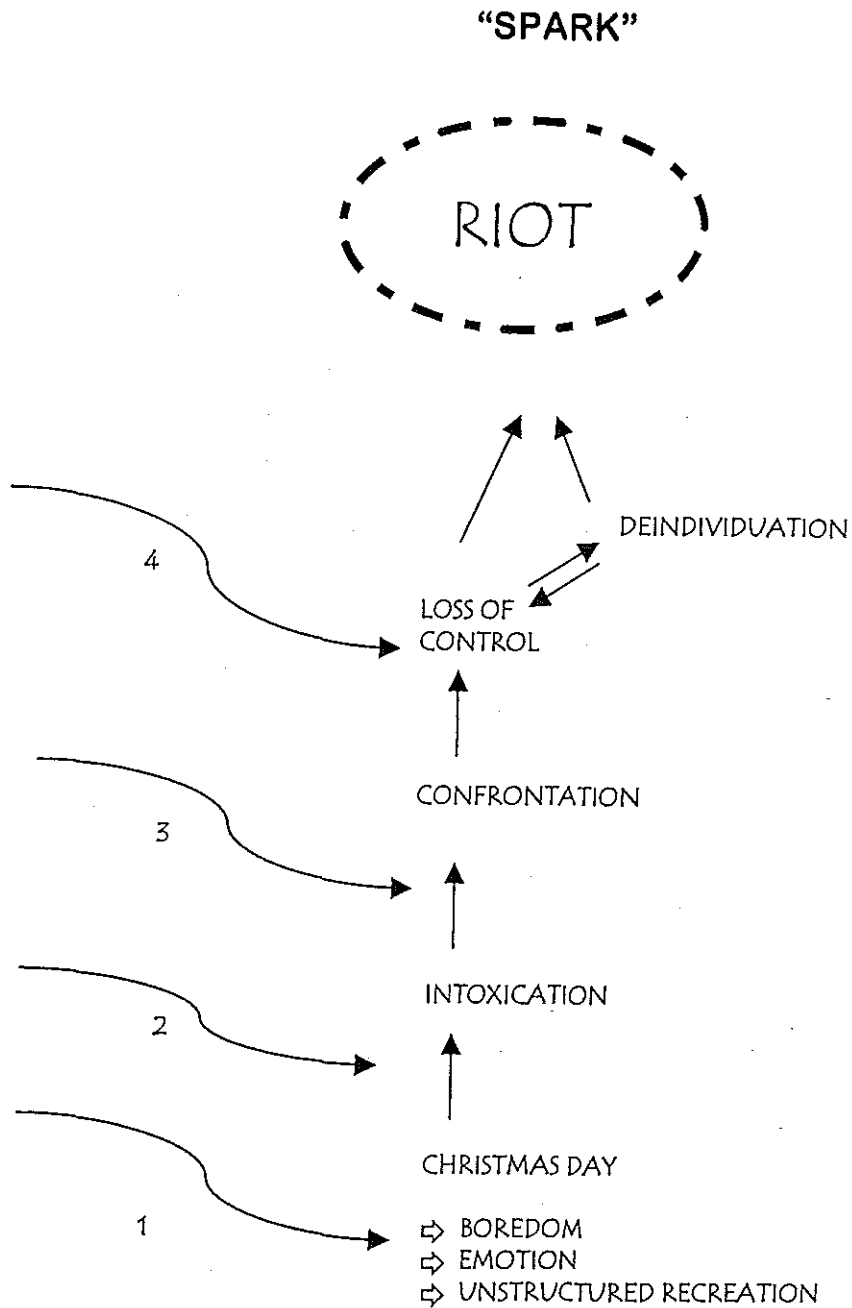
**Figure 4:
Causal Factors at Stage 2:**



5.3.4 Stage 3: The Spark

What happened on Christmas Day represents a spark that combusted within the tinderbox. The desire of prisoners to get "high" for whatever reason was strong. Because of the security problems described earlier and following on from the stealing of medication only a few weeks earlier, the opportunity afforded by the poorly secured medicine cabinet was known by many prisoners. Eventually the cabinet was broken into and some possible culprits quickly apprehended which led to a heated confrontation.

**Figure 5:
Causal Factors at Stage 3**



25 DECEMBER 1998

Chapter 6

Effectiveness of the Response of the Offender Management Division (Term of Reference 1.2)

6.1 Introduction

- 6.1.1 The Inquiry team was frequently told by staff and managers at all levels within the Offender Management Division that it was “lucky” that staff and prisoners had not died during the incident. The team can only agree. There was no doubt that but for the bravery of staff the incident would have been far more serious. The Offender Management Division was successful in meeting the principal objectives of ensuring that there were no escapes and that serious injury or loss of life was avoided. But the successful resolution of the incident cannot mask some serious – almost fatal – errors and inadequacies. The failures noted are not, the team believes, exclusive to Casuarina but symptoms of system deficiencies which would be reflected in other prisons within Western Australia.
- 6.1.2 The general picture is of a situation out of control. Between about 5pm and 6pm staff interacting with prisoners held the situation at bay, then the rapidly put together and inadequately resourced TSS group were able to re-establish control after initially being forced back. In the brief time when control of the inner perimeter and units was lost, one unit (4) was lost and officers were besieged in the unit control rooms of three units and these officers came very close to being seriously attacked by the screaming mob of prisoners. If this happened it is likely that one or more would have lost their lives.

6.1.3 The response of the Offender Management Division has largely been considered in this Chapter in terms of the response to the actual incident as it escalated on Christmas Day. However, the Inquiry team has had great concern regarding the restrictive regimes introduced at Casuarina Prison immediately after the riot. These concerns can not only be seen as part of the response of the Offender Management Division but also as a possible causative factor for a future incident. For most prisoners interviewed by the Inquiry team the focus of concern was not the conditions at Casuarina prior to the riot but the perceived unfairness of the "lock-down" introduced immediately after the riot. In particular, the stated policy of "no-tolerance" was seen by many prisoners as a form of "pay back". Without debating the need for a more restrictive regime it was a concern to the Inquiry team that few efforts were made to ameliorate the effects of the restrictive regime in ways that would not have compromised security or control. These concerns were made known to appropriate authorities within the Ministry of Justice early on in the inquiry period and at a number of other times.

6.2 Immediate Background Factors

It seems clear that the computer room in unit 3 was left unlocked giving at least one prisoner access for enough time to break into the medicine cabinet which contained large – but not adequately monitored - quantities of psychoactive prescription drugs.

6.3 Management of the Incident

6.3.1 Training for Senior Officers

It appeared to the Inquiry team that Senior Officers had not been trained sufficiently in managing or running a prison, particularly in the event of a serious incident. It appeared that few of the staff – since their initial training - had received serious incident training.

6.3.2 Lack of Immediate Options

Staff dealing with the incident made the decision to give the angry prisoners what they were demanding – the release of the prisoner detained in Unit 3. The Inquiry team considers that staff had no other option. For the next hour or so staff attempted to calm the prisoners by talking to them whilst facing a range of verbal and physical assaults.

6.3.3 No Headquarters Control

The Superintendent arrived at the establishment soon after becoming aware of the situation. The control room was opened at 17:45 and (in the view of the Inquiry team) inadequately staffed. There was no Headquarters control room opened at the Head Office in Perth. Instead Ministry of Justice senior staff attended the prison that evening.

6.4 Communications

Communications during the incident were not formally controlled with some staff becoming distressed and others confused. It is possible that if prisoners had been aware of the radio traffic they would have known how weak the establishment's response was.

6.5 Emergency Services

The police were not informed of the incident until it had finished. The fire service was not called. Although there was no assessment of a serious fire risk, some minor fires were lit and there was obvious potential for fires during a major disturbance. It is clear that as a matter of course the fire service need to be alerted when such a serious incident in a prison emerges.

6.6 Control Equipment

There was a serious lack of protective and offensive equipment available to staff. A number of staff were placed in the position of tackling large numbers of violent prisoners armed with various missiles and home made weapons with no protection and little in the way of offensive equipment.

6.7 Transfer of Prisoners

Some 31 prisoners suspected of having taken part in the riot were transferred to other establishments. This was organised by the Superintendent in charge of the establishment.

6.8 Staff Welfare

All the staff the Inquiry team spoke to who were involved in the incident were approached – and where appropriate received counselling – from PRIME (a private counselling service). Most had had a formal de-brief. The same was not true for all the Superintendents and managers involved. The Employee and Welfare Branch of the Ministry also provided extensive support.

6.9 Prisoner Injuries/Overdoses

The large number of prisoner overdoses and injuries were dealt with promptly and efficiently. The Inquiry team considered that the level of force used against prisoners was appropriate in the dire circumstances.

6.10 After the Incident

6.10.1 After the Christmas Day incident, Casuarina started operating a "lock-down" regime which is still largely in place (mid March). Unit 1 held those prisoners suspected of involvement in the riot who were only unlocked for an hour a day (section 43 conditions). Other units were unlocked for some internal recreation. Prisoners were not unlocked into the large compound and work and education were not taking place. A number of staff noted that the lockdown was welcomed by some prisoners as the amount of bullying had greatly declined.

However, as noted in section 6.1 there is some concern that the "lock down" is excessive and there is at least the perception that it is being employed as a form of punishment. There is also a substantial concern, voiced by a number of prisoners that the more restrictive regime is creating grievances of unfair and arbitrary treatment. As noted, the Inquiry team has brought these concerns to the attention of the authorities through the course of the Inquiry. Some suggestions made by the Inquiry team were designed to ameliorate the perception of punishment and the effect of the restrictive regime. The justification for the restrictive regime was for safety and security. Given this it seemed possible to implement a series of actions that would not compromise safety and security but would ease the disadvantages to prisoners. For example, allowing a slightly longer exercise period and providing televisions for those prisoners without access to them. For prisoners under section 43 confinement, access to one or two telephone calls per week to their family. In general, a greater degree of communication with prisoners, and a concern for the effect of the confinement on them, may have been helpful.

6.10.2 There was a brief information update provided by the Superintendent on Boxing Day, but no "operational de-brief" for either staff or management involved.¹⁰

6.10.3 The property damage (mainly glass) that occurred in the riot was repaired almost immediately. A firm of architects was asked to identify weaknesses within the design and cost the changes. Various plans were being proposed to make the establishment safer. The most radical of these included plans to extensively fence the compound.

¹⁰ Although the Health Services Directorate held an operational de-brief on 29.12.98 and a follow up meeting on 18.1.99.

Chapter 7

Adequacy of the Procedures and Facilities to Deal with the Incident (Term of Reference 1.3)

7.1 Casuarina – The Incident

- 7.1.1 Earlier in the report the Inquiry team noted several factors which, on the day, either contributed towards or directly affected the incident. This first section expands on these points. It is unlikely that the majority of these points are specific to Casuarina – the failings exposed need to be rectified, or at least reviewed in most, if not all, establishments. In the second part of this Chapter the Inquiry team analyses – as far as it can – whole Prison Service system failures.
- 7.1.2 None of the observations made are criticisms of individuals working within Casuarina. In hindsight, it is possible that the incident may have been handled differently. But there is no desire to see that staff who, because of systems failures were forced into the position they confronted on Christmas Day, should be blamed for what occurred. Indeed the opposite is the case – staff and managers deserve credit for their attempts to deal with the incident, particularly in the adverse circumstances in which they worked.

7.2 Security of Medication

7.2.1 The Inquiry team was highly concerned that the medicine cabinet could be broken into with such ease. That these cabinets were kept in insecure conditions aggravated the lack of security. The amount of medication kept in these cabinets was inexplicable – no inventory was kept and stocks of psychoactive prescription medication seemed quite high. There is a need to maintain stock control, especially for those drugs that are in “demand” from prisoners. The problem was compounded by the leaving of the Computer Room in Unit 3 unlocked. Such oversights in security planning would be serious in any establishment but especially so in a maximum security prison where staff were well aware of prisoners’ demands for medication.

7.2.2 This particular concern seems to be a symptom of a much wider problem in the prison and concerns the interaction between health objectives and procedures with security and control objectives.

7.3 Handling Disruptive Prisoners

7.3.1 The perceived or real inability of staff to isolate prisoners suspected, or known, to be disruptive because of potential escalation is potentially dangerous in a maximum security prison. There had been other incidents at Casuarina in which staff, in retrospect, seemed to not exert their authority. Staff seemed to have acquiesced to prisoner demands – many described a policy of appeasement. But in their defence it is difficult to see what else they could do. Additionally, staff had dealt with numerous incidents in the past and had shown a high degree of ability to “talk down” issues through interaction with prisoners. This very level of previous success – whilst highly laudable – had, the Inquiry team believes, falsely encouraged staff and managers to think they could deal

with all situations. The addition of large numbers of prescription drugs on Christmas Day made control of this incident very difficult.

7.3.2 The Inquiry team accepts that the decision not to remove the prisoner suspected of initially breaking into the medicine cabinet and/or handling the stolen drugs was considered - at the time - to be the right managerial response. The management view is that prisoners often could not be isolated whilst other prisoners were unlocked because a disturbance may erupt. The Inquiry team accepts that this is a conscious management strategy. However, it is possible that prisoners would have viewed the return of the prisoner following threats from prisoner "Y" as at least a partial victory and so be further emboldened.

7.3.3 During periods of unlock the accepted policy was to attempt to place disruptive prisoners in the IOU if possible. But if the situation was threatening then the prisoner would sometimes remain where he was - on normal location - and be removed to the IOU after unlock.

7.3.4 Casuarina's layout made dealing with disruptive prisoners difficult. But this was a longstanding issue and the team have expected that staff training and contingency planning would attempt to deal with this issue. Staff and management must always be in the position to exert authority when it is appropriate.

7.4 Managing the Incident

7.4.1 The prison did have some basic contingency plans for dealing with disturbances but these were underdeveloped and largely untested. Interestingly an exercise in dealing with loss of control - the first for several years - had been organised at Canning Vale just before Christmas and the Superintendent of Casuarina had taken part.

7.4.2 Small numbers of staff dealing with increasingly agitated numbers of prisoners told us that they had literally no idea if they could expect help and what was happening in other areas of the prison.

7.4.3 Notifying an Incident

It is always easy to be wise in hindsight but the procedures for handling a serious incident should (in the view of the Inquiry team) have been implemented by 16.45 at the latest. This view is based on the behaviour of prisoners at this time, the knowledge that large numbers of drugs were unaccounted for, and that staff were already in a very vulnerable position. Some staff said that they thought the TSS had been called at 16.15. The possibility was not just of mass disruption but that large numbers of prisoners could possibly start overdosing.

7.4.4 The Control Room

A full incident control room should have been established earlier and properly staffed. The Inquiry team was told that the incident was moving at such a speed that it was impossible to do so. It is accepted that crisis management was needed but the situation should not have been allowed to develop to such a state. Once an incident is notified, the designated Superintendent should establish a control room. The establishment of a proper control room is essential to allow for a controlled resolution of an incident that may have lasted for some time. One consequence of not establishing a control room earlier was the absence of a formal log of the early part of the incident and the management decisions made during the incident.

7.4.5 Brave Choices – Bad Situation

The decision to re-enter the compound with such small numbers of staff – many of whom were not properly equipped and without firearms - was, given the background where staff lives were in danger, the correct choice. The bravery of these staff and the leadership provided by the Head of the TSS was outstanding. Without their actions the position would have been far worse.

7.4.6 Riot Control Equipment

That only a few staff were fully equipped with helmets, batons, shields and body protection to deal with an incident involving over 100 hostile prisoners was inexcusable. The bravery of unprotected staff in dealing with such prisoners was undoubted. The fact remains that they should never have been placed in that position. It seemed that a significant amount of riot control equipment had “disappeared” from the prison. This disappearance needs further investigation. No prison – especially a maximum security establishment – should be left so vulnerable.

7.4.7 Senior Offender Management Division Response

There was no external control room where the incident could be monitored by senior Offender Management staff. Senior staff - when contacted by the prison - understandably made their way to the establishment. This is understandable but incorrect for two major reasons. Firstly, senior staff need to maintain an objective strategic view of events and be able to support the Superintendent in charge. In the event of a protracted incident or if concerns about the Superintendent's performance emerge they must be able to relieve him or her. Secondly, it is not inconceivable that two or more serious incidents in separate prisons may occur at the same time. Senior staff are then required to co-ordinate responses and provide a strategic direction. This would be impossible if they become caught up in individual incidents.

7.4.8 Staff Training

That the Offender Management Division could leave a maximum security prison in the charge of managerially untrained staff for large amounts of time is almost beyond belief. Given the campus style of the prison and that there was always a risk of large numbers of prisoners at large in the grounds. Therefore, the relative paucity in training and planning for such an incident is regrettable.

7.4.9 Unit Management System

The unit management system was designed to put each officer in a central welfare role with a small number of prisoners. But there were no formal mechanisms to mould or force such relationships. It was difficult to see how unit management could succeed given the increased numbers of prisoners. The expanded role of the prison officer may also have been significantly compromised by the 12 hour shift in 1993. Both the ability to provide complex support and the continuity of support to prisoners were threatened.

7.4.10 Prison Design Failures

The Inquiry team has commented elsewhere on the overall prison design but several specific shortfalls came to light during the incident. Some – such as the lack of closed circuit television coverage in all relevant areas and lighting – should have been addressed prior to the incident. Others were unexpected (but should have been tested) such as the fragility of the glass in the control rooms.

The design of the prison was not suitable for prisoners who required careful and consistent control. The design placed a great deal of responsibility on prisoners not abusing others' "personal space" and on staff getting to know prisoners well. There was free prisoner movement to activities across the large open compound and prisoners were free to mix in the compound during the period of association and visit some of the other units. This system created many opportunities for abuse. Expecting short term or remand prisoners to co-operate, cope and adapt in this environment is unrealistic.

7.4.11 Police and Emergency Services

7.4.11.1 The fact that the police were not called until the incident was over for some time gives cause for concern. It is appreciated that the police should only be deployed inside establishments as a last resort and that no prisoners were attempting to escape. But the police must – as a minimum – be informed of such incidents immediately so they can plan their response. Similarly, even though only half hearted attempts were made to light fires, the fire brigade must, in the event of such disturbances, be informed immediately so that they too can plan their response.

7.4.11.2 It is noted that a Memorandum of Understanding exists between the WA Police Service and the Ministry of Justice. It was issued on 20 January 1994 and it sets out joint prison/police operational orders for major prison incidents occurring in Western Australia. Signatories to the Memorandum of Understanding were the (then) Director General of the Ministry of Justice and the (then) Commissioner of Police. Paragraph 1 of the Memorandum reads as follows:

In the event of a major prison incident, the Superintendent of the prison shall immediately notify the Director of Prison Operations and the Officer in Charge of the Metropolitan Security Unit of the incident. The Superintendent shall also notify, without undue delay, the appropriate police personnel, namely, in the metropolitan area, the Co-ordinator, Police Operation Centre (POCC) Police Headquarters, East Perth; outside the metropolitan area, the regional police officer.

7.4.11.3 The POCC report indicates that at 1.00 am on 26 December 1998, a report was received from a security officer at Casuarina Prison that there had been a disturbance and assaults on prison officers. The Crime Duty Sergeant was advised. He then arranged for Kwinana detectives to attend the prison later that morning to conduct inquiries relating to assaults on prison officers. The report noted that police were not called upon to assist prison staff during this matter.

7.4.11.4 A revised Memorandum of Understanding was prepared on 19 February 1998, but it has not been signed by the parties.

7.4.11.5 It is noted that the Superintendent of Casuarina Prison has given every endeavour to support the police investigation task force after the incident.

7.4.12 Surrender of Prisoners

The contingency plans that the Inquiry team saw contained no reference on how to deal with the surrender of a large number of prisoners. Senior prison officials told the Inquiry team that the training manual for procedures governing roof extractions dealt with this issue. Experience has shown that this is a delicate part of any incident as proper management can prevent allegations of subsequent abuse and set the tone for the future running of the prison. A brief video exists of the incident

where the 21 prisoners on the roof gave themselves up. From viewing this, the team was of the opinion that this part was handled professionally. But only Offender Management Division personnel watched this surrender. The absence of a formal watchdog role meant that prisoners' allegations of subsequent abuse could not be checked with the required reliability and accountability.

7.4.13 Transfer of Prisoners Implicated in the Riot

Towards the end of the Inquiry, the Superintendent of Casuarina advised the team that the 31 transferred prisoners were subject to the same "lock down" conditions as the prisoners retained at Casuarina. They were transferred early in the morning of 26 December 1998 and their details were sent later including a section 43 order sent on 31 December 1998.

7.4.14 The Response of The Offender Management Division After The Incident

As noted previously in sections 6.1 and 6.10, the response of the Offender Management Division after the riot has been severe and has attracted much criticism. There is a concern that the restrictive regimes introduced may be counter productive in terms of ensuring safety, security and control. Whilst immediately there is no risk in these areas because of the close confinement being applied, there is a concern that much discontent and a sense of grievance will be created. If this is not addressed it may lead to further disruptions. The sense of discontent and grievance of the prisoners, as well as their health and welfare could be addressed to some degree if a series of special provisions were introduced to ameliorate the effects (and the perceived intent) of the close supervision regimes.

Chapter 8

Prevention of Such an Incident in the Future (Term of Reference 2)

8.1 Introduction

- 8.1.1 The Inquiry team does not claim that it has the solution to prevent further disturbances or riots. But it is confident that if the steps identified in this Chapter – which are aimed at rectifying and dealing with the issues discussed – are followed, then the likelihood of mass prisoner disobedience or rioting will be diminished. But the Inquiry team is also acutely aware of the French Revolution theory of history – that once things start to improve and before the reforms are fully introduced, severe problems are likely to emerge.
- 8.1.2 From the numerous staff and managers the team spoke to, the team is confident that the Ministry of Justice and the Offender Management Division have the materials and resources to create an extremely able, efficient and well run prison service that treats prisoners with humanity and tackles re-offending within a framework of security and control that provides a safe environment for staff and prisoners. But the long standing divisions between operational groups need urgent resolution. We urge all those involved in the Offender Management Division to focus on the core business of delivering a high quality service to the elected representatives and community of the State.

- 8.1.3 Suggestions regarding the prevention of future riots naturally flow from the analysis of the causes of the Christmas Day riot. In the model proposed, there were three levels of causative factors. The successful prevention of riots must include action at all levels. Prevention is discussed in terms of the general, or systems level and the specific, or operational level.
- 8.1.4 The discussion on prevention necessarily focuses on what the Ministry can do to prevent future disturbances. Factors external to the Ministry, especially sentencing policy and its contribution to increased prisoner numbers are obviously relevant to the overcrowding issue but outside the terms of reference of this inquiry. Given the centrality of overcrowding as a causative factor there is clearly value in considering whether certain types of offenders could be diverted from prison.

8.2 The General Level

- 8.2.1 It is essential that the Offender Management Division be properly funded for the number of offenders it must manage. As this number rises the funds provided to the Division should increase automatically in recognition of the extra resources that will be required to provide services.

8.2.2 The structural problems at the Ministry of Justice must be tackled as a first priority. These problems concern leadership, responsibility, accountability and planning. The Ministry of Justice and the Offender Management Division are a long way from where they need to be in terms of the management of an effective prison system. The problems are entrenched and systemic. Changes will not occur overnight. It will reasonably take five years to achieve an adequate level of service¹¹ in the State's prisons. During the course of this inquiry, the team was pleased that the basis for a new prison at South Wooroloo was being developed with some urgency - the additional places will be of huge importance in allowing the Offender Management Division to deal with the ever-increasing musters. Plans for increased prisoner accommodation at Canning Vale and to relieve the pressure on Bandyup were also noted. But it must be ensured that a clear strategy for dealing with the problems of overcrowding is in place.

8.2.3 The Inquiry team suggests that there needs to be a clear five year plan created that focuses on the core business of the Offender Management Division. This needs to be based on a full and honest appraisal of present problems. The plan should aim at ensuring a fair and safe environment for prisoners and staff. The plan should also aim to ensure that prisoners are treated with humanity. The plan needs to have within it clear short, medium and long term objectives underpinned by a clear vision, value system, goals and performance indicators. Directors and staff at all levels - whether operational or within headquarters and whatever their grade - must be made accountable for their performance. They must start to manage and their management skills must be improved. Clear standards and expectations must be set and monitored. An approach the Inquiry team favours would be the development of Service Level Agreements (SLAs). Service Level Agreements clarify roles and responsibilities. They provide a means of focusing managers' and staffs' attention and effort.

¹¹ The term service is used here to encompass all the services needed by prisoners such as accommodation, visits, medical, occupation, welfare and psychological programmes.

What is required becomes clear and lines of accountability and responsibility are exposed.

8.2.4 There should be a clear refusal from all parts of the Offender Management Division to dwell in the past. Staff must remember that as public sector employees their work is concerned with supporting their Minister and the Ministry. This support includes the provision of independent advice, the development of agreed government policy and the implementation of that policy and statutory requirements. All of the issues associated with the times of conflict and division should be put behind all of the staff and a collaborative and constructive contribution to the future work of the Ministry and the Offender Management Division should be made by all involved.

8.2.5 The involvement of (mainly) young prisoners on the 25 December 1998 riot at Casuarina prison of which a significant number were Aboriginal should be of major concern to the Ministry of Justice. Comments made in previous sections of this report attempted to show the complex mix and types of prisoners held at Casuarina on Christmas Day. The rate and intensity of involvement by Aboriginal prisoners in the disturbance should be a matter of innovative strategies aimed at engaging such prisoners in a range of program options. There is a need for strategic planning in this area. This should include plans to access other service and community agency groups (particularly Aboriginal) to provide alternative programs and services where it is apparent that methodologies which have thus far been attempted, do not work. Priority should be to ensure that every opportunity be given to engage Aboriginal prisoners in programs that will enable them to undertake meaningful activities upon their release. The nature of employment ought not to be limited to what is currently considered by the wider community to mean "employment" but sufficiently broadened to include such activities that are of a sporting, cultural and socially beneficial nature.

8.2.6 The Inquiry team does not pretend that this will be easy but it is confident that the Ministry and the Offender Management Division have the staff capable of taking forward a challenging reform agenda. That means that there needs to be a clear and open acknowledgment of the existing problems and a plan to resolve them. The plan that the Ministry of Justice must develop needs to include the following points:¹²

8.2.6.1 A strategic plan to resolve the Health Services crisis managing nursing staff and the conflict between Health Services and Prison Operations. It is not entirely clear whether this conflict is system wide or mainly concerns Casuarina Prison. However, Casuarina is the most sensitive site given the location of the infirmary there. Both of the recent stealings of drugs can not be directly attributed to the mismanagement of the interface between Health Services and Prison Administration but there must be a concern given that these two serious breaches of security happened in this area and it is also an area riddled with heated disputes, discontentment, tension and a range of management and other problems. As a start the steps needed to ensure a clear protocol between security needs of the prison and the delivery of medical services should be established. Clear lines of responsibility need to be articulated and adhered to. Nurses involved in the delivery of medical services should be specialised in this field and should, perhaps, not be prison officers. Special prison officers should be allocated to assist in the achievement of necessary security goals. This is urgent. A protocol between the Director of Health Services and the Superintendent of each prison should be drawn up carefully and be incorporated in the Director General's Rules and the Prison Standing Orders. It is noted that the Director Health Services has issued orders governing the supply of schedule 4 drugs by nurses (see APPENDICES 6 and 7). There needs to be

¹² These points are discussed in more detail later in this Chapter and form the basis of recommendations in Chapter 9.

provision in place to enable the Executive Director to ensure these are complied with. In general terms there needs to be a plan to ensure that management works productively with the providers of health and treatment services to ensure that the outputs of these services are maximised without compromising security.

8.2.6.2 Agencies and others best able to provide appropriate treatment and rehabilitation services to Aboriginal prisoners need to be identified. Opportunities should be available to Aboriginal prisoners to maintain cultural identity and language links whilst they are in custody. As such the use of Aboriginal elders and significant members of the Aboriginal community should be considered.

8.2.6.3 The parameters of acceptable levels of control need to be established. It follows that measures and indicators of an adequate level of control and an adequate level of safety need also to be established.

8.2.6.4 More accommodation, medical services, employment, prison programmes and other support services need to be created. The guiding principle should be that prisoners should not suffer when musters go up – it is not their responsibility. The urge to “share the problem” should be resisted. Primarily the problem should not be felt by management or prison officers either but it is fundamentally a problem for management to manage and to ensure a minimisation of effects on prisoners and officers (in that order).

- 8.2.6.5 A comprehensive drug management policy, including the availability of appropriate pharmacotherapies¹³ needs to be effectively implemented without delay. The drug strategy developed by the Ministry provides a good start to address this point. Furthermore, the regular input of professional advice from the Health Department, the Alcohol and Drug Authority and other specialist drug agencies should be sought.
- 8.2.6.6 A meaningful, realistic drug strategy for each prison that is comprehensive and involves all key stakeholders working together to achieve priority targets of harm minimisation and alternatives to drug use now needs to be adopted.¹⁴ The strategy should be integrated in the business plan of every prison.
- 8.2.6.7 A clear plan for succession management needs to be developed. Staff should be well trained, supported and capable of moving into more senior positions either by way of promotion or in an acting capacity.
- 8.2.6.8 The comprehensive training of prison officers on a continuous basis to achieve and maintain high levels of competence and professionalism should be addressed in a matter of urgency.
- 8.2.6.9 A highly tuned and effective system of incentives to shape and encourage pro-social and co-operative behaviour in prisoners needs to be instituted.

¹³ See recommendations of the Interim Report of the Select Committee into Misuse of Drugs Act 1981

¹⁴ This point is covered in the recommendations of the Select Committee into the Misuse of Drugs Act 1981. Recommendations 3 to 7 of that report released in August 1998 concern the Ministry of Justice. The response of the Ministry is provided in APPENDIX 8.

8.2.6.10 The procedures for the control and restraint of troublesome prisoners need to be effective and generally perceived as fair by prisoners.

8.2.6.11 Managers need to lead their staff towards an even greater involvement with prisoners. Individual management plans, unit management, joint activities between prisoners and staff, regular and enhanced communication with prisoners as well as offence focused group work should be effectively implemented.

8.3 The Operational Level

8.3.1 Future of Casuarina

8.3.1.1 Staff and prisoners at Casuarina deserve to work and live in a safer environment and appropriate steps must be taken to ensure this. Much of what has been suggested is geared towards achieving this objective in all Western Australian prisons.

8.3.1.2 Many of the solutions the Inquiry team suggests apply to the whole Prison Service as it is believed that many of the failings identified on Christmas Day suggest a whole system problem rather than the failings of an individual establishment. The suggestions also apply to Casuarina. It is clear that unless Casuarina can operate for the type and number of prisoners it was designed and built to hold, then significant changes in the regime and physical security will be necessary.

8.3.1.3 The Inquiry team recommends that the changes proposed at Casuarina should fit into a service wide strategy on control of prisoners. Casuarina must be made secure and safe for both staff and prisoners. As noted below, there is an opportunity to introduce significantly different ways of dealing with prisoners at Casuarina. The Offender Management Division response should not just focus on additional barriers and hardware systems. But where appropriate these should be introduced. Closed circuit television coverage should be extended to cover the compound and the units (on a 24 hour rotational tape). The control rooms in units should be made safer. At least one or two units should be fenced off from the rest of the establishment. The regime should be adapted to deal with larger numbers of prisoners and more imaginative use made of the resources available. A system of control based on the principles of behaviour shaping should be introduced. In this system incentives are offered for co-operative behaviour. Those prisoners whose behaviour warrants it should be rewarded and there should be a clear understandable link between behaviour and consequences. If possible such a system should be linked to a parole availability.

8.3.1.4 Throughout this report the team has commented on the paucity of staff training and the need for additional training as a priority for staff at Casuarina is clear. Consideration should be given to developing much more structured and individualised plans for each prisoner. The system should incorporate both sentence planning and management through incentive generally. This management strategy should incorporate placements between prisons, within prisons, in programmes and the use of a range of other privileges and options as incentives.

8.3.2 Tactical Management

- 8.3.2.1 It has already been mentioned that the Offender Management Division must have a coherent plan to deal with muster levels. But dealing with rising numbers of prisoners by building new facilities is only part of the issue. There should be an accurate and objective method of deciding how many prisoners each establishment can safely hold. Very clear contingencies need to be established for exceeding safe operating levels.
- 8.3.2.2. The categorisation system for prisoners should be reviewed to include a "control" categorisation as well as a purely security classification. In any system, for a small group of prisoners security must remain the prime consideration. But for the majority of prisoners it is neither practical nor desirable to hold them in such extreme conditions. A judgement has to be made as to how low a security banding can be given that is consistent with keeping a prisoner in custody. Such an approach should proactively monitor the characteristics of the prisoner population and adapt the regime accordingly. The numbers of prisoners serving short sentences for minor offences should be monitored with a view to diverting such prisoners away from high security prisoners.
- 8.3.2.3 At Casuarina, the prisoners involved in the riot did not present an escape risk – there was no attempt made to breach the perimeter – but they did present a large control problem. Staff could not exert sufficient control for a variety of reasons. The system for dealing with prisoners who present control problems should be reviewed and strategies developed for this population. Such a system should include a review of physical accommodation, and incentives and earned privileges which allow progress from a structured environment to one which allows more opportunity for responsibility and trust. Those who

abuse such opportunities should quickly be returned to a more structured environment. This does not only mean transfers between prisons but the extension of different regimes within establishments. There is a window of opportunity to undertake this at Casuarina. Such a regime involves an imaginative use of building and activities as well as appropriate staff training and programmes to help move control problem prisoners into mainstream location.

- 8.3.2.4 Currently, the movement of prisoners whose behaviour causes concern is largely a matter for Superintendents to resolve among themselves. This system can break down – indeed one of the alleged ring leaders in the riot had been transferred to Canning Vale two days before Christmas but had been returned without entering Canning Vale. Transfers of disruptive high risk prisoners should be organised at headquarters level.

8.3.3 Control and Security

- 8.3.3.1 The bedrock of any prison service is appropriate and fair security and adequate controls which ensure the safety of the community, staff and prisoners. Without such safety no prison can develop other objectives. Such an approach must not be perceived as punitive and should be as transparent as possible. In addition, security is not purely a secure perimeter (although that is part of the solution for some prisoners) but also involves staff actively engaging with prisoners. Excessive control and security will have the opposite effect to that which is desired. If prisoners feel unduly oppressed they will feel a genuine sense of grievance which will attract support from other prisoners.

- 8.3.3.2 There needs to be a clear realisation that all staff must have greater involvement with prisoners. This has been recognised by the Offender Management Division by no longer having the employment category of Welfare Officer in prisons. The welfare function is now the responsibility of prison officers to a large degree. Individual prisoner management plans and properly implemented unit management are some of the ways in which staff gain influence and authority over prisoners in well run prisons. The current 12 hour shift patterns for officers is an active disinhibiter for this to occur. The current shift patterns lead to a large discontinuity and it is not beneficial to ask prison officers to work in a challenging environment for such long periods. Staffing arrangements should be reviewed in order to allow for the unit management concept to be fully introduced. The Prison Service should put greater store in the skill of those staff – and there are many who were interviewed by the team – who are effective in their relationships with prisoners.
- 8.3.3.3 The widespread disaffection among young Aboriginal offenders, together with their increasing drug use should be of concern to the administration and the Ministry of Justice as a whole as well as those concerned about the welfare of Aboriginal prisoners. This suggests the need for a concerted strategy to engage young Aboriginal prisoners.
- 8.3.3.4 The Inquiry team heard enough concerns from prisoners and staff to provoke grave worries about the current methods of dealing with disruptive prisoners. The paucity of staff training in this area inevitably means that removing a disruptive prisoner from a cell or other area is not being done as professionally as it can be. Both staff and prisoners described such incidents being resolved by large numbers of staff tackling

prisoners. Little emphasis seems to be placed on resolving such incidents verbally and by mediation and few staff are trained in such techniques. There are more appropriate ways of dealing with and moving disruptive prisoners. The team is disturbed at the injuries – including bleeding – caused by the use of the rope hobbles. It questions whether causing such injuries is necessary. The use of rope hobbles also raises health and safety queries as such hobbles can be repeatedly used on different prisoners. The result of any cell extraction must be that staff feel confident in what they are doing and that the method reduces as far as possible the danger of injuries to both staff and prisoners. The team is far from convinced that the present system provides such reassurance. All officers should be trained in modern cell extraction techniques. Staff also need to be trained in self defence breakaway techniques. Some senior managers in the Offender Management Division considered that the techniques for dealing with disruptive prisoners were appropriate and safe. The Inquiry team was of the opinion that there was enough doubt from what it had heard from staff and prisoners to disagree with this position. Best practice from other prison services should be examined with an open mind and introduced where appropriate.

As we noted earlier, we could not explore in any depth prisoners' claims and fears about "going down the back" (placed in the IOU). Both staff and prisoners need protection (staff from unfounded allegations and prisoners from potential abuse) in this sort of situation. The Prison Service needs to think how it can give more transparency to such procedures without compromising control or security. It is also suggested that any prisoners placed on any type of restricted regime should be seen by appropriate staff from Health Services within 12 hours and thereafter on a daily basis. If Health Services staff view the regime as causing harm then this view must have primacy and

other ways must be found to manage the prisoner. This is a real challenge for the Prison Service.

- 8.3.3.5 The role, responsibilities and resources of the emergency response group should be clarified. There is a need for a prompt system of response that allows for numbers of properly trained and equipped staff to be made available to deal with serious incidents. The procedures for calling these staff should be clear and unambiguous.
- 8.3.3.6 Contingency plans must be reviewed and exercises run regularly. Activation of a control room and requesting an adequate response must be entrusted to whoever is in charge of the establishment at that time. If the Prison Service wishes to entrust the management of prisons to Senior Officers for lengthy periods of time they must be sufficiently trained and have access to contingencies to manage. Especially in maximum security prisons the individual in charge at any time must be fully trained and have the authority to take command if only for a limited time.
- 8.3.3.7 The Inquiry team was disturbed to find that many industrial officers and nurses had received little security training. All staff working in prisons – especially those holding maximum security prisoners – must receive induction security training and receive regular refresher training. The absence of a security mentality may have contributed towards the riot. Those staff required to search prisoners must be properly trained. Searches should be conducted on a regular basis as should security audits.

- 8.3.3.8 There is a distinct need for a standards officer in major prisons to ensure professional standards are being maintained. This officer should also help in the implementation of security and standards audits, appraisal of staff performance and other matters relevant to accountability.
- 8.3.3.9 Effective and satisfactory anti-bullying programmes should be introduced in all prisons. Bullying is not inevitable but a consequence of environment and as such its effects can be severely limited. All prisoners should be made aware that the Offender Management Division will not tolerate such behaviour.
- 8.3.3.10 The Inquiry team heard of frustration from both those concerned with delivering health services and those responsible for security and control. There appears to be no satisfactory protocol or working arrangement or memorandum of understanding between health and security with the effect that both are frustrated and dissatisfied. Both consider that their ability to achieve their objectives is meeting obstacles and both feel powerless to do anything about it. In this atmosphere, issues such as the security of medication seem to "fall between the slats". This is evidenced not only by the lack of implementation of a drug strategy that would actually see these parties work together for common outcomes (particularly harm minimisation) but also by the lack of a joint or strategic response to the stealing of drugs in the infirmary three weeks prior to Christmas Day. For the benefit of both security and health objectives, it is vital that a productive and viable strategy be found so the health services and prison operations can feel satisfied that they are able to meet their objectives.

8.3.5 Staff Training and Development

- 8.3.5.1 Many of the problems the Inquiry team identified revealed gaps in staff training across all aspects of the role of a prison officer. A thorough training needs analysis should be undertaken. Many of the officers spoken to had not had an annual staff appraisal for some years. All staff should have such an appraisal annually that comments on current performance, sets objectives, training priorities and identifies areas requiring further development. Such a mechanism would foster Senior Officers managing in a constructive manner.
- 8.3.5.2 Since the disbanding of the Welfare Officer role in the prison service, prison officers have been expected to incorporate this function. There have been questions raised as to the success of this role expansion. Clearly there are some officers not suited to this role. Others have aptitude, interest and skills in this area. It is suggested that prison officers should be able to access incentives and support so that they can follow the line of their aptitudes and interests. Specialisation in areas required by prison management should not lead to any financial advantage or disadvantage. The process of skill upgrading or specialisation may allow prisoners to get a better service and for officers to have greater job satisfaction. This also affects restaffing at times of overcrowding. Officers brought in to fill gaps should have sufficient skills in the needed areas to meet the needs of the system.
- 8.3.5.3 There appeared to be a lack of understanding of (and empathy with) operational matters at Headquarters levels. All Directors should commit themselves to spending some time in prisons.

8.3.6 Dealing with Prisoners' Complaints

8.3.6.1 A major source of tension for both prisoners and staff was the current grievance procedures. Some staff felt they were under constant attack by the Ombudsman whilst prisoners had little faith in the current grievance procedures. A fair complaints system must be introduced and the team was pleased to note that the Ministry of Justice was reviewing the current system. The basic principles should centre on the grievance procedure being agreed with the Ombudsman who ideally would only deal with issues after the internal system had been exhausted. For this to work, the internal grievance procedure must be quick, efficient and be perceived by both prisoners and staff to be fair.

8.3.7 Drugs

8.3.7.1 Drugs and prisoners should be seen as a problem encompassing every aspect of prison life and the operations of the Prisons Directorate. Given the extensive nature of offenders' drug abuse, only a fully comprehensive programme is likely to be effective or meaningful. There is a need to be realistic and honest. There is a need to act in a way which truly reduces the risks to both prisoners and officers. Programmes should be available to assist prisoners to find alternatives to drugs. The Offender Management Division needs to implement a total drug strategy – a holistic plan that incorporates everything from drug interdiction to drug rehabilitation programmes and diversion programmes. The aim should be firstly, to at least minimise harm (and risk) and secondly, promote alternatives to drugs. It is important that the strategy is clearly evaluated on the basis of outcomes and not predetermined ideology. The strategy needs to consider carefully the effects of any change in practice or intervention. For example, sudden changes in

prescribing practices may have an unsettling effect as will a sudden increase in the success of interdiction.

8.3.7.2 The way the drug trade works in prison needs to be fully and honestly analysed. It is possible that marketing and associated standovers produce their own power dynamics which need to be understood to prevent unforeseen circumstances arising.

8.3.7.3 Like many of the "solutions" to problems discovered in the brief course of this Inquiry between early January and the middle of February 1999, it was discovered that the Offender Management Division had actually planned well and been involved in developing appropriate strategies, but there was a lack of action often, it seems, in the interest of saving money. It is recognised that, in the quest for additional funds, there are competing priorities in a limited resource environment. In the case of the drug strategy a carefully developed comprehensive plan had been developed, but this plan has yet to be officially endorsed. The slowness of the response to a clearly needed and well researched initiative may reflect the inherent inefficiency of the large structure (see section on the Ministry of Justice structure). These problems are also indicated in the response of the Ministry to the final report of the Select Committee into the Misuse of Drugs Act 1981 (see APPENDIX 8). In response to recommendation 6 it is stated that the strategy was to be submitted to the newly established "Safer WA" Committee for funding. The problem it seems is that Offender Management does not have the capability within its budget to fund strategies as important as this and must seek funding through external sources. This problem should not exist and perhaps would not exist if the prisons were funded, as private prisons, according to the number of prisoners they manage.

- 8.3.7.4 Those involved in the drug strategy should include both those involved in security operations and those involved in health and treatment. As noted before, the two threads of prisoner services (care and control) should be intertwined to achieve effective policy outcomes. In the Offender Management Division, the Court Diversion Service, the Substance Use Resource Unit (SURU), Health Services and others should be involved. The Drugs and Therapeutic Committee should be incorporated into the Drug Strategy. The changing reality in the community is that it is essential that those who have knowledge and understanding of the situation with offenders in the community must be involved. Representatives from both the National Centre for the Prevention of Drug Abuse and the Alcohol and Drug Authority should also be consulted.
- 8.3.7.5 The drug strategy cannot progress unless there are meaningful alternatives to drug use. Prisoners must be meaningfully engaged in work, recreation and training. The provision of these services are therefore not just good for prisoner morale, they are actually part of a drug control strategy.
- 8.3.7.6 The lack of a consistent and widely applicable methadone maintenance programme for opiate dependent offenders entering prison has been the target of some criticism. Whilst methadone is prescribed to offenders entering prison if they were on a methadone programme on the outside, this treatment option is not provided to offenders who were not on such a programme. This means that the same treatment options are not available to prisoners as are available to non prisoners. It could be argued that prisoners are being punished for being opiate dependants. The logic of treating offenders who have not previously "signed up" for methadone treatment differently from those who have does not take into account the fact that an arrest is often a significant interruption in the offender's

destructive lifestyle. It may, therefore, be an opportunity to help the individual stay off drugs possibly with the assistance of methadone maintenance. Not only may this serve the individual, it will relieve the pressure on medical staff to prescribe benzodiazapines and the temptation of the offender to gain access to opiates in prison. There is clearly an urgent need to consider this in detail and for these components to be part of a comprehensive drug strategy.

8.3.7.7 The amount of illegal drugs in prisons led some persons interviewed by the Inquiry team to suggest that it was not only prisoners who were introducing drugs into prison. The team makes no comment on this. However, to protect staff from any allegations of drug trafficking, it is recommended that consideration be given to visitors and staff entering a maximum security prison being searched and their bags and brief cases thoroughly examined. This is not an attack on any individual's credibility but it is common practice in many jurisdictions. In addition, staff must be properly trained to use the X-ray equipment that is provided.

8.3.8 Developments in 1998

8.3.8.1 The Inquiry has noted that during 1998, the Ministry has done extensive work on reviewing the Strategic Plan published in October 1994. That plan was for the years 1994/95 to 1996/97. One of the outcomes in the plan for the Offender Management Division was to meet by the end of 1996/97, projected accommodation needs for prisoners by expanding existing prisons capacity by 300 beds. As explained elsewhere in this report, there was a slippage in the implementation of that part of the plan.

- 8.3.8.2 The Inquiry has also noted that the Director General has properly and conscientiously kept the Attorney General informed of these initiatives. In addition, the Ministry has developed an interim accommodation strategy to cope with the projected increase in prison muster prior to the commissioning of Wooroloo South in the year 2000. In March 1998, the number of prisoners was 2,250 and at the time of finalising this report, the number had increased markedly to 2,817. It is very clear that this rapid increase of 567 over a period of 11 months has placed considerable pressure on the resources of the Offender Management Division and the management of prisons and prisoners. Funding arrangements for the Ministry of Justice and the Offender Management Division should have some regard from these contingencies.
- 8.3.8.3 The Inquiry team is satisfied that the Ministry's planned changes to practices and procedures outlined in the various business and strategic plans and other initiatives in train, are a positive step towards enhancing responsiveness and accountability to the Attorney General, the State Parliament and the community.
- 8.3.8.4 Although the initiatives of the Ministry and the Offender Management Division are clearly worthwhile, it is imperative that the specific issues and concerns raised in this report be addressed as a matter of urgency. The implementation of the reforms require some new attitudes, new standards, new ways of thinking, less defensiveness and strict compliance with those standards so that tangible results are produced rather than mere window dressing. There must be willingness to deviate from established practices where improved procedures can be introduced.

8.3.8.5 Stability in the administration of the Ministry has been enhanced by the appointment of a Director General for a five year term. The positions of General Manager, Prison Services and Executive Director, Offender Management were advertised in December, 1998. Appointments to these two positions effected in March 1999, should also have a stabilising effect on the operations of the Ministry and, particularly, the Offender Management Division.

Chapter 9

Recommendations

9.1 Introduction

9.1.1 Recommendations naturally flow from the discussion on prevention. The purpose of the present inquiry is to examine the causes of the riot at Casuarina, the response of the Offender Management Division and suggest measures for prevention. In this context, it is not appropriate nor wise to attempt to suggest in detail how the Offender Management Division should rectify the problems identified. Therefore, in framing these recommendations, the Inquiry team has resisted the temptation to be prescriptive. Rather, the recommendations focus on general principles which capture the key issues we believed to be relevant to the background to the riot, the response to it, and the prevention of future riots.

9.1.2 Following the pattern in other chapters, the recommendations are organised from the general to the specific.

9.2 General Recommendations

9.2.1 The accountabilities and responsibilities for Offender Management should be clearly defined at the levels of Director General, Executive Director, Offender Management, General Manager, Prisons, and other senior managers in the Offender Management Division. In particular, the line of responsibility for ensuring adequate prisoner accommodation, other services and all other aspects of prison management should be clearly enunciated. This includes ensuring a sound reporting relationship between Cabinet, the Minister and the executive of the Ministry.

- 9.2.2 The Ministry of Justice should be allocated sufficient funds to provide adequate services for sound prison management. Prison Operations could perhaps then be funded on the basis of prisoner/days. This would ensure that prisons, prisoners and staff do not suffer due to circumstances (such as changes in crime and/or sentencing policy) that they have no control over.
- 9.2.3 There should be a review of the organisational structure of the Ministry with a view to ensuring clear allocation of accountability and responsibility and clear consequences for non achievement of responsibilities. The usefulness of the Ministry organisational structure in ensuring good management of prisons and the delivery of prisoner services should be subjected to independent scrutiny.
- 9.2.4 The Offender Management Division should conduct a thorough review of problems which emerged during the incident and, in particular, those areas where fundamental services were at risk.
- 9.2.5 On the basis of an open and honest appraisal of its present shortfalls the Offender Management Division should ensure that business and strategic plans have short, medium and long term objectives. The plans need to include the following:
- 9.2.5.1 Service Level Agreements for each prison that set out the accountabilities, requirements, responsibilities, authorities and provisions for the operation of the service.
 - 9.2.5.2 The urgent and comprehensive training of prison officers on a continuous basis to achieve high levels of competence and professionalism.
 - 9.2.5.3 A sufficient range of management options and strategies, particularly for crisis periods.

9.2.5.4 A productive co-operation between the Health Services Directorate and Prison Operations to maximise the goals of both Directorates and ensure productivity at interface issues such as crisis care and drug use.

* 9.2.5.5 Sufficient levels of activities and engagement for all prisoners.

9.2.5.6 Benchmarks, performance indicators and measures of acceptable levels of control and safety.

9.2.5.7 A strategic and effective system of incentives to shape and encourage pro-social behaviour in prisoners.

* 9.2.5.8 A plan to monitor and improve the quality of prisoner-officer relationships.

9.2.5.9 Procedures for the control and restraint of disruptive prisoners that are effective and perceived as fair by prisoners.

9.2.5.10 A comprehensive drug strategy to incorporate all aspects of prisoners' drug use. This should be based on a clear understanding of the current nature of offender drug use patterns and incorporate a strategic approach covering drug interdiction, the prison power structure and drug trade, use of prescription medication, the role of Health Services, detoxification, opiate dependency and the role of education, programmes and occupation.

9.2.5.11 Leadership to achieve a greater positive involvement of staff with prisoners. Individual prisoner plans that include meaningful objectives.

9.2.5.12 Relevant and effective medical and treatment services.

9.2.5.13 An effective regulatory mechanism. Every aspect of the operations of prisons should be subject to qualified inspection on a random and regular basis.

* 9.2.5.14 Adequate prisoner services such as accommodation, programmes, access to telephones, visits, recreation and work.

9.3 Operational Recommendations

9.3.1 Serious Incidents

9.3.1.1 Contingency plans for dealing with serious incidents must be reviewed and tested on a regular basis.

9.3.1.2 A clear command structure above prisons level should be established and come into operation during a serious incident.

9.3.1.3 Surrender plans must be developed when dealing with prisoners at the end of the incident. Surrenders should – wherever possible – be monitored by independent observers.

9.3.1.4 Where possible serious incidents should be video-recorded.

9.3.1.5 The safety of protected prisoners and prisoners who do not take part in a disturbance must be maximised.

9.3.1.6 An accurate log of the incidents should be kept from the earliest point in time of a serious incident.

9.3.2 Dealing with Disruptive Prisoners

- 9.3.2.1 All staff coming into contact with prisoners must be adequately trained in self-defence and breakaway techniques.
- 9.3.2.2 The procedures for dealing with cell extractions should be reviewed and safe procedures adopted. In particular the use of rope hobbles should be critically examined.
- 9.3.2.3 Prisons should have an adequate range of defensive and offensive equipment for use as a last resort, staff must be trained in the use of such equipment and receive regular refresher training.
- 9.3.2.4 The method of tactically responding to serious incidents involving disruptive prisoners should be reviewed and a clear policy and direction set.
- 9.3.2.5 Those areas of the prison dedicated for medical purposes such as the infirmary and medical observation should be reserved for the placement of prisoners needing medical attention. Prisoners not needing medical attention (as authorised on the advice of the medical officer) should be placed elsewhere.
- 9.3.2.6 Appropriate Health Services staff should examine all prisoners kept under close supervision management and punishment regimes on a daily basis. Initial examination should be made as soon as possible, but in no case more than 12 hours following the placement of a prisoner in the regime. Health Services, apart from ensuring the medical care of the prisoner, should make reports on general detrimental effects of close confinement regimes to prison management on a regular basis, or when a particular need is perceived.

9.3.2.7 The range of management options available in a prison and the prison system needs to be expanded.

9.3.2.8 Transfers of prisoners should be tactically managed and authorised at the level of Assistant Director, Prisoner Management.

9.3.3 Security and Control

9.3.3.1 All medication must be securely stored.

9.3.3.2 All staff working in prisons must receive basic security training.

9.3.3.3 Regular security audits should take place in all prisons. Such audits should set searching targets for all areas. Performance should be measured against targets on a regular basis.

9.3.3.4 The classification system for prisoners should be reviewed so that the emphasis is not only on security considerations. Allowance should be made for a control classification.

9.3.3.5 In maximum security prisons, security information systems must be pro-active and tackle issues such as mix of prisoners and the "temperature" of the prison

9.3.3.6 All staff using radios must be trained in their use. Proper radio discipline must be maintained at all times.

9.3.3.7 Liaison with the police at a local force level should be improved.

9.3.3.8 The regime at Casuarina must be designed to be safe for staff and prisoners.

- 9.3.4.6 The review of the Investigations Section should be finalised as soon as practicable. Allegations against staff should – if serious – be investigated by the police. If minor they should be dealt with through the management line and in accordance with the revised grievance procedures.
- 9.3.4.7 A simple, fair and open prisoner grievance procedure for prisoners should be introduced. The major review of grievance procedures should be finalised as soon as practicable.
- 9.3.4.8 Management responses that result in severe curtailment of prisoner access to services such as the restrictive regime operating at Casuarina following the riot should not be implemented to the detriment of prisoners. To ameliorate the effects of these “lock downs” and to minimise prisoner grievance, consideration should be given to trading an extra day off the sentence for every day the prisoner is subjected to a severely restricted regime.
- 9.3.5 The staff involved in the incident suffered for the faults of many over a long period. In recognition of their service and their bravery, and so that the nature of the incident is properly remembered, a commemorative service should be held so that the actions of the staff involved are properly recognised.

Glossary

ADHD	Attention Deficit Hyperactive Disorder
CCTV	Closed Circuit Television
CEO	Chief Executive Officer
FAAA	Financial Administration and Audit Act
IOU	Induction and Orientation Unit
IT	Information Technology
MINISTER	The Attorney General, Minister for Justice; The Arts, who at the time of this Report is the Hon Peter Foss, QC, MLC
MOJ	Ministry of Justice
OMBUDSMAN	Parliamentary Commissioner appointed under the Parliamentary Commissioner Act 1971
POCC	Police Operation Centre
SHU	Special Handling Unit
SLA	Service Level Agreement
SO	Senior Officer
SURU	Substance Use Resource Unit
TSS	Training and Support Services Offender Management Division
WAPOU	Western Australian Prison Officers' Union

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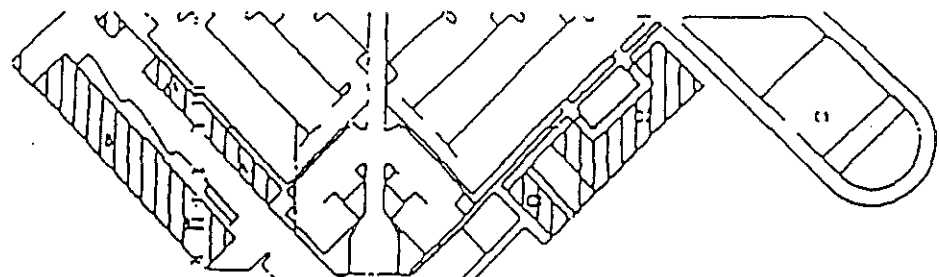
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Appendices

1. Plan of Casuarina prison (paragraph 4.1.1.1 refers).
2. Plan of a unit in Casuarina prison (paragraph 4.1.1.4 refers).
3. Recreation programme for the 1998 Christmas/New Year period (paragraph and 5.2.1.4 refers).
4. Profile of the prisoner population at Casuarina on 25 December 1998 (paragraph 5.2.3.4 refers).
5. Data concerning prescribing patterns at Casuarina prison (paragraph 5.2.7.8 refers).
6. Health Services Directorate, Policy, Protocols and Procedures: 6.2 Benzodiazepine prescribing guidelines (paragraph 8.2.6 refers).
7. Health Services directorate, Policy, Protocols and procedures: 6.2.1 Nursing management of Benzodiazepines (paragraph 8.2.6 refers).
8. Response of the Ministry of Justice regarding the recommendations of the Select Committee into the Misuse of Drugs Act 1981 (Final report) (paragraphs 8.2.6 and 8.3.7 refer).
9. Letter from Outcare to the Executive Director Offender Management and the Reply from the Executive Director (paragraph 5.2.6.10 refers).
10. Comparison of recommendations of Smith and McGivern Riot Inquiry reports.
11. Recommendations of the McGivern report (section 4.4 refers).
12. Recommendations of Woolf report (paragraphs 5.2.6.9 and 5.2.9.8 refer).
13. Advertisement about the Inquiry (paragraph 1.3.1 refers).

Appendix 1:

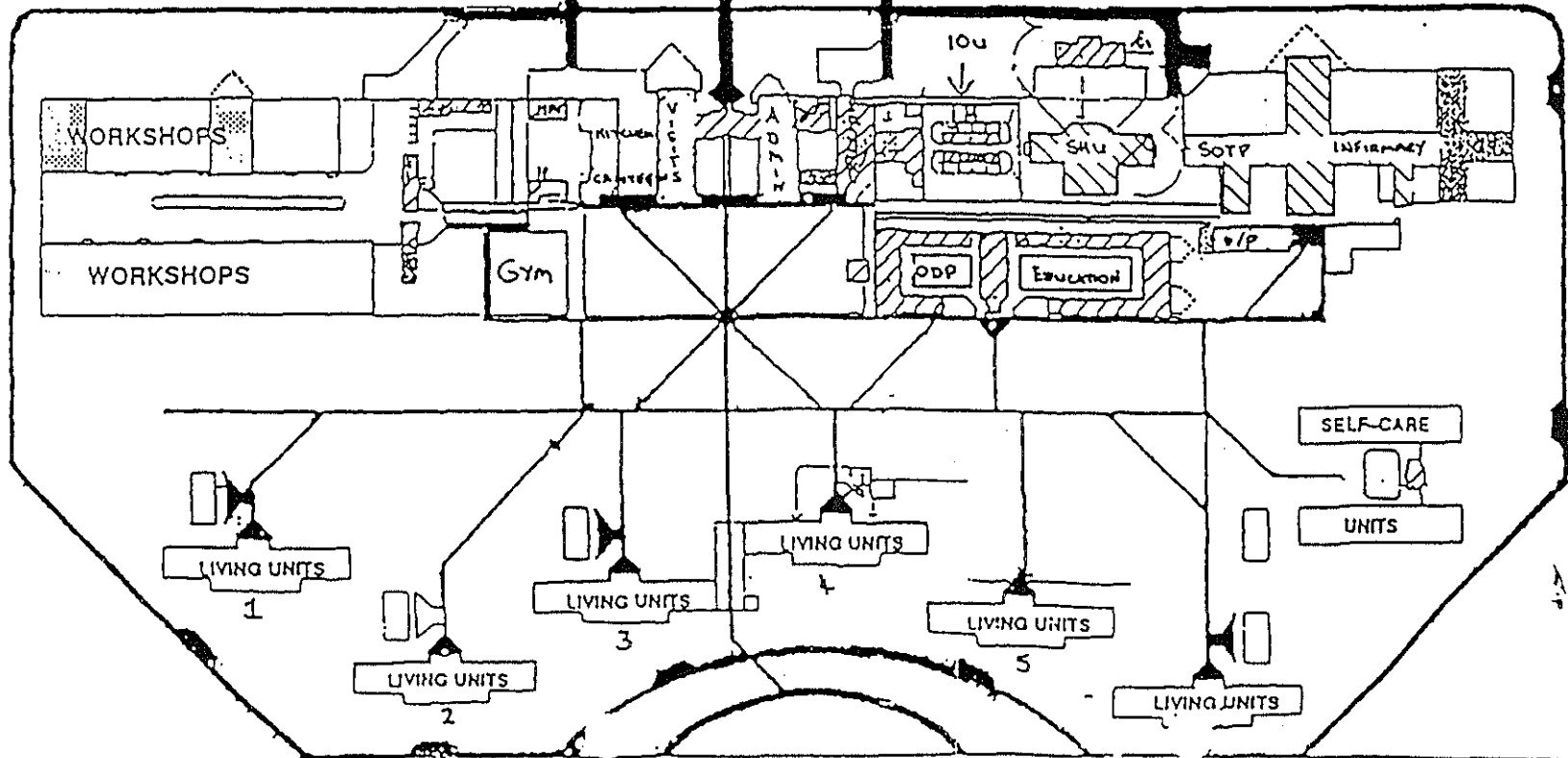
Plan of Casuarina Prison



← GATE

D2

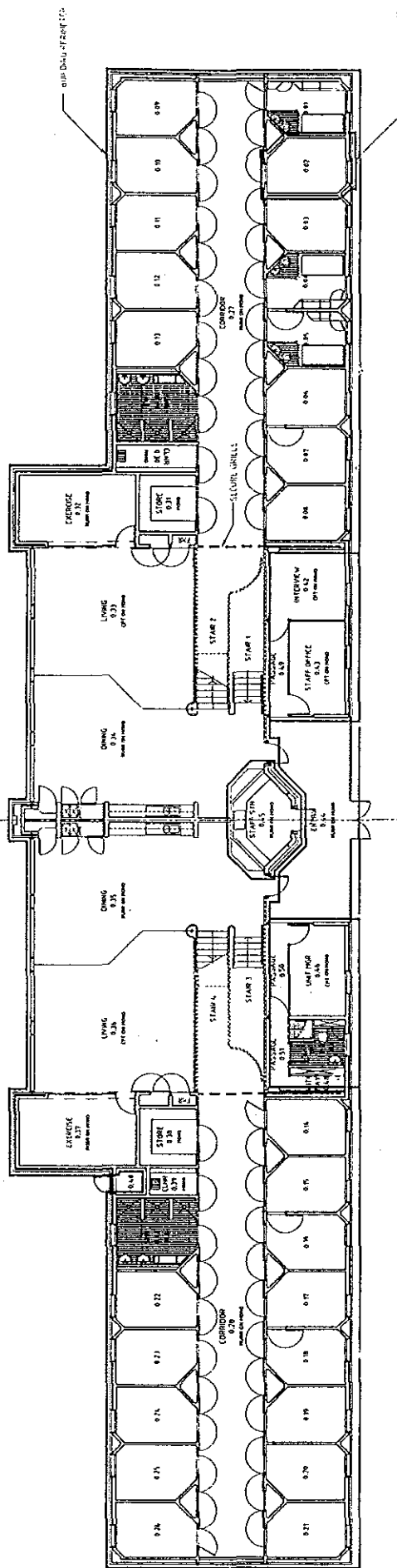
FIRE RESPONSE ROAD



- A1 GARAGE
- A2 WORKSHOPS
- B1 DOMESTIC SERVICE STORES
- B2
- C1 VISITOR CENTRES
- C2 STAFF AMENITIES
- C3 SERVICE COMPOUND
- D1 GATE HOUSE
- D2 SECURE LINK
- E1 INDUSTRY WORKSHOPS
- E2 INDUSTRY WORKSHOPS
- E3 ADMIN
- E4
- F1 INDUSTRY WORKSHOPS
- F2
- G RECREATION
- H1 MISC. FACILITIES
- H2 ELECTRICAL
- I FOOD DISTRIBUTION CENTRE
- J VISITING
- K ADMIN AND LEGAL
- L PRISONER RECEPTION
- M DISCIPLINE UNIT / SECTION 43
- N SPECIAL HANDLING UNIT
- O PRISONER PROGRAMMES ADMIN & LIBRARY
- P EDUCATION
- O1 HEALTH SERVICES MEDICAL 1
- O2 HEALTH SERVICES MEDICAL 2
- O3 ADMIN
- R1-R6 GENERAL LIVING UNITS
- S1,S2 SELF-CARE UNITS

Appendix 2:

Plan of a unit in Casuarina Prison



GROUND FLOOR PLAN

SCALE 1:100 (R.A.)
SCALE 1:200 (R.A.)

Appendix 3:

**Recreation programme for the 1998
Christmas/New Year period**



MINISTRY OF JUSTICE
CASUARINA PRISON

M E M O R A N D U M

TO: Superintendent
T CONNOLLY

FROM: Stephen Pascoe
Recreation Co-Ordinator

DATE: January 8, 1999

SUBJECT: Recreation initiatives deployed prior to the incident at
Casuarina Prison on 25 December, 1998

In addition to the regular seasonal recreation program a number of recreational initiatives had been put in place, to increase services and facilities to the prisoners in the lead up to the Christmas/New Year period. Also over this period additional tournaments and activities were organised. (See attached programme)

1. FACILITIES

- 1.1 Outdoor Soccer Goals: Constructed and put in place on the oval and appropriate line markings made and games organised between inmates.
- 1.2 Beach Volleyball Court: Constructed and designed in front of Unit 3. Games between unit wings organised into a tournament over the Christmas period. Also a volleyball court was installed in the courtyard of the Infirmary.
- 1.3 Outdoor Walking Track: This track was marked on the paths between the units in both 1 kilometre and .5 kilometre format. This was designed for more sedentary prisoners, to monitor the distance covered.
- 1.4 Outdoor Training Circuit: Located on the far side of the oval. This consists of hurdles, monkey bars, chinning bars and parallel bars designed for the more active prisoners, to improve strength, flexibility

and stamina. The rationale being each apparatus could be used as a training station, or the track could be used as an obstacle course.

- 1.5 Gymnasium resurfaced: The gymnasium floor was resurfaced during the year using prisoner labour to protect and improve the adhesion of the surface. The floor was retaped for 1 x basketball court; 3 x badminton courts; 1 x volleyball court and 1 x indoor soccer court.

2 SERVICES

- 2.1 Inhouse video programme. Additional new release videos were organised over the Christmas/New Year period. The number of videos in the lead up to the period was increased from 3 to 5 over night and 4 weekly videos to 7 weekly. This was to provide passive recreation, particularly after lock up in the evening and during the non-working days.
- 2.2 Prisoner photographs: Prisoner photographs are taken on the last weekend of the month. Prisoners have 2 photographs taken and receive to prints of each.

3 ACTIVITIES (see programme for details)

- 3.1 Tournament/competitions: Over the Christmas/New Year period a number of tournaments were organised. This included individual activities with the units. ie Pool, singles/doubles; table tennis singles/doubles; dart singles/doubles; chess and range of board games – 500 Euka etc, and activities outside the unit in open competition – ie tennis, singles/doubles and badminton, singles/doubles played in the gym. Prisoners nominated 1 week prior to the Christmas/New Year period and draws were distributed on the 24 December 1998.
Forty cartons of cool drink were donated to recreation to give out as prizes for the above activities.
Beach volleyball: A draw was organised for unit wings to play each other in a knock out competition.
- 3.2 Board Games: Board games including chess, backgammon, packs of playing cards, uno etc were distributed to the living units on 24th December, 1998.
- 3.3 Special provision: Special provision of activities were supplied to prisoners in the SHU, IOU and Unit 6.
- 3.4 Football Match: A football match was organised and played on the oval on the morning of 25th December 1998.
- 3.5 Provision of Sporting Equipment: Every Friday sporting equipment is ordered and distributed to the living units for weekend competition. The last distribution was on 24th December 1998.

4. RECREATION PROGRAM the current on-going seasonal recreation program includes:

- 4.1 Indoor Cricket Competition comprising 8 teams who play one game per week over 23 weeks including finals.
- 4.2 Indoor Basketball Competition comprising 4 teams who play one game per week over 20 weeks including finals. These games re officiated by community referees.

- 4.3 Badminton Club. The club meets three times during the week to play social games.
- 4.4 Outdoor Soccer: Social games played every Sunday afternoon between 13.00 and 15.00 hours.

5. SPECIAL EVENTS

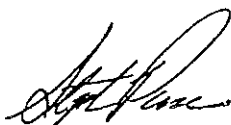
- 5.1 Children's Christmas Party. A party was held in the Visits area on 16th December for 11 prisoners, 11 visitors and 21 children. Industries Bakery/Kitchen provided food. Canteen donated goods for the guests and children were given a present. A clown was also provided for entertainment.

6. FUTURE INITIATIVES

- 6.1 Physical training program. Starting in January 1999 prisoners would have the opportunity to participate in a physical training program which involved:
 - Pre-activity questionnaire
 - Physical fitness appraisal
 - Exercise prescription/goal setting
 - Individual training program
 - Re-testing for results/outcomes.

The rationale for the program is to show prisoners the benefits of physical training, to bring about physical and psychological changes, to develop the individuals ability to be their own source of health and fitness, by understanding the principals of training.

- 6.2 Soccer Skills Development. Starting in January 1999 soccer coaching and skill development was going to be organised on a weekly basis, culminating in a visit by representatives of the Perth Glory Soccer Club, as approved by the Superintendent on 2nd December, 1998.
- 6.3 Recreational Advisory Council. Two prisoner representatives from each unit, one over 35 years of age, have been chosen, to meet on a monthly basis to discuss recreational activities, facilities and events. This was to start in January.



S Pascoe
Recreation Co-ordinator
Casuarina Prison

January 8, 1999

SP10

1998
CASUARINA
CHRISTMAS / NEW YEAR
RECREATION PROGRAMME

Time	Friday 25th X-mas Day	Saturday 26th Boxing Day	Sunday 27th	Monday 28th	Tuesday 29th	Wednesday 30th	Thursday 31st	Friday 1st New Years	Saturday 2nd	Sunday 3rd	
12:00 AM TO 12:00 PM	Holiday Extra Video Open Recreation X-Mas Lunch	Indoor Cricket Comp. 1AC v 4BD	Indoor Cricket Comp. 1BD v 2AC	Holiday Morning Video Open Recreation	W O R K I N G D A Y	W O R K I N G D A Y	W O R K I N G D A Y	Indoor Cricket Comp. 1AC v 1BD	Indoor Cricket Comp. 2AC v 2BD	Indoor Cricket Comp. 3AC v 4BD	
1 PM TO 3.30 PM	Open Basketball Afternoon Video	Indoor Basketball Comp. Game I. 1v3 Game II. 4v2	Soccer Comp (on oval) Game I. Game II.	Open Basketball Afternoon Video					Indoor Basketball Comp. Game I. 2 v 3 Game II. 1 v 4	Soccer Comp (on oval) Game I. Game II.	
4 PM TO 5.30 PM	Beach Volleyball Comp. <i>3CU v 2AC</i>	Beach Volleyball Comp. <i>1AC v 2AC</i>	Beach Volleyball Comp. <i>2BD v 4AC</i>	Beach Volleyball Comp. <i>3BD v 5BD</i>	Indoor Cricket Comp. 3AC v 3BD	Badminton	Indoor Cricket Comp. 2BD v 4AC	Beach Volleyball <i>S/FINALS</i>	Badminton Tournament S/FINALS FINALS		
	Badminton Tournament Singles / Doubles										
ALL UNITS	CHRISTMAS COMPETITIONS COMMENCE AND CONTINUE THROUGH TO FINALS								FINALS	FINALS	Weekend
*INDOOR CRICKET											
*INDOOR BASKETBALL											
NORMAL FIXTURE GAMES.											

*COULD START
SUN
THA
SUN.*

Appendix 4:

Profile of the prisoner population at Casuarina on 25th December 1998

APPROX

MINISTRY OF JUSTICE

49990233
03/02/1999

CENSUS OF PRISONERS ON THE NIGHT OF 25/12/1998
THIS RUN OF THE REPORT IS FOR: ALL CASES

PRISON	SENTENCED				UNSENTENCED				TOTAL
	ABORIGINAL		NON ABORIGINAL		ABORIGINAL		NON ABORIGINAL		
	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	MALE	FEMALE	
ALBANY	49	0	161	0	0	0	4	0	214
BANDYUP	0	30	0	80	0	14	0	19	143
BARTONS MILL	0	0	0	0	0	0	0	0	0
BROOME	66	1	36	0	6	1	2	0	112
BUNBURY	26	0	177	0	0	0	4	0	207
CANNING VALE	105	0	193	0	8	0	16	0	322
CASUARINA	104	0	358	0	12	0	55	0	529
C.V.C. REMAND CENTRE	5	0	28	0	30	0	103	0	167
EASTERN GOLDFIELDS	48	7	16	3	20	4	4	0	102
EAST PERTH	0	0	12	0	0	0	0	0	12
FREMANTLE	0	0	0	0	0	0	0	0	0
GREENOUGH	118	10	38	5	4	0	3	0	178
KARNET	15	0	127	0	0	0	1	0	143
PARDELUP	23	0	42	0	0	0	0	0	65
RIVERBANK	5	0	43	0	0	0	0	0	48
ROEBOURNE	88	7	28	2	19	0	4	1	149
WOOROLOO	46	0	145	0	0	0	2	0	193
WYNDHAM	0	0	0	0	0	0	0	0	0
TOTALS	699	55	1404	90	99	19	198	20	2584
	754		1494		118		218		
	2248				336				

**MUSTER OF UNSENTENCED CASUARINA PRISONERS
AS AT 25 DECEMBER 1998**

BY number of all Previous Receptions into any W.A. Prison

Previous Receptions	PRISONERS
0	27
1	14
2	4
3	5
4	4
6	6
7	2
9	2
10	1
13	1
15	1
TOTAL Unsentenced Prisoners	67

MUSTER OF CASUARINA PRISONERS AS AT 25 DECEMBER 1998
BY MOST SERIOUS CHARGE/OFFENCE
CALCULATED FROM MOST RECENT RECEPTION DATE

	AB	N/AB	Total
All Persons			
Homicide	4	69	73
Assault (excl sexual assault)	15	24	39
Sexual Assault and Offences	17	90	107
Other Against the Person	2	7	9
Robbery	24	81	105
Breaking and Entering, Burglary	24	48	72
Fraud and Misappropriation	0	6	6
Handling Stolen Goods	1	1	2
Theft or Illegal Use of Vehicle	14	14	28
Other Theft (incl Theft of Drugs)	2	4	6
Property Damage	0	3	3
Against Government Security/Operations	0	2	2
Breaches/Escapes	8	22	30
Other against Justice Procedures	0	1	1
Other Offences Against Good Order	1	0	1
Possession/Use of Drugs	0	2	2
Importing/Exporting Drugs	0	11	11
Dealing/Trafficking in Drugs	0	16	16
Manufacturing/Growing Drugs	0	1	1
Driving under the Influence of Alcohol/Drugs	2	0	2
Dangerous/Reckless/Negligent Driving	0	1	1
Driving Licence Offences	2	8	10
Federal/Electoral/Health/Copyright	0	2	2
Total All Persons	116	413	529

MUSTER OF CASUARINA PRISONERS AS AT 25 DECEMBER 1998
BY MOST SERIOUS CHARGE/OFFENCE
CALCULATED FROM MOST RECENT RECEPTION DATE

	AB	N/AB	Total
Unsentenced			
Homicide	0	7	7
Assault (excl sexual assault)	3	4	7
Sexual Assault and Offences	1	8	9
Other Against the Person	0	3	3
Robbery	0	7	7
Breaking and Entering, Burglary	4	14	18
Fraud and Misappropriation	0	2	2
Handling Stolen Goods	1	0	1
Theft or Illegal Use of Vehicle	1	1	2
Other Theft (incl Theft of Drugs)	1	0	1
Property Damage	0	1	1
Against Government Security/Operations	0	1	1
Breaches/Escapes	1	2	3
Other against Justice Procedures	0	1	1
Possession/Use of Drugs	0	2	2
Importing/Exporting Drugs	0	1	1
Federal/Electoral/Health/Copyright	0	1	1
Total Unsentenced	12	55	67
Sentenced			
	AB	N/AB	Total
Homicide	4	62	66
Assault (excl sexual assault)	12	20	32
Sexual Assault and Offences	16	82	98
Other Against the Person	2	4	6
Robbery	24	74	98
Breaking and Entering, Burglary	20	34	54
Fraud and Misappropriation	0	4	4
Handling Stolen Goods	0	1	1
Theft or Illegal Use of Vehicle	13	13	26
Other Theft (incl Theft of Drugs)	1	4	5
Property Damage	0	2	2
Against Government Security/Operations	0	1	1
Breaches/Escapes	7	20	27
Other Offences Against Good Order	1	0	1
Importing/Exporting Drugs	0	10	10
Dealing/Trafficking in Drugs	0	16	16
Manufacturing/Growing Drugs	0	1	1
Driving under the Influence of Alcohol/Drugs	2	0	2
Dangerous/Reckless/Negligent Driving	0	1	1
Driving Licence Offences	2	8	10
Federal/Electoral/Health/Copyright	0	1	1
Total Sentenced	104	358	462

MUSTER OF CASUARINA PRISONERS AS AT 25 DECEMBER 1998
BY LENGTH OF STAY
CALCULATED FROM MOST RECENT RECEPTION DATE

	AB	N/AB	Total
Unsentenced			
8-14 DAYS	1	8	9
15-21 DAYS	1	2	3
22-31 DAYS	1	3	4
> 1-2 MTHS	2	12	14
> 2-3 MTHS	2	8	10
> 3-4 MTHS	2	7	9
> 4-5 MTHS	1	4	5
> 5-6 MTHS	2	1	3
> 6-12 MTHS	0	6	6
> 1-2 YRS	0	3	3
> 2-3 YRS	0	1	1
Total Unsentenced	12	55	67
Sentenced			
	AB	N/AB	Total
< = 7 DAYS	0	5	5
8-14 DAYS	2	4	6
15-21 DAYS	0	4	4
22-31 DAYS	6	9	15
> 1-2 MTHS	6	25	31
> 2-3 MTHS	6	18	24
> 3-4 MTHS	9	35	44
> 4-5 MTHS	13	26	39
> 5-6 MTHS	5	11	16
> 6-12 MTHS	25	61	86
> 1-2 YRS	12	45	57
> 2-3 YRS	8	34	42
> 3-5 YRS	6	33	39
> 5-10 YRS	3	37	40
> 10-20 YRS	3	11	14
Total Sentenced	104	358	462

**MUSTER OF CASUARINA PRISONERS AS AT 25 DECEMBER 1998
BY LENGTH OF STAY
CALCULATED FROM MOST RECENT RECEPTION DATE**

All Persons	AB	N/AB	Total
< = 7 DAYS	0	5	5
8-14 DAYS	3	12	15
15-21 DAYS	1	6	7
22-31 DAYS	7	12	19
> 1-2 MTHS	8	37	45
> 2-3 MTHS	8	26	34
> 3-4 MTHS	11	42	53
> 4-5 MTHS	14	30	44
> 5-6 MTHS	7	12	19
> 6-12 MTHS	25	67	92
> 1-2 YRS	12	48	60
> 2-3 YRS	8	35	43
> 3-5 YRS	6	33	39
> 5-10 YRS	3	37	40
> 10-20 YRS	3	11	14
Total All Persons	116	413	529

**MUSTER OF CASUARINA AS AT 25 DECEMBER 1998
BY LENGTH OF TIME STILL TO SERVE**

	AB	N/AB	Total
Unsentenced	12	55	67
< 1Month	5	10	15
1-<3Mths	17	29	46
3-<6Mths	22	42	64
6-<12Mths	20	65	85
1-<2Yrs	15	61	76
2-<5Yrs	17	79	96
5-<10Yrs	4	37	41
10-<20Yrs	0	25	25
> = 20Yrs	0	3	3
Indeterm	4	7	11
Total	116	413	529

MUSTER OF CASUARINA PRISONERS AS AT 25 DECEMBER 1998
BY LENGTH OF EFFECTIVE SENTENCE
CALCULATED FROM MOST RECENT SENTENCE COMMENCEMENT DATE

	AB	N/AB	Total
Unsentenced	12	55	67
<1Month	0	1	1
1-<3Mths	4	4	8
3-<6Mths	11	22	33
6-<12Mths	23	39	62
1-<2Yrs	20	73	93
2-<5Yrs	30	96	126
5-<10Yrs	12	65	77
10-<20Yrs	0	32	32
>=20Yrs	0	19	19
Indeterm	4	7	11
Total	116	413	529

CASUARINA PRISONERS RECEIVED 1 January to 25 December 1998 By Month

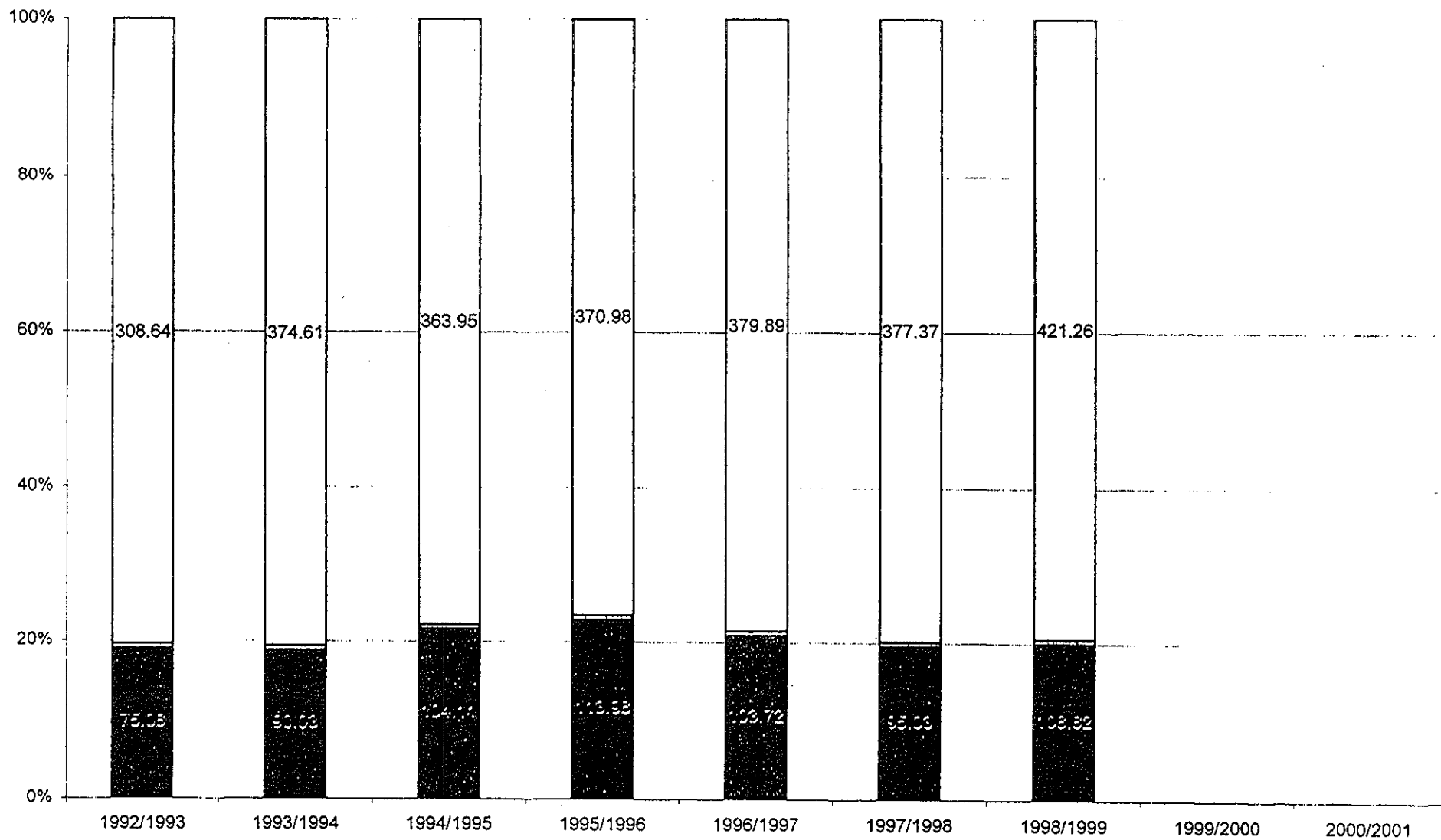
MONTH	SENTENCED				UNSENTENCED				ALL RECEIVALS	Distinct Persons				ALL DISTINCT PERSONS
	Aboriginal		Non-Aboriginal		Aboriginal		Non-Aboriginal			Aboriginal		Non-Aboriginal		
	Male	Female	Male	Female	Male	Female	Male	Female		Male	Female	Male	Female	
January-98	6	0	15	0	2	0	8	0	31	8	0	23	0	31
February-98	5	0	10	0	9	0	35	0	59	13	0	44	0	57
March-98	10	0	28	0	18	0	35	0	91	27	0	62	0	89
April-98	6	0	22	0	6	0	31	0	65	12	0	52	0	64
May-98	8	0	22	0	17	0	27	0	74	25	0	46	0	71
June-98	6	0	29	0	13	0	38	0	86	17	0	64	0	81
July-98	16	0	21	0	12	0	29	0	78	27	0	50	0	77
August-98	16	0	33	0	17	0	75	0	141	31	0	105	0	136
September-98	15	0	33	0	28	0	90	0	166	42	0	121	0	163
October-98	9	0	28	0	10	0	34	0	81	19	0	61	0	80
November-98	6	0	22	0	15	0	49	0	92	21	0	70	0	91
**December-98	6	0	24	0	9	0	25	0	64	15	0	49	0	64
	109	0	287	0	156	0	476	0	1028	257	0	747	0	1004
	109		287		156		476			257		747		
	396				632					1004				
	1028													

** December period 1/12/98 to 25/12/98

NOTE:- Figures do NOT include Transfers to Casuarina from other prisons

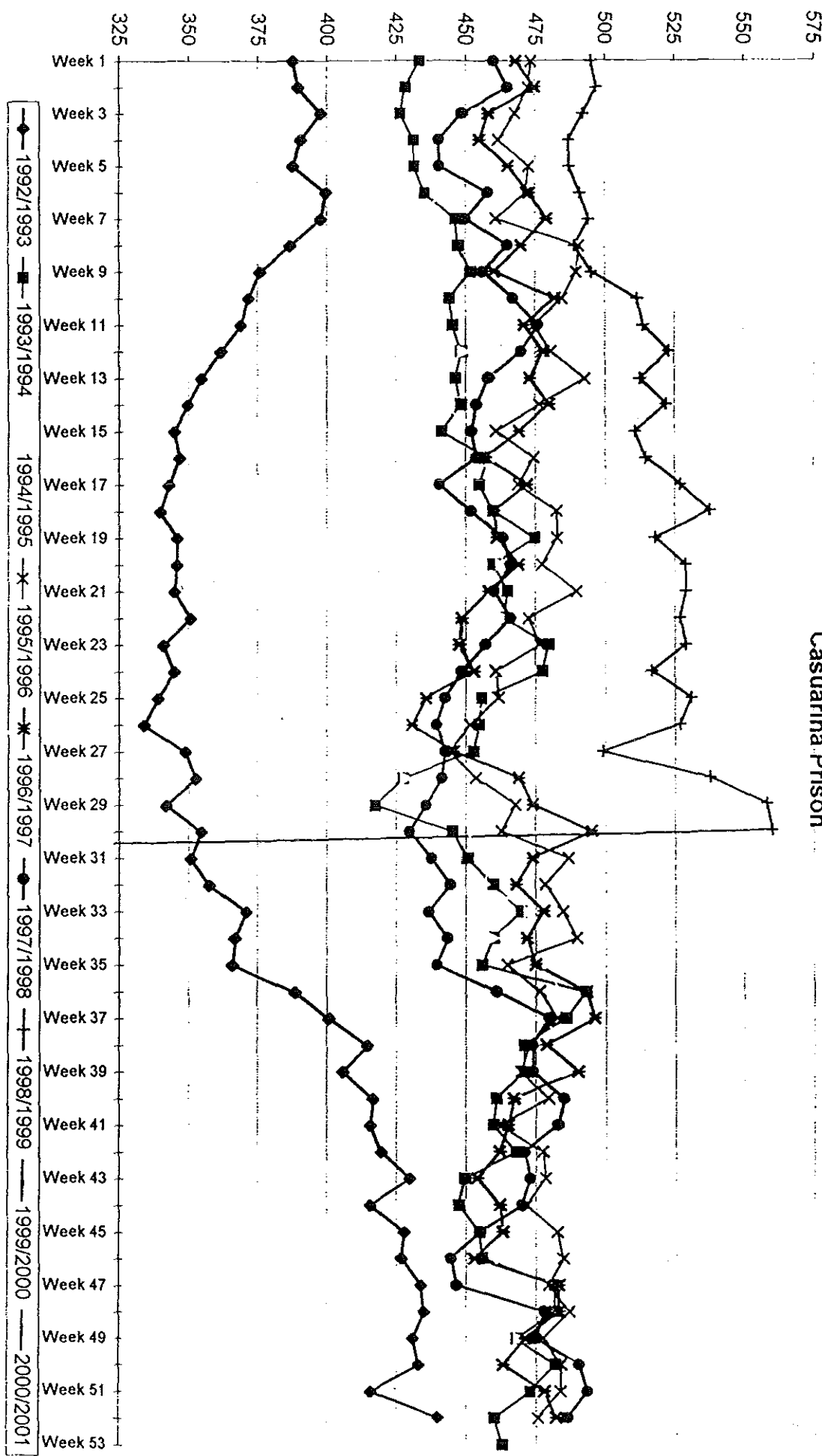
TOTAL NUMBER OF MOVEMENTS BY PRISON							
* FOR THE YEAR ENDING 19980630 *							
(Excluding Recaptures following Escapes and Escapes)							
							Total
							Coming
							In
							minus
	Rec-	Trans-	Total		Trans-	Total	Total
	eiv-	fers	Coming		fers	Going	Going
Prison	als	In	In	Exits	Out	Out	Out
ALBANY	112	362	474	139	319	458	16
BANDYUP	423	82	505	416	93	509	-4
BROOME	368	149	517	310	170	480	37
BUNBURY	186	283	469	226	244	470	-1
C W CAMPBELL REMAND	1460	267	1727	910	836	1746	-19
CANNING VALE	284	867	1151	305	864	1169	-18
CASUARINA	610	1222	1832	469	1362	1831	1
EAST PERTH LOCKUP	25	11	36	29	5	34	2
EASTERN GOLDFIELDS	463	191	654	433	219	652	2
GREENOUGH	269	551	820	296	524	820	0
KARNET	0	361	361	219	130	349	12
PARDELUP	2	213	215	101	99	200	15
ROEBOURNE	201	363	564	222	334	556	8
WOOROLOO	249	498	747	469	221	690	57
ALL PRISONS	4652	5420	10072	4544	5420	9964	108

Percent DAILY AVERAGE MUSTER for CASUARINA PRISON
By Ethnicity for Financial Years 1992/1993 to 1998/1999



THURSDAY MUSTERS 1992/93 to 1998/99

Casuarina Prison



CASUARINA PRISON

EMPLOYMENT OPTIONS

January 1999

WORKSHOPS

Bakery	20	
Boot Making	20	
Cabinet Shop	15	
Garment Shop	20	
Metal Work Shop	15	
Print Shop	20	
Textiles Shop	20	
Vegetable Preparation	10	
TOTAL		140

PRISON INDUSTRIES

Canteen	3	
Cleaning	10	
Garden	20	
Hospital	4	
Kitchen	20	
Laundry	10	
Library	4	
Maintenance	2	
Painting	10	
Projects	10	
Special Cleaner		6
Unit 6	15	
Unit Groups	30	
TOTAL		144

SECTION 94

Stores Sect	3	
TOTAL		3

EDUCATION

Arts	12	
Vocation	12	TAFE and Independent Study
Secondary	50	
TOTAL		74

Overall number of work etc places available 361

PROGRAMMES

As required, prisoners are allocated to these groups.

CASUARINA

OFFENCES COMMITTED in PRISON

MONTH	CHARGES MADE					DISTINCT PERSONS CHARG			OUTCOME +							Not Finalized		TOTAL
	Minor #		Aggravated ##		TOTAL	AB		TOTAL	Punished		Suspended		Dismissed		TOTAL	AB	Non-AB	
	AB	Non-AB	AB	Non-AB		AB	Non-AB		AB	Non-AB	AB	Non-AB	AB	Non-AB		AB	Non-AB	
Jan 98 to 25 Dec 98	102	182	56	176	516	57	154	211	159	412	13	23	8	23	638	52	91	143
June-98	0	13	6	26	45	6	29	35	13	52	0	2	0	7	74	1	5	6
July-98	8	15	4	8	35	11	19	30	19	31	0	2	0	0	52	2	5	7
August-98	8	34	5	17	64	13	33	46	19	45	0	3	1	1	69	3	14	17
September-98	13	18	3	16	50	10	24	34	18	32	2	2	0	6	60	1	8	9
October-98	5	16	6	16	43	10	22	32	7	48	1	0	0	0	56	7	10	17
November-98	12	13	4	25	54	9	25	34	1	33	2	1	1	2	40	13	18	31
**December-98	13	9	10	9	41	15	14	29	0	1	1	0	0	0	2	22	17	39
	59	118	38	117	332	74	166	240	77	242	6	10	2	16	353	49	77	126
	177		155			240			319		16		18			126		
	332																	

** December period 1/12/98 to 25/12/98

Section 69 of Prison Act

Sections 70, 10, 27, 85, 92, and 94 of Prison Act

+ One charge may have more than one outcome

Appendix 5:

Prescribing patterns of psychoactive drugs at Casuarina prison

Detail regarding the Drug usage Comparison provided by Health Services

The picture of general increases shown in this Appendix is summarised in Figure 1 on page 70 of the report. In constructing Figure 1, the purpose was to illustrate at a glance the salient points provided in the comparison given by the Health Services Directorate. Out of the 20 drug types/strengths provided by the Pharmacy Department only 3 did not show the highest rate in 1998, but in each of these cases different strengths of the same drug were being prescribed and, therefore, it is difficult to conclude without a deeper analysis and standardisation what is occurring in relation to these drugs. For this reason, these drugs were not included in Figure 1. Temazepam was taken out of Appendix 5 because a data processing error was discovered as the report was being finalised. In any future analysis, Temazepam should be included. The period used is similar in each year, and the Pharmacist ensured the Inquiry team that similar ordering periods were being compared. The period covered in each year, covers the last few days of November and the first few days of January. Figure 1 illustrates the increasing rate of use of prescription drugs based on the Pharmacy Department records of orders made by Casuarina Prison in these three periods. Ideally, it would be better to see the annual or quarterly rates of prescribing for each inmate. It would also be beneficial to see the picture for the whole State. All of the above requests were initially made to the Health Services Directorate. The Directorate could not provide the figures requested, and only after a considerable number of requests, the Inquiry team was referred to the Pharmacist to assist us with our inquiries. Within the short time available, the three (month) snapshots were the best that the Health Services Directorate, through the Pharmacist, could provide. Record keeping is not computerised so that even to arrive at this cursory picture the Pharmacy Department had to go through paper records by hand. Certainly this initial view of the consumption of prescription drugs should be considered merely a first step in any attempt to fully understand what is occurring in regard to the use and possible abuse of prescription medication in the prison system. Clearly, record keeping needs to be enhanced and the analysis of prescription rate undertaken in a thorough manner to ensure that sudden changes in the consumption of drugs is detected quickly and if necessary addressed. Although the figures provided by the Health Services Directorate (in this Appendix) and illustrated (in Figure 1) cannot be taken as definitive proof of a significant increase in drug prescription rates (for this more and better data would be needed) it does support the concern expressed by many in regard to prisoners' use of prescription drugs.

DRUG USAGE COMPARISON
FOR DECEMBER OF 1996,1997,1998

Snapshot comparison of "sought after" medications at Casuarina for December 1996,1997,1998.

Total usage for the month is divided by the average December muster for that time to achieve a figure for usage per item per prisoner.

This enables accurate usage comparison regardless of varying prisoner population during December of each year.

In this way the data is presented as usage rate per inmate per month and is presented graphically on enclosed graphs.

	Tab per inmate	Tab per inmate	Tab per inmate	Tab per inmate		ml (mg) per inmate	Tab per inmate
	Panad F.	Panad	Clonaz 0.5	Clonaz 2	Val Amp	Diaz Liq	Diaz 5
Dec-96	1.60	0.61	0.63	0.11	0.00	3.40	0.00
Dec-97	1.27	5.77	1.05	0.08	0.00	13.08	0.00
Dec-98	4.22	5.99	1.15	2.11	0.05	19.19	0.23

	Tab per inmate	Tab per inmate	Tab per inmate	Tab per inmate		Tab per inmate	Tab per inmate
	Ativan 1	Serep 15	Serep 30	Nitraz 5		Imovane	Mersyndol
Dec-96	0.00	0.00	0.00	0.83		0.06	3.57
Dec-97	0.00	0.25	0.00	2.78		1.24	3.04
Dec-98	0.12	0.00	0.06	4.03		1.25	4.61

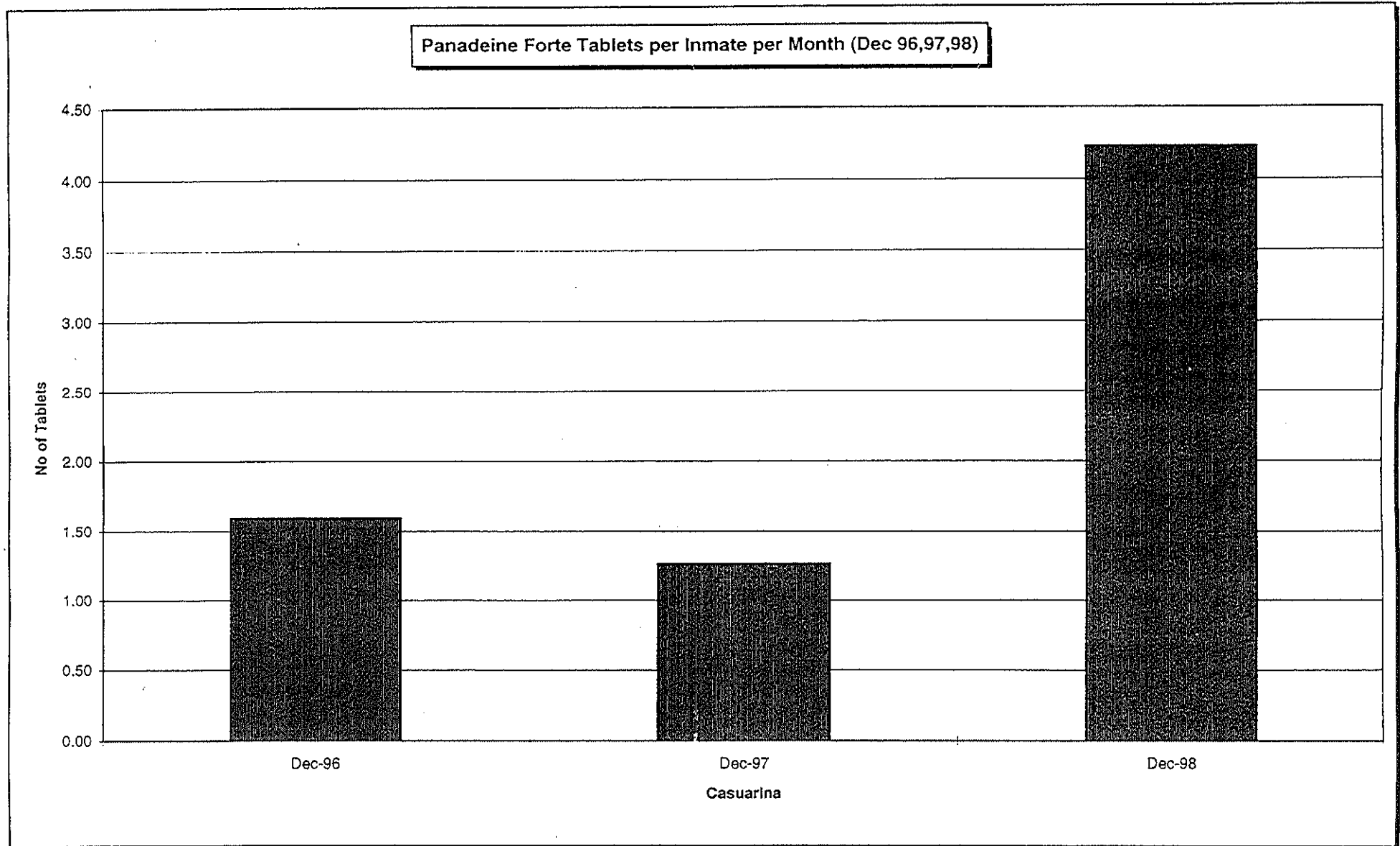
	Tab per inmate	ml per inmate	Tab per inmate	Tab per inmate	Tab per inmate	Tab per inmate	Tab per inmate
	Dexamp 5	Methadone	Ritalin 10	Endone 5	MST 10	MST 30	MS T 60
Dec-96	0.00	0.00	0.00	0.00	0.26	0.30	0.26
Dec-97	0.63	0.84	0.21	0.08	0.25	0.17	0.21
Dec-98	1.34	4.61	0.58	0.23	0.27	0.15	0.38

	Tab per inmate	Tab per inmate	Tab per inmate
	MS T 100	MS S 20	MS S 30
Dec-96	0.00	0.00	0.09
Dec-97	0.00	0.00	0.00
Dec-98	0.00	0.00	0.00

% RANGE for Figure 1

	Dec-96	Dec-97	Dec-98
Clonazepam 0.5 mg Tablets	55.17%	90.52%	100.00%
Clonazepam 2 mg Tablets	4.72%	3.77%	100.00%
Nitrazepam Tablets	19.75%	69.14%	100.00%
Dexamphetamine Tablets	0.00%	47.76%	100.00%
Endone 5 mg Tablets	0.00%	34.78%	100.00%
Imovane (Zopiclone) Tablets	4.80%	100.00%	100.00%
Mersyndol Tablets	77.66%	66.16%	100.00%
Ritalin 10 mg Tablets	0.00%	36.52%	100.00%
Panadeine Tablets	10.00%	95.83%	100.00%
Panadeine Forte Tablets	38.30%	30.02%	100.00%
Methadone Syrup	0.00%	18.04%	100.00%
Diazepam Liquid	17.84%	68.70%	100.00%

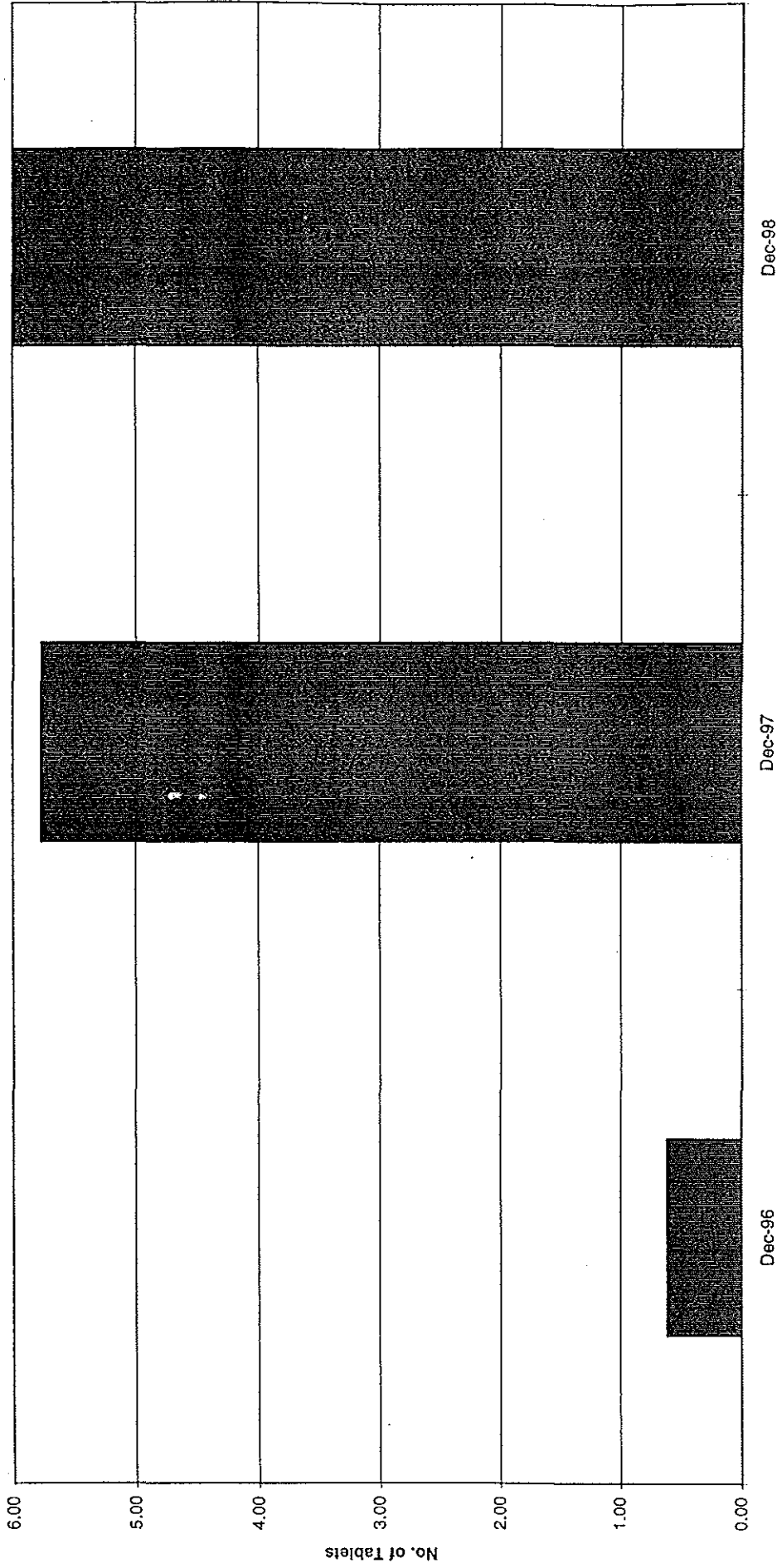
Drug Usage Comparison



Pharmacy Dept MOJ

Drug Usage Comparison

Panadeine Tablets per Inmate per Month (Dec 96,97,98)



Dec-98

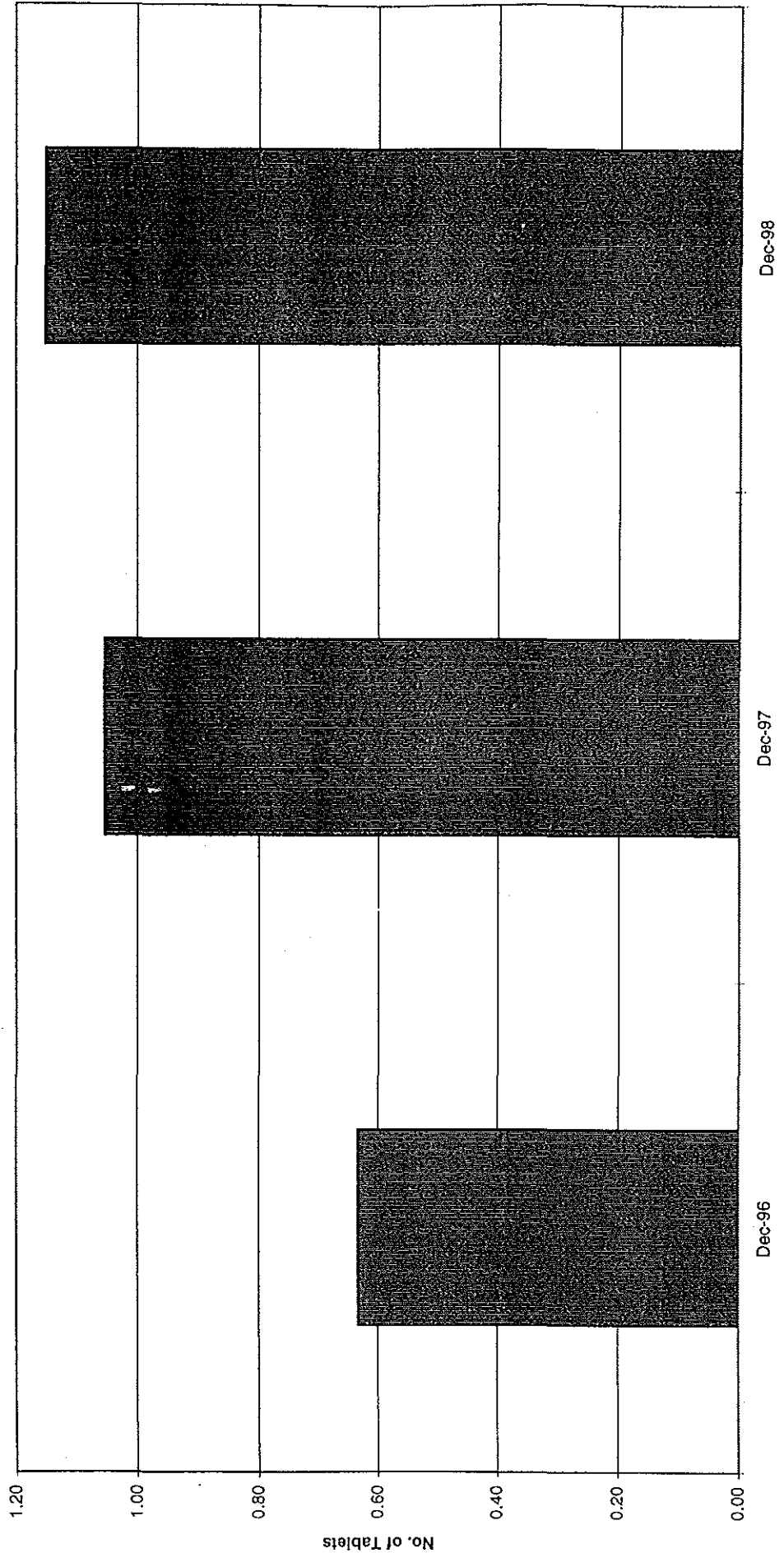
Dec-97

Casuarina

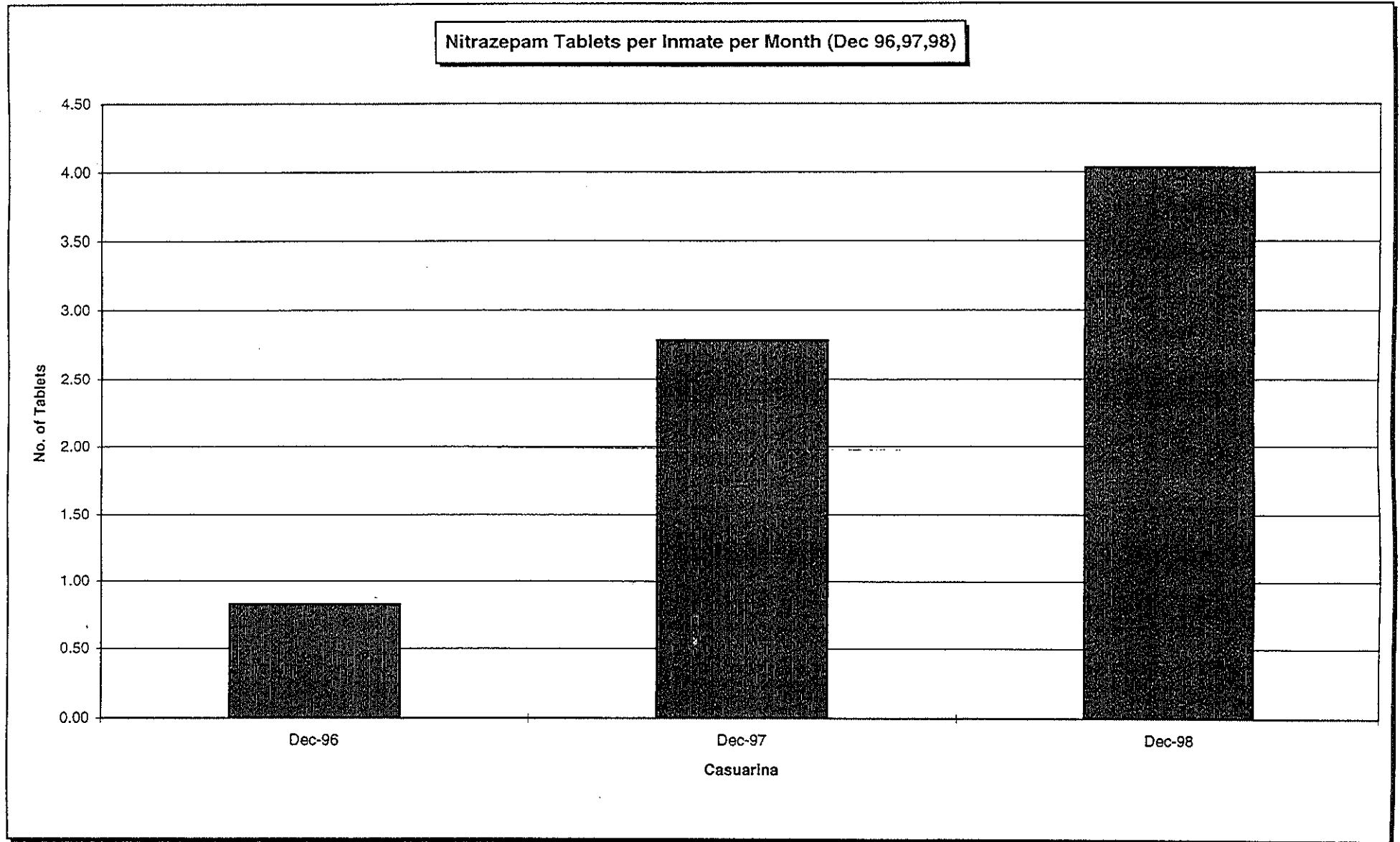
Dec-96

Drug Usage Comparison

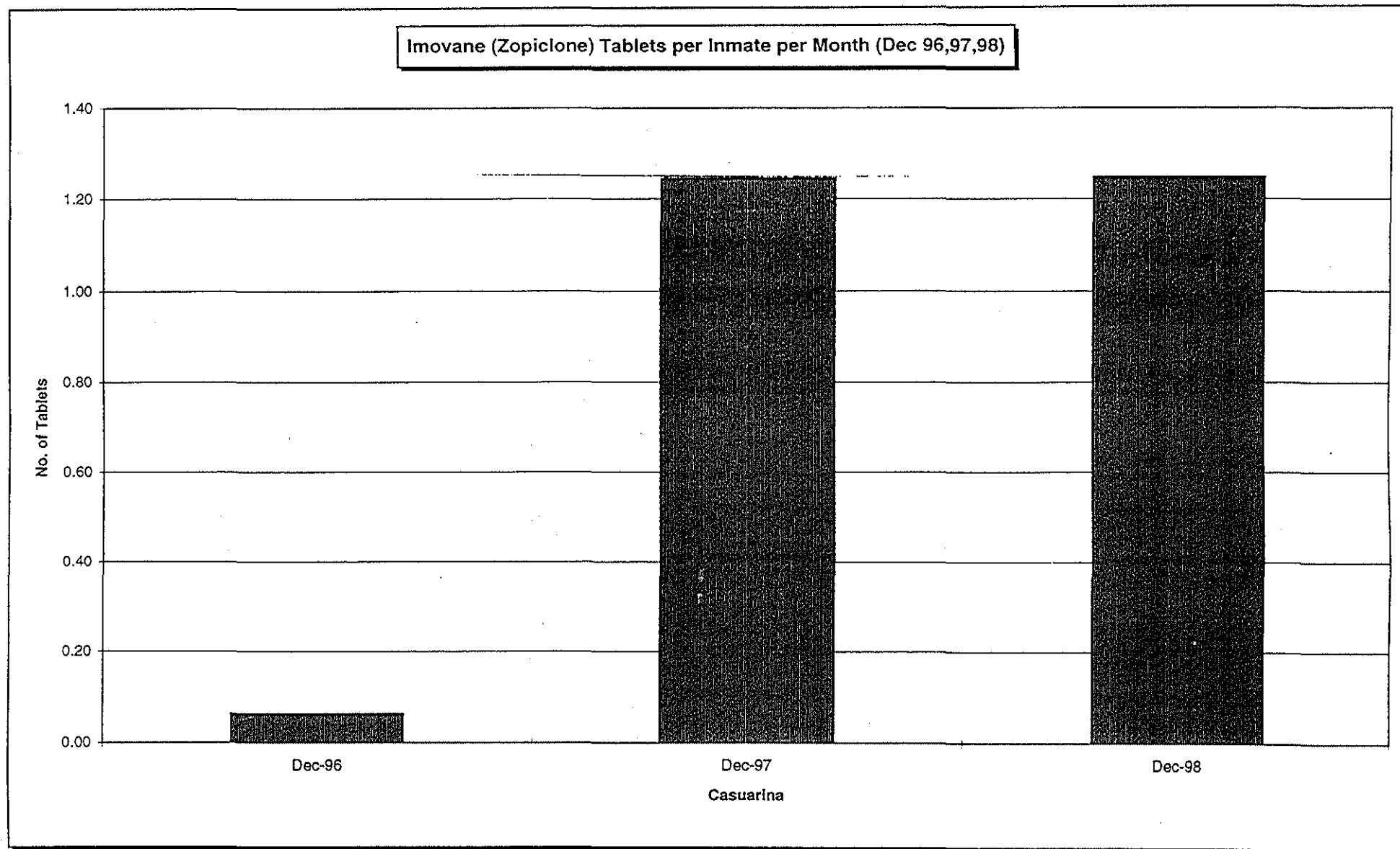
Clonazepam 0.5mg Tablets per Inmate per Month (Dec 96,97,98)



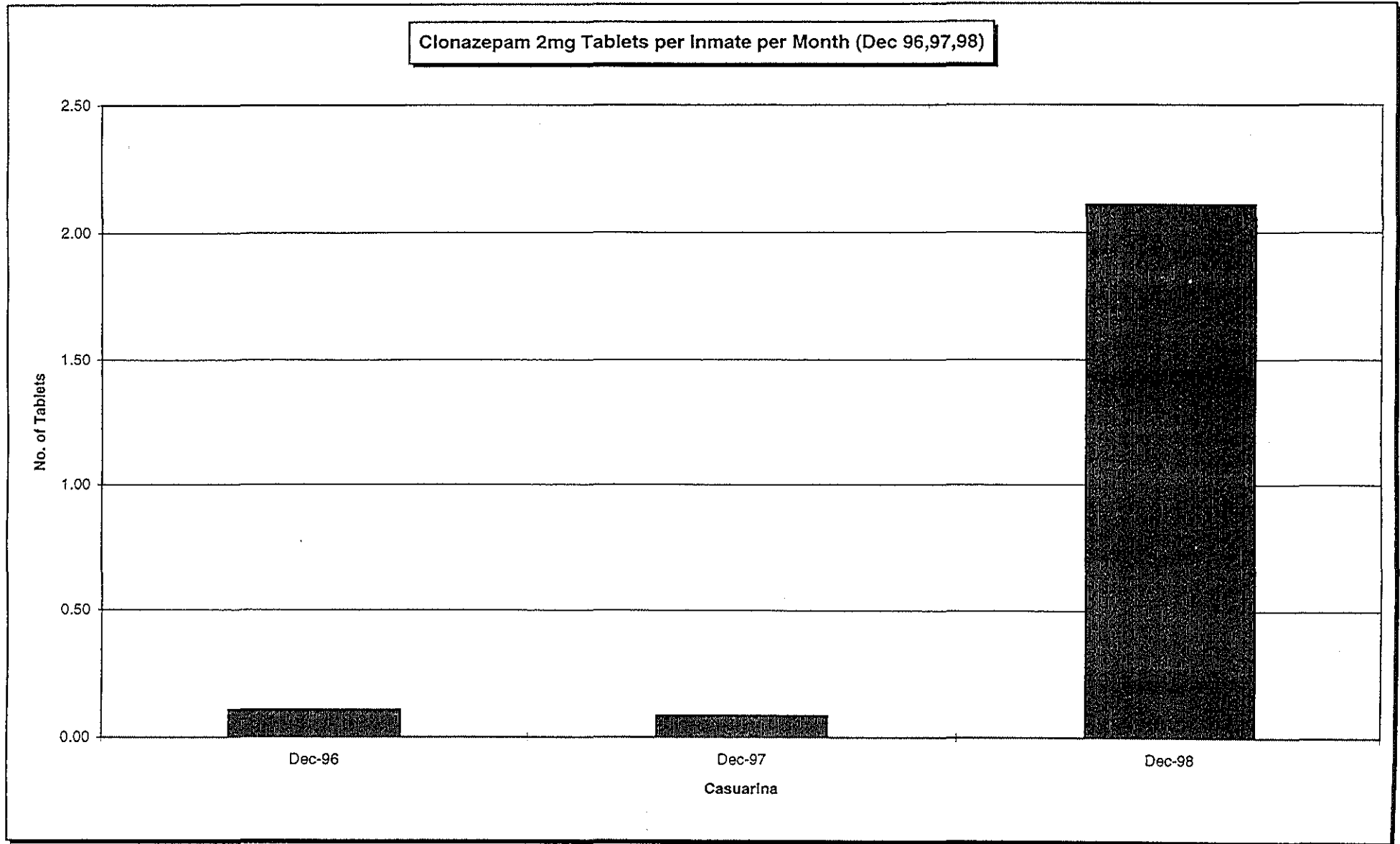
Drug Usage Comparison



Drug Usage Comparison

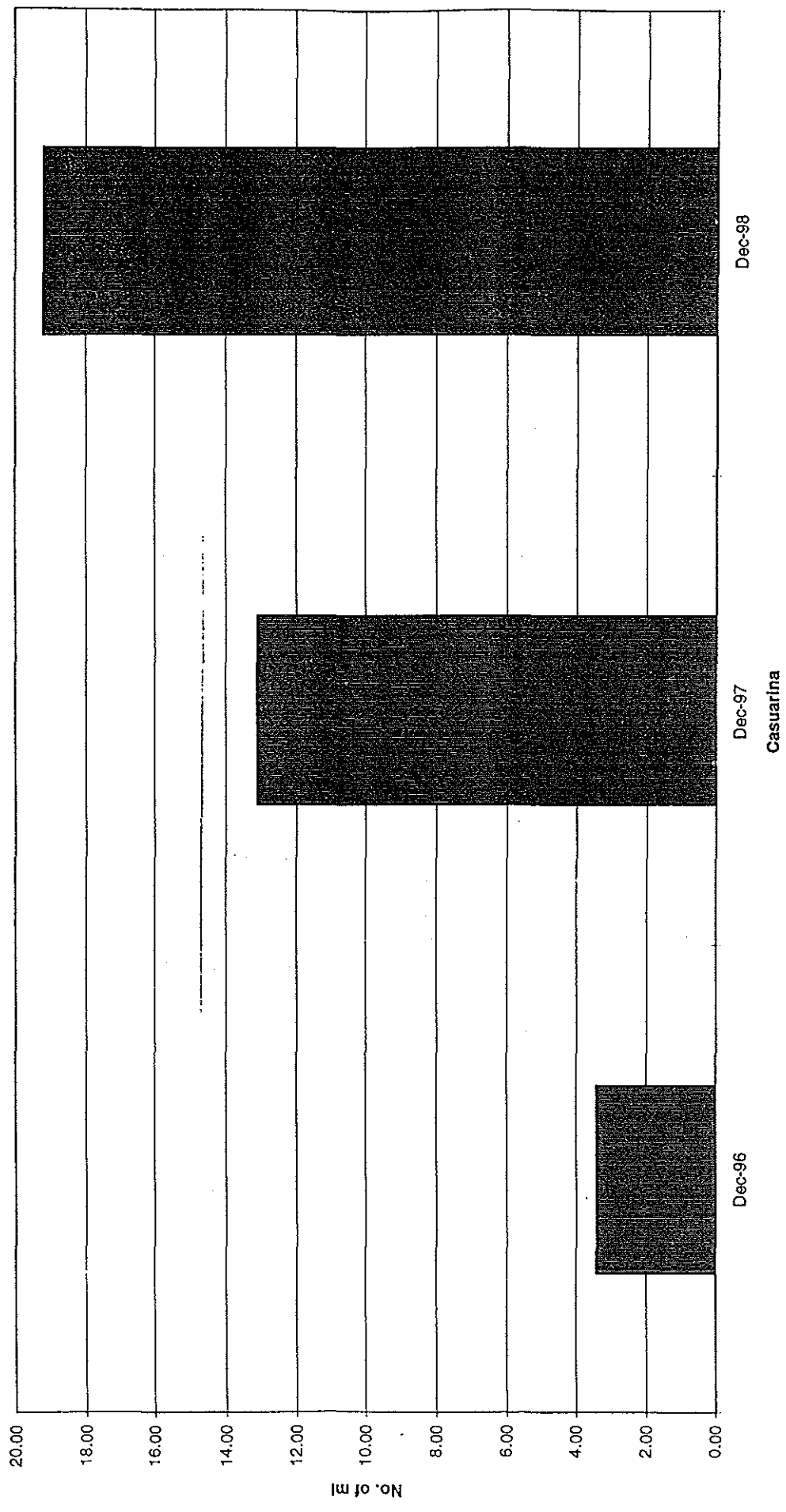


Drug Usage Comparison



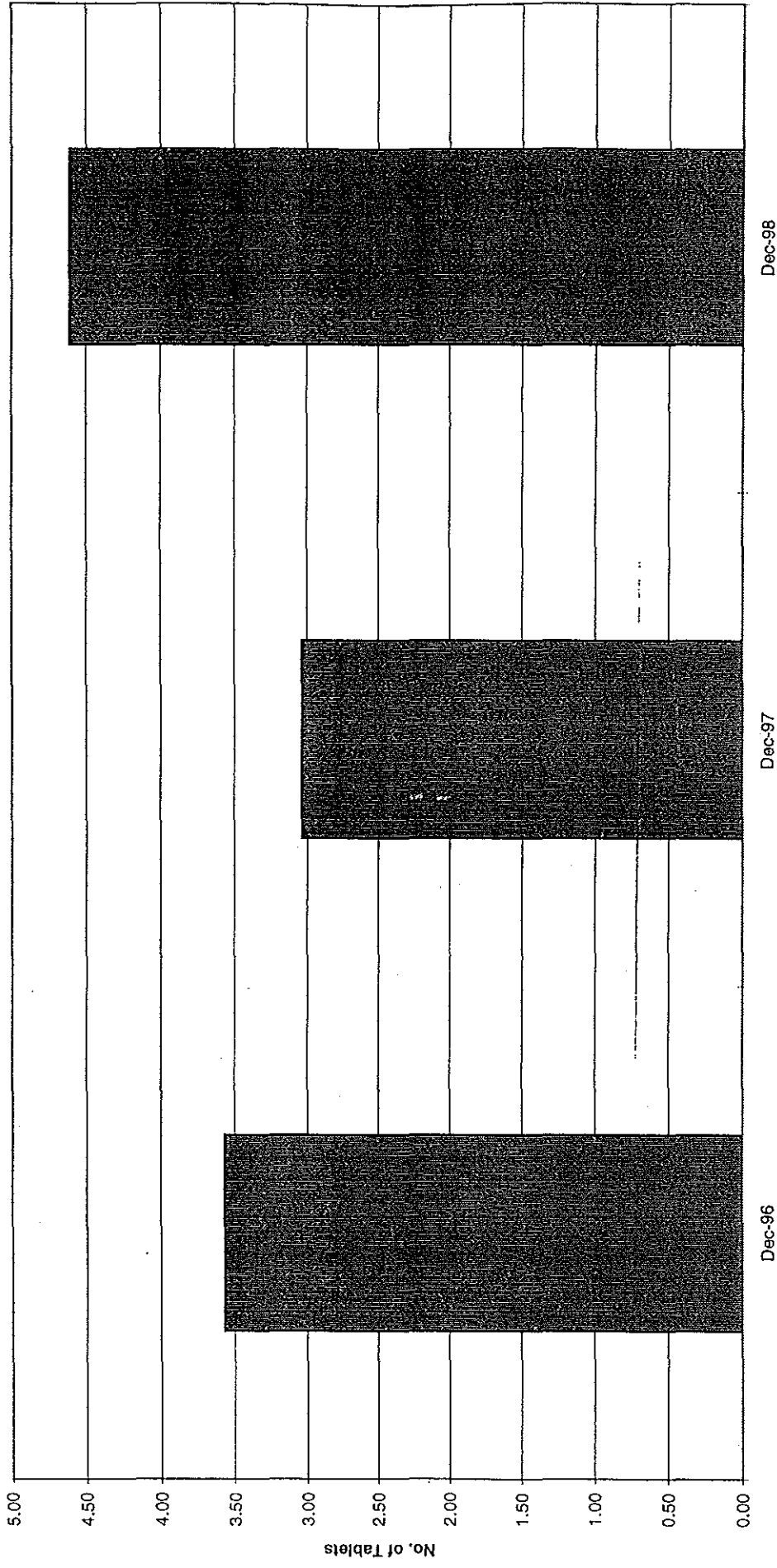
Drug Usage Comparison

Diazepam Liquid in ml (mg) per Inmate per Month (Dec 96,97,98)



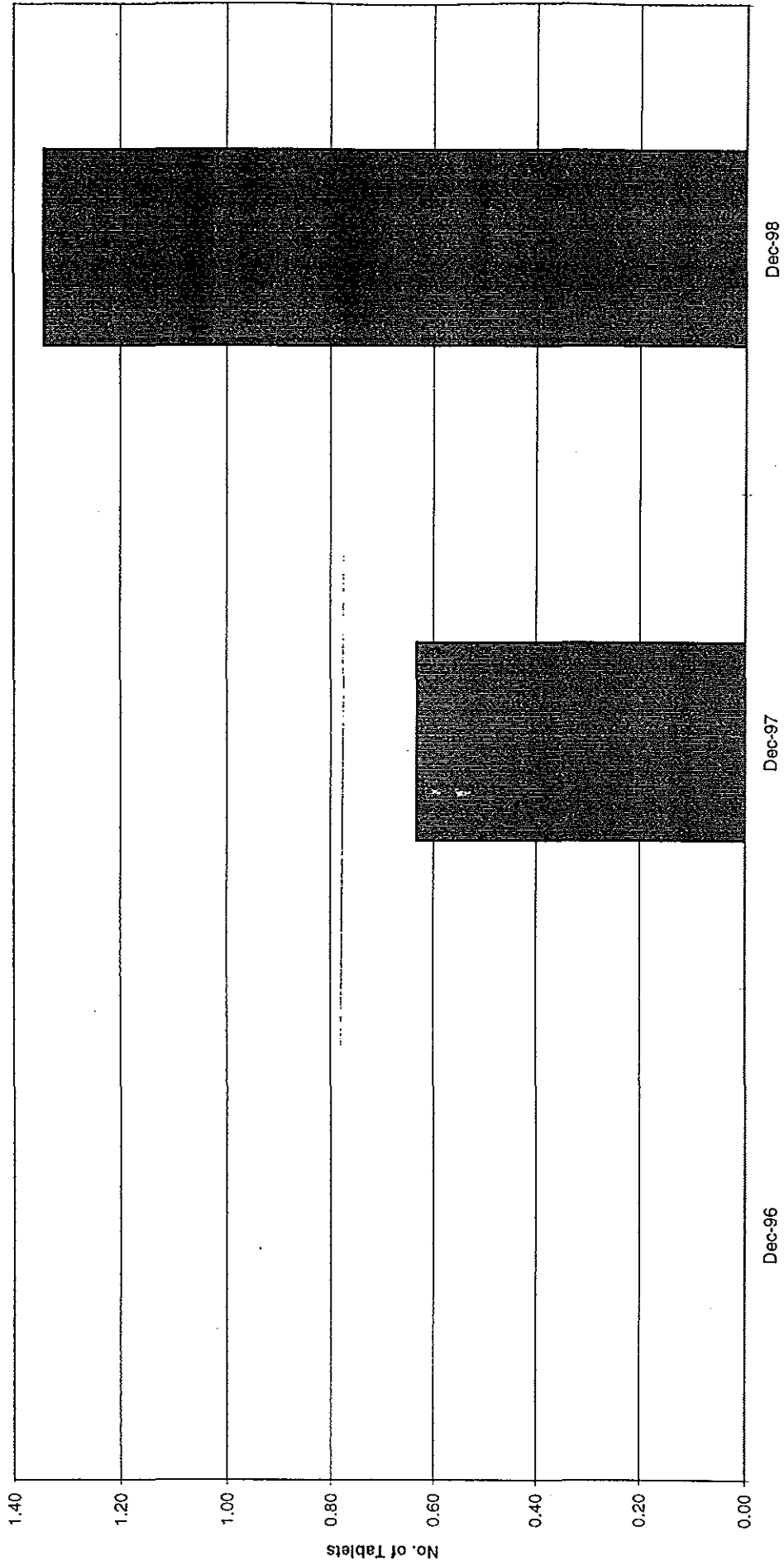
Drug Usage Comparison

Mersyndol Tablets per Inmate per Month (Dec 96,97,98)



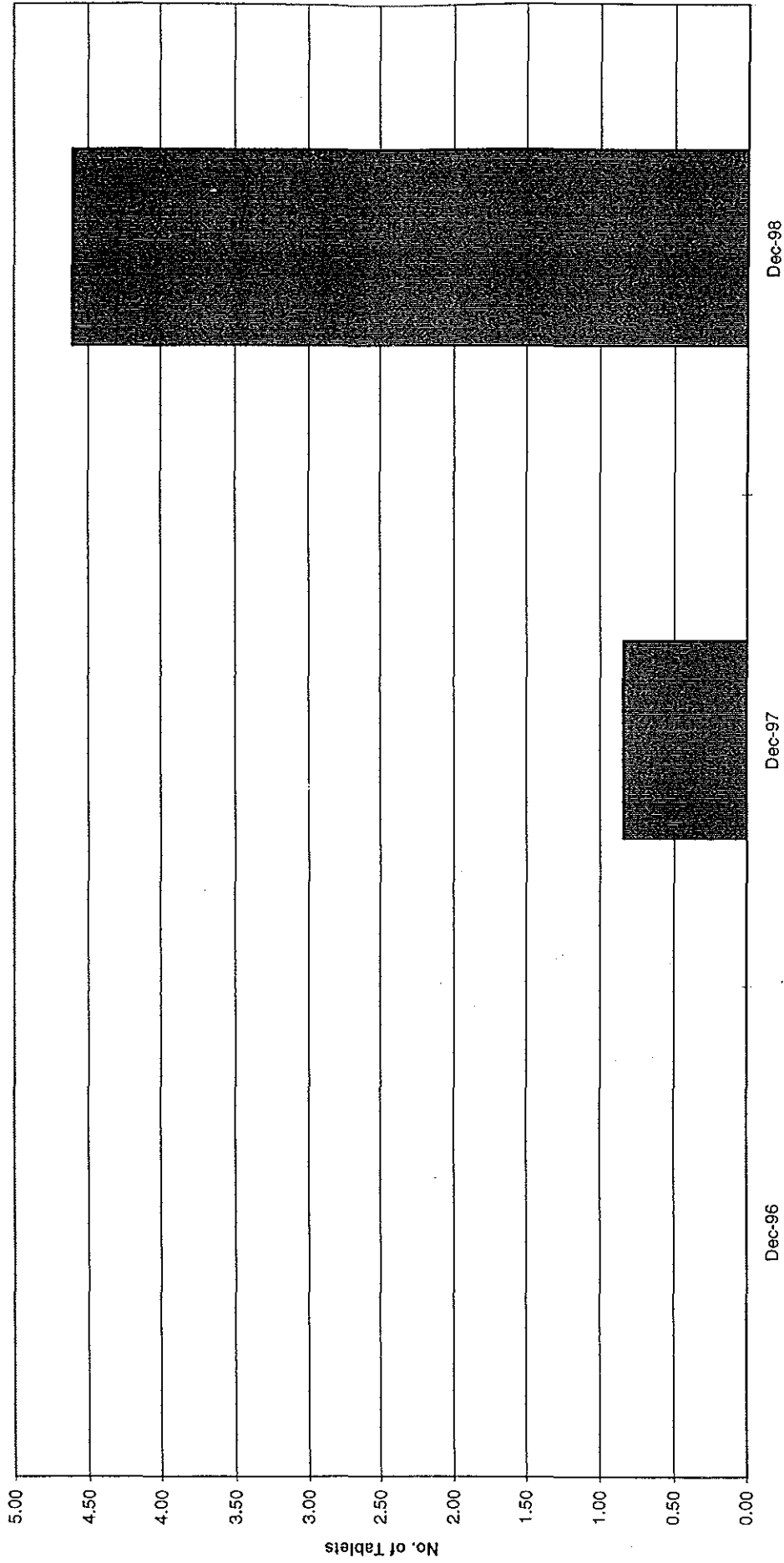
Drug Usage Comparison

Dexamphetamine Tablets per Inmate per Month (Dec 96,97,98)

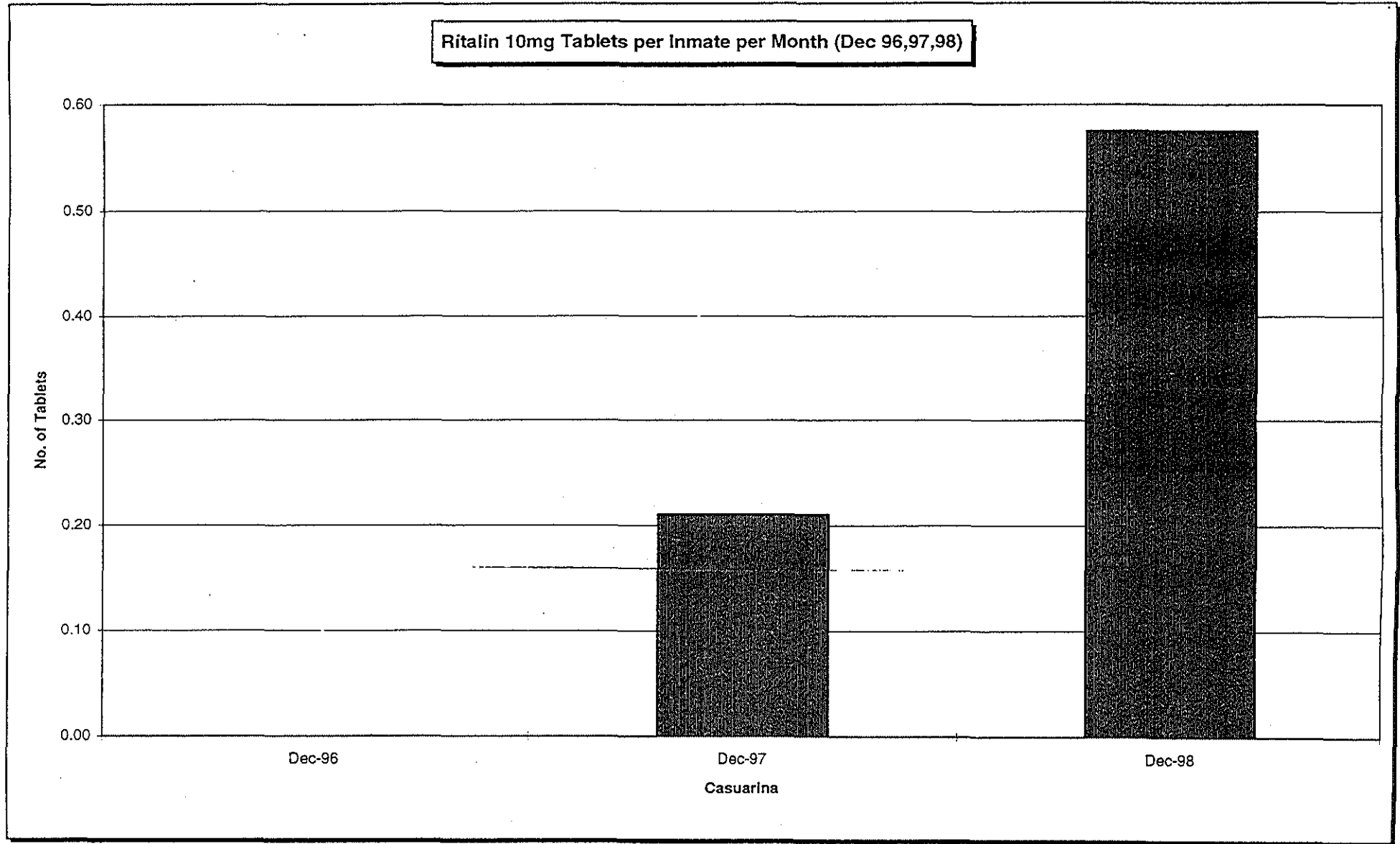


Drug Usage Comparison

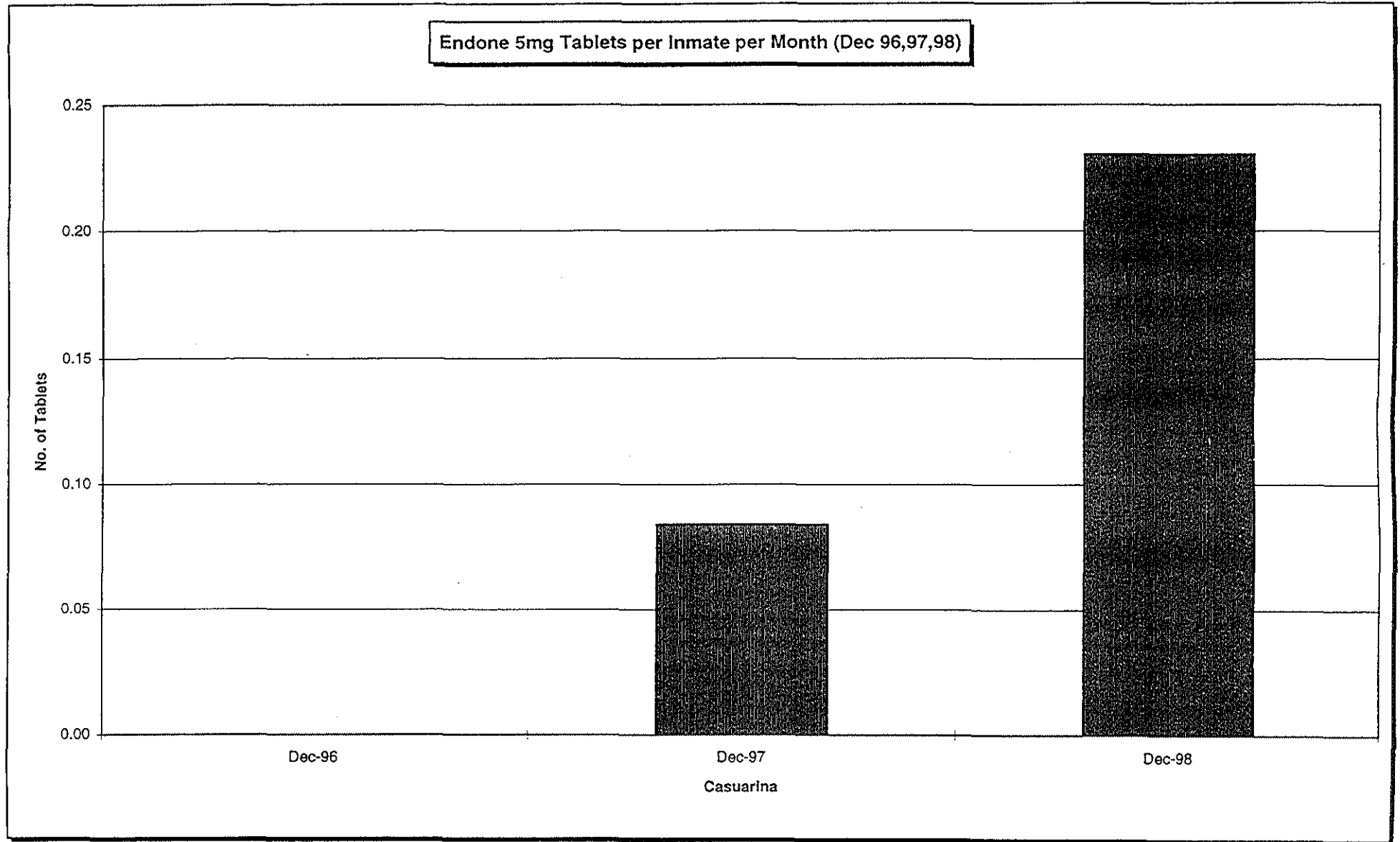
Methadone Syrup in ml per Inmate per Month (Dec 96,97,98)



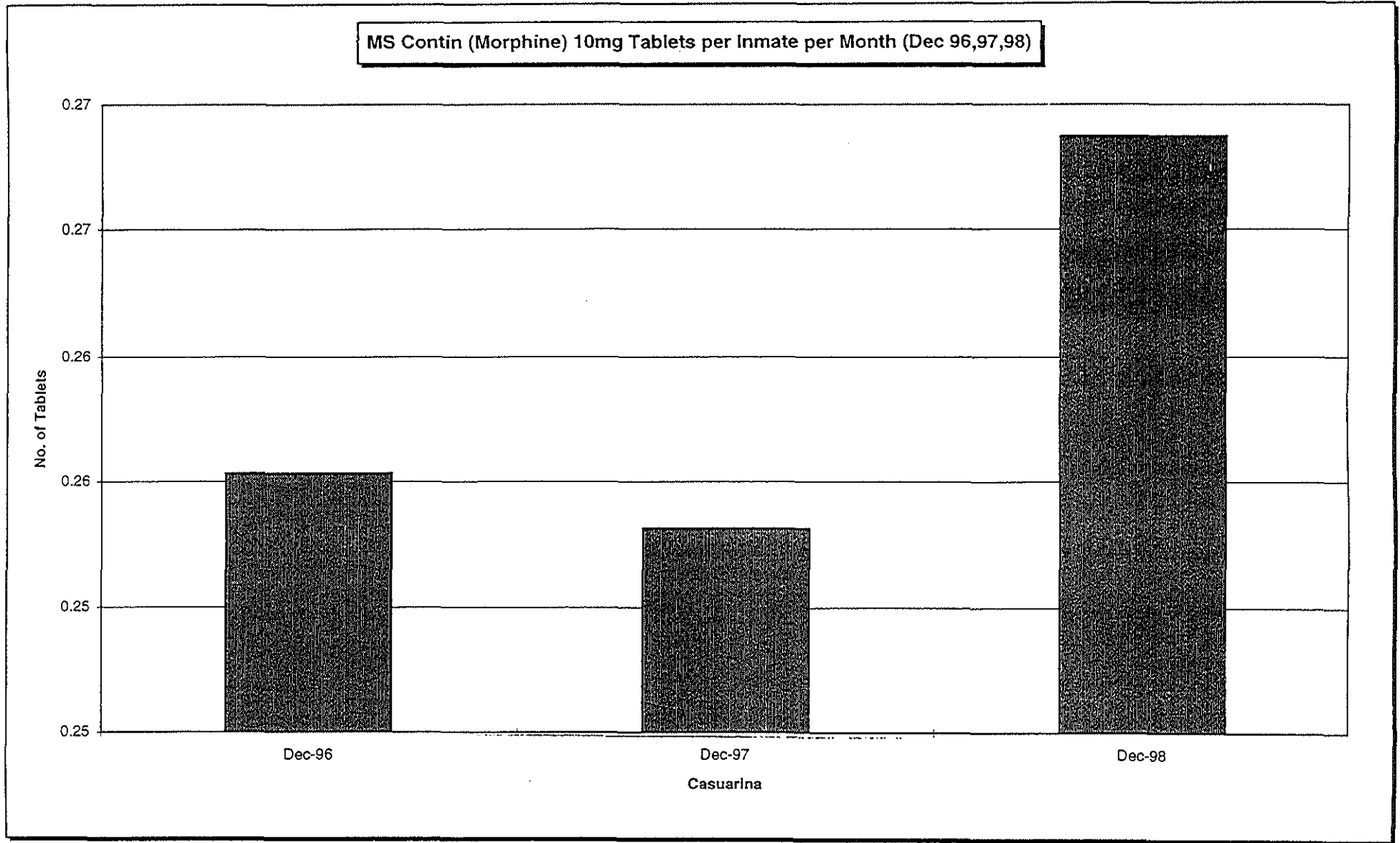
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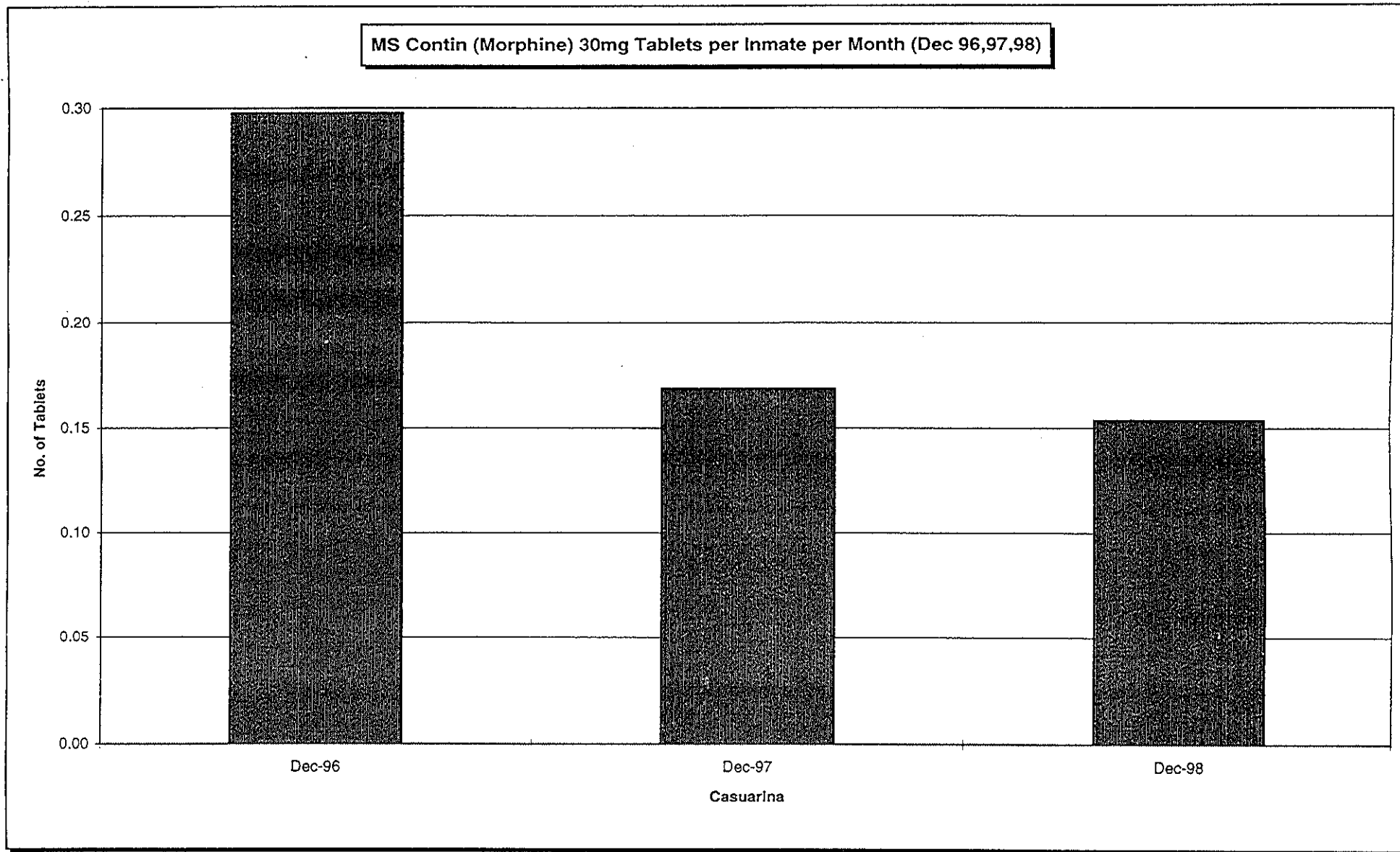
Drug Usage Comparison



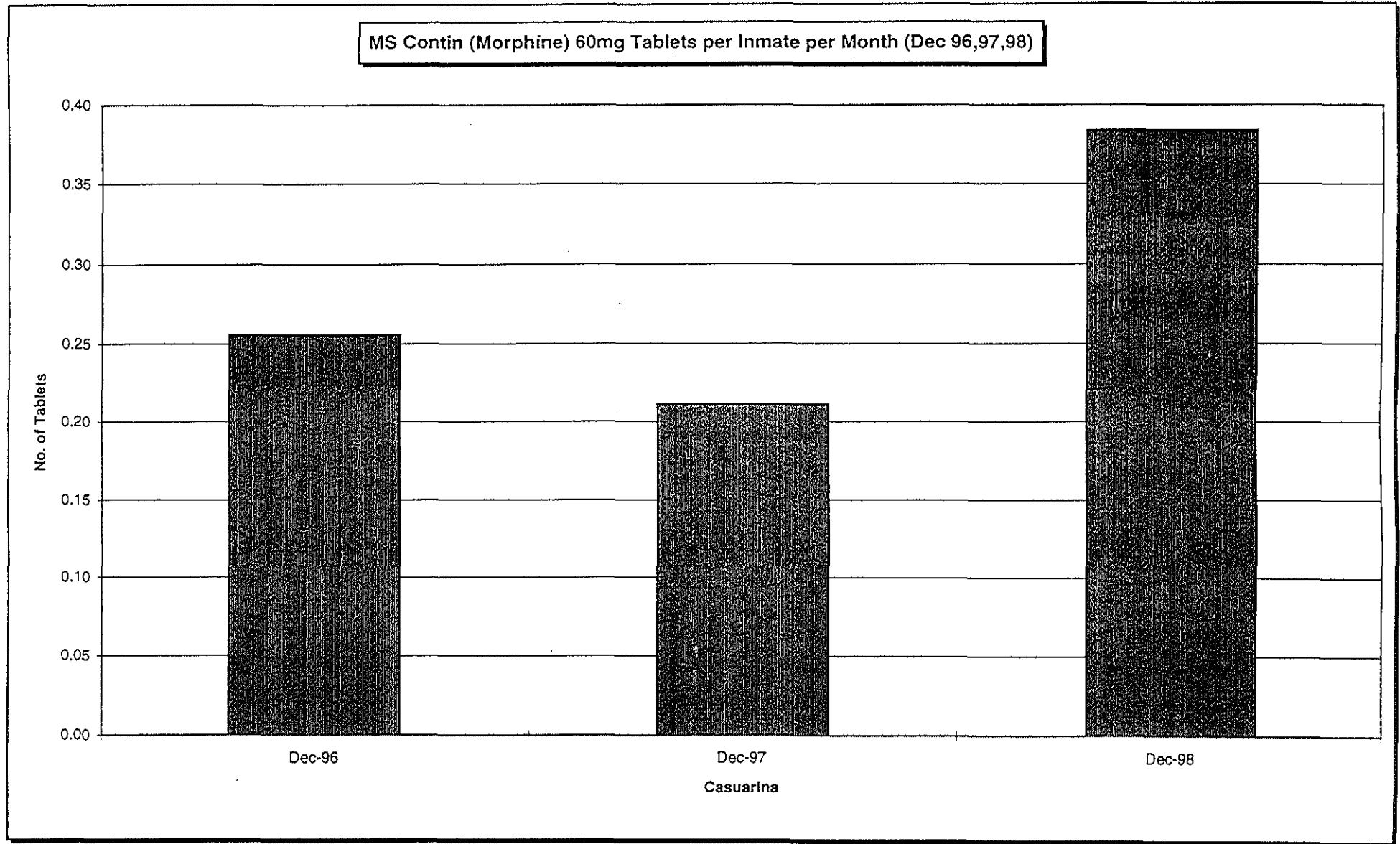
Drug Usage Comparison



Drug Usage Comparison



Drug Usage Comparison



Appendix 6:

**Health Services Directorate, Policy,
Protocols and Procedures: 6.2
Benzodiazepine prescribing guidelines**

BENZODIAZEPINE PRESCRIBING GUIDELINES

6.2

Refer to Health Services Policy 5.19 Drug and Alcohol withdrawal and 6.2.1 Nursing Management of Benzodiazepines

STANDARD

Benzodiazepines should be prescribed for a maximum period up to three (3) days for acute crisis situations only (excluding drug and alcohol withdrawal).

Benzodiazepines required for a greater period than three (3) days (excluding drug and alcohol withdrawal) will be at the discretion of the doctor.

Conditions

1. The following recommended treatments with benzodiazepines are guidelines only.
2. No Schedule 4 medications are to be issued by nursing staff without consulting the on call doctor or local standing orders (refer to Protocol 6.2.1 - Nursing Management of Benzodiazepines).

Introduction

- i) There are very few long term indications for benzodiazepine prescription.
- ii) Psychiatric literature indicates a predominance of studies showing there are very good reasons for not prescribing benzodiazepines.
This includes:
 - a serious degree of addiction/habituating potential.
 - severe withdrawal effects after prolonged and continuous use.
 - development of tolerance requiring increasing doses.
 - disinhibition.
 - rebound aggression.

Benzodiazepines create both a psychological and physical dependence making them relatively contraindicated in a prison setting.

- iii) Recommended Treatment
Short term use of:

One (1) Gram Chloral Hydrate (drug of choice)
or

50 - 100 mg Chlorpromazine (Largactil) depending on weight:
Up to 50 kg50 mg
Between 50 and 75 kg75 mg
Over 75 kg100 mg

Recommended Treatment Regime

1. Short Term Treatment

- (i) It is acknowledged that there may be a role for the use of benzodiazepines in acute crisis, but it is believed that their use in these settings in prisons should be closely monitored and maintained for very short periods.
- (ii) It is preferable to prescribe benzodiazepines only on a PRN basis if an acute situation arises.

2. Long Term Treatment

- (i) More than three (3) days will be considered long term (excluding drug and alcohol withdrawal).
- (ii) No long term treatment with benzodiazepines should be undertaken without considering possible alternatives.
- (iii) Prisoners placed on long term treatment with benzodiazepines will be reviewed on a monthly basis by a medical peer review committee.

3. The following benzodiazepines should be avoided.

- i) Oxazepam (Serepax)
- ii) Flunitrazepam (Rohypnol)

The following benzodiazepines should be restricted to occasional use only in exceptional circumstances.

- i) Temazepam (Normison)
- ii) Nitrazepam (Mogadon)

The following benzodiazepines should be restricted to specific conditions as indicated.

- i) Clonazepam (Rivotril) for the management of epileptic states / aggression / agitated states.
- ii) Alprazolam (Xanax), lorazepam (Ativan) and buspirone (Buspar) for the management of anxiety / panic attacks.
- iii) Diazepam (Valium) for the management of drug withdrawals.

Authorised by:


DR GERARD HODGKINSON
DIRECTOR - HEALTH SERVICES

DATE: JUNE 1998

REVIEW DATE: JUNE 1999

NB 1 Any of the above contraindicated benzodiazepines in a prisoners possession clearly becomes contraband and this would be punishable under the Prisons Act 1981.

NB 2 This policy has been endorsed by the Ministry's Drug and Therapeutics Committee.

Appendix 7:

**Health Services Directorate, Policy,
Protocols and Procedures: 6.2.1 Nursing
management of Benzodiazepines**

NURSING MANAGEMENT OF BENZODIAZEPINES

6.2.1

STANDARD

Benzodiazepines can only be issued by nursing staff, according to standing orders, after a comprehensive nursing assessment to establish their need and discussion of alternative therapies.

Information

1. Prisoners requesting benzodiazepines, especially "sleeping pills", must be assessed by the nurse to ascertain the reasons for the request. Health education about sleeping and alternative therapies must be considered by nursing staff.

- 1.1. Once a prisoner has been assessed, local standing orders or this protocol must be followed.

- 1.2. Prisoners should be advised that requests for benzodiazepines will not be considered during medication rounds.

2. The following standing order for nursing staff should be considered in conjunction with local standing orders:

- 2.1. If a prisoner is assessed as "stressing out" or experiencing "gate fever" (on the last night in prison only), they may be given one (1) night of:

One (1) Gram Chloral Hydrate (drug of choice)

OR

50 - 100 mg Chlorpromazine (Largactil) depending on weight:

Up to 50 kg50 mg

Between 50 and 75 kg75 mg

Over 70 kg100 mg

OR

20 mg Temezepam

OR

10 mg Nitrazepam

- 2.2. "Stressing out" criteria are events usually not foreseen that adversely affect a prisoners ability to cope. Such events are:

the death of a family member

the death of a close friend

the break up of a relationship

a serious accident involving a family member

bad telephone call

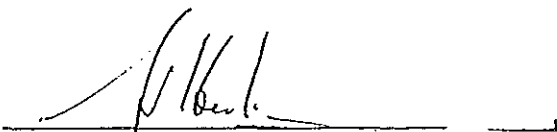
2.3. The nurse must obtain corroboration from either Security, Unit Senior Officer or Psychologist (FCMT) that the reported event has occurred.

2.4 Where necessary nursing staff will inform the psychologist (FCMT) and the Senior Officer when someone is "stressed out" to the point of needing sedation.

2.5 An entry will be recorded in the prisoner medical record and in the once only column of the medication chart.

2.6 Prisoner must be reviewed by nursing staff the following day.

Authorised by:


DR GERARD HODGKINSON
DIRECTOR - HEALTH SERVICES

DATE: JUNE 1998
REVIEW DATE: JUNE 1999

NB 1 This protocol has been endorsed by the Ministry's Drug and Therapeutics Committee.

APPENDIX 8:

**Response of the Ministry of Justice
Regarding the Recommendations of the
Select Committee into the Misuse of
Drugs Act 1981 (Final Report)**

MOJ 98/00582; 97/02491

Author: Neville Jones 9264 1260
Others involved: Andrew Marshall 9264 1146; Ian Vaughan 9264 1703
Origin: Policy and Legislation Division

Mr Terry Murphy
Executive Director
Western Australian Drug Abuse Strategy Office
6 Thelma Street
WEST PERTH WA 6005

Dear Terry

**SELECT COMMITTEE INTO THE MISUSE OF DRUGS ACT 1981: FINAL
REPORT RECOMMENDATIONS**

Attached for your information is the Ministry of Justice response to the Select Committee's recommendations that relate to the Ministry's responsibilities.

Recommendation 2

That the Ministry of Justice develop and maintain a comprehensive information system in relation to expenditure on all education, counselling and treatment programs which are directed at juvenile and adult offenders and prisoners with alcohol and other drug related problems.

Response

The Offender Management Division already has the capacity to identify expenditure on dedicated drug and alcohol programs for adult and juvenile community based or custodial offenders.

Recommendation 3

That the Ministry of Justice maintain a comprehensive database on all drug treatment program outcomes, including a wide range of measures, including results of previous treatment, an assessment of severity and the extent of alcohol and other drug problems,

goals stipulated in agreed treatment plans, participation in treatment, results of urinalysis testing and organisational responses to outcomes.

Response

The Ministry of Justice is implementing a new database (Total Offender Management System – TOMS) which seeks to provide an integrated information system across the Offender Management Division. TOMS is currently projected to be available from June 2000 subject to funding support. A complementary information database relating specifically to treatment programs including alcohol and other drug treatments is being assessed against criteria including cost and the capacity to provide information on treatment effectiveness. The extent of statistical collation and micro analysis recommended by the Committee will be beyond the capacity of the information system available within budget. The effectiveness of specific interventions will be subjected to program evaluation.

Recommendation 4

That the Ministry of Justice undertake a review of the adequacy of funding and resources to enable the Substance Use Resources Unit to adequately provide appropriate treatment services to the State's metropolitan and regional prisons.

Response

This recommendation has been comprehensively addressed in the Offender Management Division's draft Report on Drug Management Strategy Project 1998. Pending funding of this strategy, a planning process has been undertaken within Offender Management Division to maximise the effectiveness of the current funding and resourcing of the Substance Use Resource Unit. This will be achieved via an integrated through-care response to alcohol and other drug issues and establishing and utilising links with other government and non-government agencies.

Recommendation 5

That the Ministry of Justice provide adequate levels of funding to purchase programs from service providers in all regions of the State so that all offenders under its care who have pre existing or current substance abuse related problems are able to receive appropriate levels of ongoing assistance for such problems.

Response

In order to more effectively meet the Offender Management Division objective of reducing reoffending, assessment processes to identify and target the criminogenic needs of offenders are being developed. Programs purchased will address these needs and meet specified standards as indicated in the draft Drug Management Strategy. Increased funds will be sought in the budgetary process.

Recommendation 6

That as a matter of priority the Ministry of Justice release its Drug Strategy to ensure that it develop a framework for purchasing an appropriate mix of services from the network of alcohol and other drug providers in the metropolitan area and in each of the State's regions.

Response

The Report on Drug Management Strategy was developed to provide a comprehensive and integrated framework for the Offender Management Division to respond to alcohol and other drug problems. Detailed costings are expected to be completed by the end of October 1998, allowing funding submissions to proceed under the "Safer WA" initiative.

Recommendation 7

That the Ministry of Justice target assistance for those in custodial settings in the period immediately prior to their release, so that on release such individuals can be transferred to established service providers to provide relapse prevention measures.

Response

This recommendation has been addressed through the Prison to Parole Program (otherwise known as Triple P). This project was initiated in 1996 and is mainly funded by the W.A. Drug Abuse Strategy Office (WADASO). The project is seen as successful and has the prospect of expansion in the context of the planning process mentioned in comments on Recommendation 4. of this report.

Recommendation 20

That the State Government give consideration to amending section 39 of the Sentencing Act 1995 to provide upon conviction for a first simple cannabis offence that unless the court is convinced to the contrary, that spent conviction be recorded.

Response

Given the proposal by the Police Service to issue cautions in relation to minor drug offences, legislative change to the *Sentencing Act* is not considered to be necessary at this time.

Recommendation 21

That the Spent Convictions Act 1988 be amended to create a new category of lesser convictions solely relating to those convictions for offences relating to the possession and use of small quantities of cannabis (max. 50 grams) with the period of any non offending prior to having any such conviction capable of being declared spent be 5 years, and such declarations shall apply automatically, as a matter of law, without the need for the person concerned to make any written application in respect thereof.

Response

This matter will be considered as part of a review of the *Spent Convictions Act 1988* which will commence in November 1998.

Recommendation 38

That the Select committee reaffirms Recommendation 40 in its Interim Report concerning the need for non conviction based forfeiture legislation and urges the Attorney General to expedite the drafting and passage of the same into law.

Response

Drafting instructions were provided to Parliamentary Counsel's Office in July 1997 for the drafting of a "Criminal Property Confiscation Bill" in substitution of the present *Crimes (Confiscation of Profits) Act 1988*. The proposed structure of the Bill was the subject of discussions between Parliamentary Counsel's Office and the Director of Public Prosecutions in September 1997, leading to further instructions being prepared on the basis of an agreed framework.

More recently, on 3 September 1998, the Attorney General requested the Director of Public Prosecutions to examine the *Confiscation Act 1997* (Vic) and discuss both that Act and the *Criminal Assets Recovery Act 1990* (NSW) with relevant officers in those States and in Queensland.

The DPP advised the Attorney General on 9 September 1998 that he ... "considered that there are advantages and disadvantages with both the New South Wales Act and the Victorian Act. The Director of the Asset Confiscation Office in Victoria has advised that it is too early to determine whether or not the Victorian Act is a success. The New South Wales Act is considered to be successful. However, significant amendments would be required to the NSW Act if it was to form the basis of an Act for this State".

The DPP concluded that, on balance, he does not consider it appropriate to adapt either Act, and would prefer to wait and have the current Forfeiture Bill drafted on the basis of the drafting instructions already provided to Parliamentary Counsel.

It is now expected that the Forfeiture Bill will be ready for introduction early in the 1999 Autumn Session of Parliament.

Recommendation 39

That the Ministry of Justice gives priority to implementing innovative educational and appropriate treatment programs which give the highest priority to the prevention of blood borne viruses in the prison population associated with the use of drugs in West Australian prisons and that appropriate legal coercion be used to assist in achieving realistic outcomes in all such programs.

Response

The Ministry of Justice gives priority to the prevention of blood borne viruses within prisoner populations by encouragement of the uptake of hepatitis B vaccination by prisoners and staff, provision of voluntary testing so that appropriate treatment can be facilitated as required, provision of education and harm minimisation strategies to increase awareness and reduce risk behaviours ie injecting drug use, and implementation of policy which manages risk behaviours within the prison environment.

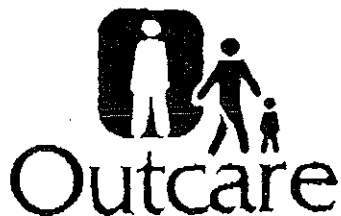
For your information.

Robert E Fitzgerald
EXECUTIVE DIRECTOR
POLICY AND LEGISLATION DIVISION

October 1998

APPENDIX 9:

**Letter from Outcare to the Executive
Director Offender Management
and the reply from the Executive Director.**



Mr Athol Jamieson
 Director
 Offender Management
 Ministry of Justice
 Westralia Sq
 141 St Georges Tce
 Perth

Dear Athol

Re: Prison Tensions

I write to you to express our concern about the high level of tensions Outcare staff have recently been exposed to in the prison system. You may appreciate that Outcare is exposed to the needs and anxieties of both prisoners and prison officers on a very regular basis and such information is given in a fairly honest and forthright manner.

At a meeting of all our senior staff on Tuesday very significant concerns were raised as to the general state of mind of the prisoners and prison staff that we have seen in recent weeks.

Of concern were:

- A large majority of prisoners presenting to us are anxious and fearful of what is happening in their prison.
- Many are presenting as depressed and emotionally upset and may be potentially suicidal.
- They are reporting a significant increase in violence and the threat of violence in their prison.
- That an increasing number of prisoners are presenting and showing evidence of self inflicted wounds.
- That the level of assaults on prison officers is increasing.
- That prison officer morale is very low.

When asked 4 weeks ago as to our perception of the state of the prisons, our response was a positive one as there were no indicators that there were any significant or ongoing problems. Over the intervening period evidence has arisen to make us to reverse that position and we are bringing this worrying situation to your attention. It is of significance that this is the first time in the last ten years that we have felt it necessary to commit such concerns to paper.

We are aware of the recent initiatives by senior management to redirect the Ministry and we strongly support both the objectives and the content of these actions.

1070 Hay Street, West Perth WA 6005 Phone: (08) 9226 0088 Fax: (08) 9226 0099 Email: outcare@inet.net.au

PATRON'S The Hon. J.C. Courtenay MLA
 Premier of Western Australia

The Most Rev. P.F. Carnley,
 Anglican Archbishop of Perth.

The Most Rev. B.J. Hickey,
 Roman Catholic Archbishop of Perth

Donations over \$2.00
 are Tax Deductible.

We believe however, that the two basic problems of overcrowding and diminishing resources, coupled to the increased expectations required of the system and it's staff, is creating an immense stress that needs to be addressed immediately.

We see these problems as central to the issues that are emerging at this time.

We trust that the Ministry will do all in its powers to avoid a situation that gets out of control and has damaging consequences for all concerned.

Yours truly,



Peter Sirr
Executive Director
16 October, 1998

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MOJ 95/02837-2

Mr P Sirr
Executive Director
Outcare
1070 Hay Street
WEST PERTH WA 6005

Dear Mr Sirr

Thank you for your letter dated 16 October 1998 in which you commented about the increase in prison tension your staff have noticed recently.

I have no doubt that the current high musters have contributed to the perception that there has been an increase in tension. The information available to me indicates that there are no major issues that should be addressed that are not already being addressed although it is certainly not a matter of being complacent. Assaults on staff and between prisoners have increased over the same time last year. One assault is one too many and I suspect that the increase in the muster is a contributing factor.

I can assure you that the Ministry of Justice is addressing the accommodation issue but as you will appreciate, there is an unavoidable lead-time in resolving that issue. In the meantime, prison Superintendents are closely monitoring the position and I would urge you to consult with them over any specific problems which are of concern to you or the staff of Outcare. In particular, I would ask that if you or your staff become aware of any individual prisoner who could be considered to be at risk then that person needs to be identified to the prison administration. In this way, action can quickly be taken to address their needs.

The continued support from Outcare and your staff in working through these difficult times is very much appreciated.

Yours sincerely



Athol Jamieson
ACTING EXECUTIVE DIRECTOR
OFFENDER MANAGEMENT DIVISION
4 November 1998

2

Appendix 10:

Comparison of recommendations of Smith and McGivern Riot inquiries

**Recommendations for the prevention of riots.
Similarities between the McGivern report and the current report.**

Issues ¹	Recommendations in McGivern	Recommendations in Smith
Prisoner services*	6.5.1, 6.5.2, 6.5.6	9.2.5.5, 9.2.5.12, 9.2.5.14
Prison transfers		9.3.2.8
Management of disruptive prisoners	6.3.7, 6.3.8	9.2.5.9, 9.3.2
Health/security tensions*	6.6.2, 6.6.3	9.2.5.4, 9.2.5.10, 9.2.5.12, 9.3.2.5, 9.3.2.6, 9.3.3
Officer/prisoner Relationships*	6.6.1, 7.1 – 7.8, 6.8.6 6.6.6 – 6.6.9, 6.7.7	9.2.5.8
Intelligence gathering	6.3.1	9.3.4.6, 9.3.3.5, 9.3.4.6
Contingency plans	6.3.6	9.3.1.1
Prisoners' work and recreation*	6.6.10,11	9.2.5.5, 9.3.3.11
Education and programmes*	6.6.12	9.2.5.14, 9.3.3.11
Information for prisoners*	6.6.13	
Discipline of prisoners	6.6.14, 6.7.9	9.2.5.9, 9.3.2
Drugs*		9.2.5.4, 9.2.5.10, 9.3.3.1 9.3.3.10
Recruitment and training*	6.7, 6.8.4	9.2.5.2, 9.3.2.1, 9.3.2.3, 9.3.3.2, 9.3.3.6, 9.3.4.4
Prisoner grievances	6.6.5	9.3.4.7
Restraints	6.6.4	9.2.5.9, 9.3.2.1, 9.3.2.2
Management*	6.8.1 –6.8.3	9.2.2, 9.2.3, 9.2.5, 9.3.4
System of management through incentives*	6.10	9.2.5.7, 9.3.3.9

¹ Issues that were also the subject of recommendations of the Jaccoby Report are also indicated with an asterisk

Appendix 11:

Recommendations of the McGivern report

(c) Before being released from the Observation cells, or within 24 hours, whichever occurs sooner, the prisoner should be examined by a Medical Officer in that officer's surgery (not the cell area) and any apparent injuries recorded. If warranted further photographs should be taken.

(d) Where the prisoner refuses to be seen by a Hospital Officer in the first instance or the Medical Officer subsequently he should be seen by an officer of Assistant Superintendent rank who will record such a refusal and any reasons given by the prisoner.

Staff should be made fully aware of the problem of false allegations and instructed to act strictly in accordance with the Prisons Act, Directors Rules etc. when restraining prisoners.

6. RECOMMENDATIONS

6.1 EXPLANATION REGARDING RECOMMENDATIONS

Recommendations have been made in all areas identified by the inquiry as presenting problems in terms of the recent disturbance or in the hope of limiting the outbreak of further trouble.

It needs to be said that to introduce more coercive or retributive conditions in the wake of a disturbance (other than for the immediate period necessary to gain control and establish

normal conditions) is counter-productive and can only sow the seeds of future outbreaks of trouble. Once control has been established normality should be restored. Steps should then be taken to identify and correct problems which may have caused the confrontation.

6.2 INTERIM RECOMMENDATIONS SUBMITTED DURING THE COURSE OF THE INQUIRY TO THE EXECUTIVE DIRECTOR.

- 6.2.1. Immediate provision of suitable access for fire fighting units. This would entail the provision of a new security gate on the south wall of the prison overlooking Fothergill St. I understand this has previously been suggested and perhaps is already in the pipeline. In any case, immediate action should be taken to proceed with this work. (11/1/88)
- 6.2.2. Endeavour to reduce the high level of tension which exists in the prison. The scaling down of the visibility of the M.S.U. officers is desirable. I would not suggest reducing the number of officers on duty at this time but merely returning the officers concerned to normal uniform and dress. (11/1/88)
- 6.2.3. The identifying of those prisoners not involved in the riot situation, or likely to have been a party to it who can be returned to workshop situation. Even if only a few

prisoners are returned to each workshop, I think the overall effect would be to indicate to the prisoner body that normality is on the way to being restored. (11/1/88)

- 6.2.4. The use of yards should be considered on the same basis as the return to the workshops so that more prisoners can spend a longer period in the prison yards. (11/1/88)
- 6.2.5. The Prisoner Services officers such as Psychologist and Social Workers, should be given wider access to the prisoner population. It is well known that these officers are able to talk through many problems with prisoners and reduce tension. Except in the cases of those prisoners classed as high-risk security prisoners or who were actively involved in the riot recently, it would be preferable if other prisoners desirous of seeing prisoner services could have their interviews carried out in the offices previously used or at least in the offices available at the old canteen area. (11/1/88)
- 6.2.6. Provision should be made to provide support services staff on a daily basis for these prisoners now housed in the Special Handling Unit in New Division to remove any suggestion that these prisoners are undergoing some form of punishment. (14/1/88)

6.2.7. Reconstruction of No. 3 Division should include the provision of sewerred toilets to the cells even if some accommodation is lost in the process. (3/2/88)

6.2.8. The withdrawal of privileges (e.g. contact visits) from the prisoners charged by Police in connection with the recent riot is unwarranted and constitutes unfair treatment in my opinion. It is also, I believe, contrary to Directors Rule No. 30 (4). I recommend that the status quo in regard to privileges be restored. (3/2/88).

6.3. SECURITY AND SAFETY

6.3.1 The rush of prisoners into the Division could have been prevented had a turnstile entry gate, with a controlled rate of entry, been in operation. This should be provided.

6.3.2 The installation of a sprinkler system in the living area should be considered as a matter of priority.

6.3.3 One or two sets of breathing apparatus should be held in each division for emergency purposes and sufficient staff trained in its use, so that someone is always on duty.

6.3.4 Cell fittings and furnishings should be treated with a fire retardant chemical.

- 6.3.1 An intelligence gathering unit, forming part of the present Directorate Support Branch, should be established to collect, analyse and code information from all sources. This unit should have the ability to produce daily estimates of likely problems developing within institutions and to forecast the level of intervention required to deal with them.
- 6.3.6 Proper contingency plans need to be developed to handle hostage/riot/fire emergencies in different areas of the prison with staff trained in their implementation.
- 6.3.7 Additional security accommodation becoming available within the prison system (e.g. Albany) should allow for maximum dispersal of long term security prisoners and reduce the likelihood of cliques and factions forming. To be effective, dispersal must be monitored and placement of such prisoners periodically reviewed.
- 6.3.8 A Special Handling Unit must be retained to isolate those prisoners who pose a problem in prison management because of the disruptive nature of their behaviour. Under no circumstances should such a Unit lead to greater "discipline" for the prisoners therein and living, recreational, occupational, and visiting opportunities should be comparable with those within the prison

generally. A review of the position of those prisoners in the Special Handling Unit on a regular basis is essential.

6.3.9 Metropolitan Security Unit involvement in day-to-day prison management should be rejected. A highly trained mobile unit to deal with serious disturbances, or incidents, is essential, but the danger exists that its use becomes commonplace and that other effective alternative strategies are ignored.

6.3.10 Specific staff increases were proposed by the Superintendent, and WAPOU also saw the need for additional staff. The opening of Canning Vale Prison led to a reduction in staff at Fremantle in anticipation of lowered musters. Because of changes at Fremantle (for example, the establishment of the Special Handling Unit) and continuing muster problems, I recommend that the staffing position be reviewed.

6.4 HOSTAGE SITUATIONS

6.5 LIVING CONDITIONS

- 6.5.1 Policies and facilities for long term prisoners, as outlined in Section 2.2.3 of this report, must be implemented as soon as practicable and without waiting for the opening of the new Maximum Security Prison. Such improvements could do much to reduce the level of hopelessness and frustration felt by many of the prisoners.
- 6.5.2 Additional contact visiting facilities are recommended as a matter of priority. I have suggested in Section 2.2.2 how these could be achieved.
- 6.5.3 I recommend a later-lock up during the height of summer, possibly 8.00 p.m. to allow cells to cool, to some degree, before lock-up. Only those prisoners electing to participate should be involved.

6.5.4 Efforts should be made to eradicate the plague of cockroaches and insects which infest the divisions. The issue of non-inflammable, non-toxic-to-humans cockroach bait, or spray, and mouse traps is recommended.

6.5.5 A system of forced air, or other form of ventilation to the cells should be considered.

6.5.6 I recommend that Director's Rule 35 (1) be amended to provide all prisoners with 2 free local telephone calls per week, to relatives, or friends, without the prisoner being required to justify the purpose of the call.

The balance of Rule 35 to be amended, if necessary, to give effect to the above proviso.

6.5.7 Prisoners should not be required to wear communal underwear. Unless a system can be devised to permit the laundering of underwear and its return to the same prisoner, then prisoners should be issued with underwear and provided with facilities to launder it.

6.6 MANAGEMENT OF PRISONERS

6.6.1 The Department's Corporate Plan properly establishes that "the management and routine of a person committed to

prison should be just and humane in keeping with prevailing community standards". It is important that the officers receive adequate and on-going training to apply this philosophy in practice throughout their period of service.

- 6.6.2 Director's Rule 43 (5) should be amended to specify those disciplinary charges for which a prisoner may be placed in an Observation Cell. The present open-ended definition "good order, good government, and security of the prison" provision should be rescinded.
- 6.6.3 Transfers of prisoners to Observation should be strictly supervised by a Chief Officer; exclude the officer involved in the original confrontation with the prisoner; and be followed by an examination by a Medical Officer (See Section 5.4.2.3 of this report).
- 6.6.4 Use of restraints must be strictly in accordance with Section 42 of the Prisons Act 1981.
- 6.6.5 A formal grievance handling procedure should be set up so that prisoners' requests, complaints, etc., (of a collective nature) can be brought before the Administration. Many of the complaints relating to canteen use, gymnasium use, wearing of special gym gear etc., brought to my attention could be dealt with in this way.

- 6.6.6 Standing and Local Orders should be reviewed and any petty rules or restrictions deleted. Rules should generally relate to categories of security, hygiene, cleanliness and orderliness. Unless they fit into those categories then their existence should be questioned. It should also be made clear to staff that officers have no authority to institute their own programme of restrictions.
- 6.6.7 The use of disparaging language to prisoners, e.g. the term "crim" or "crims" when speaking to them must not be tolerated.
- 6.6.8 Unnecessary searches should be discontinued. There is no merit in strip searching prisoners on "non-contact" visits. Searching before, or after, contact visits should be on the basis of "random" searching or where a genuine suspicion exists.
- 6.6.9 Procedures to permit prisoners to make application to the Superintendent for his personal consideration should be clearly defined.
- 6.6.10 All prisoners should have the opportunity to be involved in meaningful work and to be paid a reasonable rate of pay. A programme of rewards and incentives should be

introduced to encourage output and improve efficiency. Workshop conditions should be similar to those in outside industry.

- 6.6.11 I recommend that, where necessary, additional Trade Instructors be employed so that Part 6.6.10 can be implemented.
- 6.6.12 I recommend that education facilities be improved to enable more prisoners to receive basic and advanced education. Prisoners should be allowed to study in their cells, as an alternative to vegetating in the exercise yards.
- 6.6.13 An institutional newsletter should be circulated regularly to all prisoners, listing changes in routine, privileges, etc.
- 6.6.14 The withdrawal of privileges must be strictly in accordance with Director's Rule 30. Privileges should not be suspended, or cancelled where a prisoner has committed misconduct unrelated to the privilege in question. Remand prisoners held for serious crimes are not penalised by losing privileges. Similarly, sentenced prisoners charged with other criminal offences should not forfeit privileges, except as provided by Director's Rule 30.

6.7 STAFF SELECTION, TRAINING AND DEVELOPMENT.

- 6.7.1 Selection of staff must ensure that properly motivated persons are selected to fill positions in the prison service.
- 6.7.2 I recommend that staff be employed on a 12 month contract basis during their probationary period to permit misfits to be isolated and removed. Award and leave provisions shall not be effected by this proviso.
- 6.7.3 Uniformed staff should receive adequate training in use of firearms and restraints. Fire-emergency training and evacuation procedures information should be given to all staff. First aid training should be updated periodically.
- 6.7.4 I recommend that The Staff Training Branch institute a means of identifying problem officers. These officers should be counselled, helped and retrained and, if necessary, transferred between institutions. Where problems prove intractable, the officer should be dismissed.

- 6.7.5 A system of 'time out' for Fremantle officers up to and including Chief Officers, should be introduced in the interests of staff and prisoners. Twenty or so officers at a time should be exchanged with officers in other metropolitan prisons for a period of about 3/4 months. This should be an ongoing programme which should be continued at the new maximum security prison.
- 6.7.6 Officers should not be posted to Fremantle Prison until they have completed at least 6 months in the service at other institutions and have been reported on as suitable for Fremantle.
- 6.7.7 Staff must be encouraged to develop positive relationships with prisoners by close daily contact. This may come about by accelerating the "Expanded Role of the Prison Officer" programme at Fremantle. Day to day exercise of skills in communication and negotiation with prisoners will lead officers to identify problems before trouble erupts.
- 6.7.8 A system should be introduced to permit officers who suffer stress as a result of any work-related occurrence, to receive counselling or other assistance.

6.7.9 Unless in the case of charges against prisoners laid under Sec. 70 of the Prison Act 1981, officers should generally prosecute their own charges from the laying of the charge up to the hearing before a Visiting Justice. The prosecuting officer should only be used in an advisory capacity or to prosecute Sec. 70 charges.

6.8 ADMINISTRATION

Many of the complaints relating to Fremantle Prison are linked to perceived problems with the Administration. It should be borne in mind, however, that prison management, particularly in a maximum security setting, is no easy task and that to balance the need for security, prisoners' welfare, staff morale and wellbeing while ensuring that all the requirements of the Act and Regulations, and Director Rules are complied with is both mentally and physically exhausting.

- 6.8.1 I recommend that the position of Deputy Superintendent removed following the 'STAFF UTILIZATION REVIEW COMMITTEE' report be reinstated to give additional strength to the administration.
- 6.8.2 I recommend that either the Superintendent or the Deputy Superintendent be available (on a daily basis) to interview prisoners who make application for "personal" interviews.

- 6.8.3 Both the Superintendent and Deputy Superintendent should visit all cellular and working areas daily and spend time with both staff and prisoners. The present hierarchical structure limits the Superintendent's scope in this regard.
- 6.8.4 I recommend that the Superintendent and Deputy Superintendent receive training in Command Post operation and procedures.
- 6.8.5 Regular briefing and de-briefing sessions should be introduced by the Superintendent in which all staff can participate and be kept informed of institutional development and changes etc.
- 6.8.6 Administration must give clear indications to staff that pettiness and harassment have no roles to play in a modern prison system.

6.9 GENERAL RECOMMENDATIONS

- 6.9.1 I recommend that a representative of the Manager of Secondary Industries participate in meetings of the Work Placement Committee and that this committee work to encourage the gainful employment of all prisoners. The committee should endeavour to satisfy both the needs of prisoners and the requirements of the industries.

6.9.2 I recommend that censoring of prisoners' mail be carried out by one officer to reduce the likelihood of leakage of personal information.

6.9.3 The stated but unwritten policy of refusing media access to prisoners may normally be correct. However, I recommend that in instances such as the recent ABC programme "Out of Sight, Out of Mind", that prisoners and staff be permitted to participate.

6.10 CONCLUDING REMARKS

I have given my opinions on the causes of the events of 4/5 January 1988 and have provided a number of recommendations which, hopefully, could reduce the level of tension within the prison. These recommendations alone, however, will have no lasting effect on the operation of the prison unless there is a commitment on the part of the Department and the Administration of the prison, together with the prison officers, to develop an atmosphere in which prisoners believe that they are being treated reasonably and fairly. Security and discipline, while essential, cannot operate independently of a commitment to encourage prisoners to develop a sense of self-esteem.

Appendix 12:

Recommendations of the Woolf report

1.167 Our programme is based on 12 central recommendations. These are that there should be:

- i) closer co-operation between the different parts of the Criminal Justice System. For this purpose a national forum and local committees should be established;
- ii) more visible leadership of the Prison Service by a Director General who is and is seen to be the operational head and in day to day charge of the Service. To achieve this there should be a published "compact" or "contract" given by Ministers to the Director General of the Prison Service, who should be responsible for the performance of that "contract" and publicly answerable for the day to day operations of the Prison Service;
- iii) increased delegation of responsibility to Governors of establishments;
- iv) an enhanced role for prison officers;
- v) a "compact" or "contract" for each prisoner setting out the prisoner's expectations and responsibilities in the prison in which he or she is held;
- vi) a national system of Accredited Standards, with which, in time, each prison establishment would be required to comply;
- vii) a new Prison Rule that no establishment should hold more prisoners than is provided for in its certified normal level of accommodation, with provisions for Parliament to be informed if exceptionally there is to be a material departure from that rule;
- viii) a public commitment from Ministers setting a timetable to provide access to sanitation for all inmates at the earliest practicable date not later than February 1996;
- ix) better prospects for prisoners to maintain their links with families and the community through more visits and home leaves and through being located in community prisons as near to their homes as possible;
- x) a division of prison establishments into small and more manageable and secure units;
- xi) a separate statement of purpose, separate conditions and generally a lower security categorisation for remand prisoners;
- xii) improved standards of justice within prisons involving the giving of reasons to a prisoner for any decision which materially and adversely affects him; a grievance procedure and disciplinary proceedings which ensure that the Governor deals with most matters under his present powers; relieving Boards of Visitors of their adjudicatory role; and providing for final access to an independent Complaints Adjudicator.

APPENDIX 13:

Advertisement about the Inquiry

**MINISTRY OF
JUSTICE**

**Inquiry into incident
at Casuarina Prison
on 25 December 1998**

I have appointed Mr Les Smith AM, retired Electoral Commissioner for Western Australia, to conduct an inquiry into the abovementioned incident having regard for the following terms of reference:

1. To inquire into and report on:
 - 1.1 Causes of the incident at Casuarina Prison on 25 December 1998;
 - 1.2 Effectiveness of the response of the Offender Management Division to the incident;
 - 1.3 Adequacy of the procedures and facilities to deal with the incident; and
2. To make recommendations about how such an incident might be prevented in the future.

Mr Smith will be supported in the inquiry by Dr David Indermaur of the Crime Research Centre at the University of Western Australia. He was involved in the Fremantle riot inquiry of 1988.

Submissions in writing about the terms of reference are invited to be forwarded to:

Mr Les Smith
Consultant
Ministry of Justice
Level 16
141 St George's Terrace
Perth WA 6000
Telephone: (08) 9264 1150
Facsimile: (08) 9481 6299

by Friday 22 January 1999. Submissions should be in an envelope marked "Confidential - Casuarina Prison Inquiry."

Alan Piper
Acting Director General
Ministry of Justice

6 January 1999

*"The West
Australian"*

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