

8

Report No.



**Report of a Follow-up Inspection of the
Special Management Units at Casuarina Prison
October 2001**



OFFICE OF THE INSPECTOR
OF CUSTODIAL SERVICES
WESTERN AUSTRALIA

**Report of a Follow-up Inspection of the Special
Management Units at Casuarina Prison – October 2001**

Office of the Inspector of Custodial Services
Level 27, 197 St George's Terrace, Perth WA 6000

www.custodialinspector.wa.gov.au

June 2002

ISSN 1445-3134



This document uses environmentally friendly paper, comprising
50% recycled & 50% totally chlorine free plantation pulp.

Contents

THE INSPECTOR'S OVERVIEW:

CONSTRUCTIVE RESPONSES BY THE DEPARTMENT OF JUSTICE.....	3
--	---

CHAPTER 1:

THE PURPOSE OF THE INSPECTION	4
Background.....	4

CHAPTER 2:

DIFFERENT PRESSURES, DIFFERENT RESULTS	6
Prison Normalisation	6
The Link with Acacia Prison.....	6
Creating the Fundamentals for Change	7

CHAPTER 3:

THE CURRENT STATUS OF THE PREVIOUS INSPECTION RECOMMENDATIONS	10
The Extent of Implementation	10
The Benefits and the Beneficiaries.....	19

CHAPTER 4:

LIFE IN THE UNITS	20
The Recent Experience of Prisoners	20
The Responsiveness of Staff.....	21
Services to the Units.....	22
Food	22
Recreation	22
Library	23
Education.....	23
Programs	23
Visits	24
Health Services	24
General Observations	24

Contents

CHAPTER 5:

STRATEGIC PLANNING FOR THE FUTURE AND RECOMMENDATIONS.....	26
State Services for Special Management of Exceptional Risk Prisoners and Local Prison Needs.....	26
Developing a Single Unit Ethos	27
Selecting and Preparing a Multidisciplinary Team.....	28
The Highest Level of Transparency and Accountability.....	29
A Good Start for Sustainable Change.....	29
Recommendations.....	30

APPENDIX 1:

THE SPECIAL HANDLING UNIT AND INDUCTION AND ORIENTATION UNIT INSPECTION TEAM	31
--	----

APPENDIX 2:

OUTLINE AND STATUS OF RECOMMENDATIONS FROM REPORT 1 AND THIS REPORT, AND RESPONSE BY THE DEPARTMENT OF JUSTICE.....	32
--	----

The Inspector's Overview

CONSTRUCTIVE RESPONSES BY THE DEPARTMENT OF JUSTICE

The day that I am writing this Overview is the very day upon which the Violent Offenders' Treatment Program commenced in the Special Handling Unit of Casuarina Prison. This initiative is in line with our Recommendation 9 in the Report of the Unannounced Inspection and ties in with paragraph 4.23 of this Report. We had been advised in September 2001 – the time of this Inspection – that such a program was 'being considered'; now it has actually happened. This fact certainly fosters confidence that Departmental responses represent real commitment – are not window-dressing or empty promises.

Properly based recommendations constructively received should work to everyone's benefit. What this Report is able to document is both staff support for the recommended changes and prisoner satisfaction at somewhat improved conditions and ethos. The philosophy of this Office is that improvements in daily life for prisoners are good for staff and vice versa, and that this in turn facilitates the achievement of the presumed purposes of the particular penal regime. In the case of the Special Handling Unit, this purpose for most prisoners is, or should be, successful return to mainstream.

What is evident is that the involvement of a multi-discipline team of staff in the operations of areas such as the Special Handling/Induction and Orientation Units (to give the area its full title) is desirable if the correctional objectives are to be realised. This is now starting to happen.

The Report correctly points out that the strategy of reducing the rate of imprisonment by taking non-violent minor offenders out of the prison system as far as possible will mean that, relatively speaking, there will be a higher concentration of dangerous, violent or difficult prisoners – and that may well be true also in absolute terms as crime patterns change. In other words, the need for a SHU may become even greater. That being so, clear philosophies and objectives, equitable processes and protocols, and fair regime conditions are crucial.

As prison profiles throughout the whole State system are clarified, Casuarina should once more become the prison tailored for maximum-security prisoners – no more minimum-security, only the most dangerous or difficult remandees, and so on. Each Unit should have a distinct purpose within that concept of last resort prisoners. In that context, the SHU should be seen as simply another area within the prison, rather than the somewhat sinister area of prisoner mythology designated as 'down the back'. It is in that context that this Office expects future inspections to occur – as part of an integrated prison.

To date, the Department of Justice has responded constructively to our Recommendations. We acknowledge and welcome that, and will keep progress under continuous review.

Richard Harding
Inspector of Custodial Services

29th May 2002.

Chapter 1

THE PURPOSE OF THE INSPECTION

BACKGROUND

- 1.1 The previous Unannounced Inspection and the subsequent Follow-up Inspection were concerned with the performance of the Induction and Orientation Unit (IOU) and the Special Handling Unit (SHU) of Casuarina Prison. These 'special' units are a particular feature of Casuarina Prison. Their purpose is to provide high intensity custodial supervision – effectively, they represent a prison within a prison. The main purpose of the Follow-up Inspection was to review progress on recommendations made as a result of the previous short Unannounced Inspection in December 2000. For the purposes of that Inspection Report, the Inspector had identified five areas within these special management units. The terminology used by the Department of Justice to describe these areas had become confused and imprecise, masking to some extent the functions being carried out in the units and which prisoners were being held there. The schematic plan of the five areas has been reproduced in this Report, in Chapter 3. In this Report, 'special management' has been adopted as a generic term to refer to the removal of prisoners from mainstream placement into closed units.
- 1.2 The performance of the special management units at Casuarina Prison naturally reflects the operation of the whole prison, and to some extent reflects also the organisational arrangements for the entire prison system. For this reason, this Report will occasionally comment on the culture of the prison and the operational climate of the prison service.
- 1.3 The Inspection Team expected to see a transformation of the five areas in the IOU and SHU. This expectation was premised upon the following key assumptions:
 - The previous Inspection was the first published Report of this Office and benefited from prevailing substantial goodwill;
 - The Inspection was limited in its scope;
 - The recommendations were tightly focused and related to the fundamentals of good prison management; and,
 - The recommendations did not require any capital expenditure.
- 1.4 The focus of the Prison Service should be on services to prisoners. This includes security arrangements that are understood and supported by most prisoners. Good security arrangements diminish public safety threats and assist in keeping prisoners safe from other prisoners, thus encouraging prisoners to work cooperatively with the system. The efforts of staff in special management units should be primarily focused on engaging, assisting and supporting prisoners to achieve mainstream prison placements and opportunities. Their role should also be co-ordinated with those of the wider prison system, so that by actively managed throughcare the proper correctional purposes intended by imprisonment will be achieved, rather than left to chance.
- 1.5 The Follow-up Inspection was carried out over the two day period 27-28 September 2001. It was preceded by two liaison visits to the prison to conduct structured interviews and observations. The resulting field notes provided a base for the Inspection. The methodology for a full inspection typically includes confidential surveys of staff and prisoners. On this occasion surveys were not

THE PURPOSE OF THE INSPECTION

carried out because of the small number of individuals involved. However, structured questions were developed in advance of the on-site inspection derived from information provided by the Department as well as data analysed by members of the Inspection Team from earlier liaison visits to the prison. The inspection plan assigned responsibilities to members of the Inspection Team to meet individually and collectively with senior management of the prison; staff in the various areas of the prison under inspection; prisoners currently held within these areas as well as some who had recently been returned to the mainstream prison; and health and program staff. Documentation at the prison relating to initial placement assessment; use of force; extent of self harm; complaints regarding assaults; prosecution of prison charges; and, active case management involving program support were examined, providing context to the interviews and discussions. The Inspection Team also made particular observations about staff attitudes, interaction between staff and prisoners and the general 'mood' of the units within the five areas under inspection.

Chapter 2

DIFFERENT PRESSURES, DIFFERENT RESULTS

PRISON NORMALISATION

- 2.1 On 25th December 1998 there had been a riot at Casuarina Prison involving up to 140 prisoners out of the 529 in the prison at the time. The Inquiry Team¹ who reported on the incident had great concern about the restrictive regimes introduced at the prison immediately after the riot. This ‘lock-down’ regime was largely in place for many months, and the stated policy of ‘no-tolerance’ created the perception that it was being employed as a form of punishment. Public disquiet about the treatment and conditions at the prison persisted for over a year. Gross overcrowding, with the population peaking at over 700 prisoners, exacerbated the severe custodial conditions. In late 2000, the Western Australian Deaths in Custody Watch Committee lodged a complaint with the United Nations Committee Against Torture, alleging systematic brutality in Western Australian prisons, including Casuarina Prison. It was in this climate that the Attorney General and Minister for Justice had directed the previous Unannounced Inspection of the Units².
- 2.2 The aftermath of the riot, with regimes intended to emphasise security and control, adversely affected the essential relationship between prison officers and prisoners. Resentment in the prisoner ranks built as the months passed, and the large intake of new receivals was equally subjected to the stringent conditions imposed at the prison. The reduced access to normal services and opportunities, such as programs and employment, brought elevated numbers of prisoners into direct contact with unit-based prison officers under conditions of conflict. Sympathy from many special interest groups in the community for the plight of those prisoners not directly involved with the riot marginalised the prison officers and served to strengthen their resolve to act in custodial rather than correctional ways. Some of these factors, or at any rate their aftermath, were still present at the time of the first, Unannounced Inspection. In the ten months since, the prison regimes have begun to normalise. The performance of the special management units reflects the culture of the whole prison and is the best place to assess the prison’s prevailing value system.

THE LINK WITH ACACIA PRISON

- 2.3 In May 2001 the 750-bed privately managed Acacia Prison for medium security-rated prisoners became operational. By September of that year, 224 prisoners had been transferred there from secure custody in publicly managed prisons, through controlled placement strategies intended to gradually fill the prison³. The commissioning of Acacia Prison, because it moved medium security prisoners through the prison system as a whole creating spaces as this happened, had the greatest impact on Casuarina Prison.

¹ *Report of the Inquiry into the Incident at Casuarina Prison on 25 December 1998* (the Smith Report).

² See *Report of an Unannounced Inspection of the Induction and Orientation Unit and the Special handling Unit at Casuarina Prison*, Report 1, 2001.

³ Although the prison has a design capacity of 750 with 50 additional support cells, the daily average population was estimated to settle at 720 after a gradual fill of the prison planned to take place over a twelve-month period. The fill rate for Acacia prison is a measured approach adopted by the Department of Justice to balance the ability of the new prison to provide a full range of contracted services whilst the operational pressures are borne by the public sector feeder prisons, including Casuarina Prison.

DIFFERENT PRESSURES, DIFFERENT RESULTS

- 2.4 Casuarina Prison, prior to the commissioning of Acacia Prison, was in effect the last resort provider of accommodation for the entire prison system and accommodated considerable numbers of medium security and even some minimum security prisoners. Casuarina Prison was expected to cope with very high population levels for which the only concession was a temporary increase of base-grade prison officers. This was undertaken by double-bunking prisoners in accommodation designed for one person at a rate not imposed on any other prison in the State. There was no commensurate increase in the level of educational, vocational or program activities to alleviate the stress and boredom created by the arrangements for this increased population. There was also no increase in the supervisory, management or administrative support staff deployments.

CREATING THE FUNDAMENTALS FOR CHANGE

- 2.5 The previous Inspection Report (No. 1) had raised concerns about the overuse of the special units, and questioned the value system prevailing at that time. By the time of the Follow-up Inspection, the abnormal conditions of the earlier period, as well as some of the general systemic issues, had begun to be addressed. There is a variety of factors that positively contributed to the changed operational climate of Casuarina Prison, apart from the gradual retreat from the policy of no-tolerance and the relief from overcrowding through the transfer of prisoners to Acacia Prison. This included the recast policy framework inherent in the newly issued Director General's Rules and Operational Instructions and Policy Directives⁴, as well as the changed procedures for the management of prison disciplinary charges, and importantly, prison staff's renewed confidence in their own ability to manage the prison effectively.
- 2.6 The revision of the high-level policy framework facilitated the setting of new standards and caused the review of subordinate prison operational orders. This in turn served to remind the prison management and operational staff of the basis of their authority and responsibilities. The revised arrangements for the management of prison disciplinary charges involve the attendance of a magistrate, rather than a justice of the peace, to hear charges. The burden of proof required to return a finding of guilty was made more transparent, and the confidence of prisoners in the system as a whole improved.
- 2.7 As a result of these reforms, the number of prisoners removed from mainstream placement to special management regimes decreased. There had been a significant month-by-month increase of prison disciplinary charges immediately after the riot; by contrast, there was now a significant month-by-month decrease of prison disciplinary charges in the period leading up to the Follow-up Inspection⁵. There had also been a high incidence of short-term administrative segregation of prisoners following

⁴ The preceding policy framework consisted of Director General's Rules issued pursuant to Section 35 of the *Prisons Act 1981*. With the commissioning of Acacia Prison it was considered necessary to remove the procedural elements embedded in these Rules so that the revised high-level policy applied equally to both the public and private sector prisons. New documents entitled Policy Directives and Operational Instructions were created to guide practice in the public prisons. The operational procedures for Acacia Prison were developed by the Contractor, but controlled by the Department through contractual provisions.

⁵ There were 24:43:67 formal prison charges laid in January, February and March 1999 compared to 37:27:19 charges laid in July, August and September 2001.

DIFFERENT PRESSURES, DIFFERENT RESULTS

the riot⁶. In the period relating to this Follow-Up Inspection, staff were better able to focus on the specific regime for each category of prisoner, and the number of prisoners challenging the basis for separate management had significantly diminished. The operational climate of the prison on the whole had improved, and significantly this was clearly evident in the closed units that were the subject of the Inspection.

2.8 The Superintendent provided the Inspection Team with an operational briefing on the current status of the special units as well as the various categories of prisoners located within the five areas identified in the previous Inspection Report. In effect, there were four categories of prisoners held in the units:

- Those assessed to be high public safety risks, and for whom special security arrangements were enforced;
- Those who had been separated for management control;
- Those who had high welfare needs and were unable to reside in the mainstream population; and,
- Those who were employed to work in the special units or at other prison locations and for whom regular contact with the mainstream population was inappropriate.

2.9 All these prisoner categories manifest as long-term placements. There was also a group of prisoners who were in the special unit short-term for disciplinary or investigative reasons. However, the special units do not function specifically for these prisoners: all prisons have facilities for disciplinary purposes, and at Casuarina it happens that the Special Units also serve this function. This Report does not discuss the issue of these short-term placements in depth, though there is some further reference in Chapter 5. Matters relating to these prisoners will be dealt with more fully in the forthcoming Report of the Announced Inspection of Casuarina Prison, carried out in October 2001.

2.10 The first category – public safety risk prisoners – is necessarily the most problematic, because the decision to manage this group separately is based upon confidential police and prison security intelligence information. On many occasions, the precise details are not disclosed to operational staff and invariably never told to the individual prisoners. Many prisoners in this group challenge their placement. During the Follow-up Inspection, one prisoner suggested that there should be an objective external and independent test of such information. Whilst the general point is valid, in that the decision to invoke this category should not be capricious, the statutory framework provides that this is a matter for the administering department.

⁶ Prison management advised the Inspection Team that following the riot two entire wings in Unit 1 were double-bunked to contain prisoners under Section 36 regimes; the special management units were at full capacity and a number of prisoners were transferred to other secure prisons under special regimes. These practices were most intense for 1999, but special management regimes were at elevated levels for 2000 also. Computer records could not be accessed because there was a change in the IT system during this period and paper records are virtually inaccessible.

DIFFERENT PRESSURES, DIFFERENT RESULTS

- 2.11 In the past, it was not uncommon for the written order to state, and for the prisoner to be notified, that the placement was for the 'security, good order, and management of the prison'. Such a generic statement is confusing to both the prisoner, who must frequently endure separate management for long periods, and for unit-based staff whose duties for each of the mentioned reasons may vary. What is necessary is that there should be clearly articulated entry and exit criteria and well documented decisions that are capable of being scrutinised by authorised persons. This is the rationale for some of the recommendations made in Report 1, the Report of the Unannounced Inspection. Importantly, the prison management were able to satisfy the Inspection Team that there was a legitimate basis for the placement order for each of the prisoners identified in this category at the time of the Follow-up Inspection.
- 2.12 The second category – management control prisoners – is one that is found in all secure prisons. There could be several legitimate operational purposes served by such orders, including the management of risk of injury or harm to self or to others. Some of the more complex cases may involve special safety arrangements being made for staff and in other cases for multi-disciplinary intervention for therapeutic purposes. It is especially important that this category is not confused with the first. The entry and exit criteria and the case management plans for prisoners in this group are crucial to the very existence of special management units. Once again, the prison management was able to brief the Inspection Team on the individual cases of the prisoners within this category at the time of the Follow-up Inspection, to the extent that there was proper justification provided for the placement orders.
- 2.13 The third category relates to those prisoners with high welfare needs, such as protection from other prisoners, and who were unable to be in the mainstream population. Active management of this category is necessary, and practical steps need to be taken to reduce the negative influences on these prisoners of living in a protected environment. Again, the interaction between the prisoners and staff is qualitatively different from other categories, and the entry and exit criteria and the case management requirements should reflect this.
- 2.14 The fourth category relates to prisoners employed to work in the special units or other prison locations such as the prison receipt area, the external stores or gardens, and for whom regular contact with the mainstream is inappropriate for a variety of reasons. Like the third category, this group needs to be actively managed so that their own rehabilitative needs are not subordinated to the legitimate requirements to service the prison. Special care also needs to be taken so that prisoners performing these services are not labelled and targeted by other prisoners. There is a tendency for an overlap between the third and fourth categories.
- 2.15 The prison management was able to describe the application of protection management and special employment criteria for prisoners in the latter groups, whilst admitting that a regular review of placements could reduce the overall number of prisoners managed in this way.
- 2.16 In summary, there is a significant difference in the ways that the four categories of prisoner in these units are identified and need to be managed. As at September 2001, there was better clarity of purpose for the long-term placements and the beginnings of case management.

Chapter 3

THE CURRENT STATUS OF THE PREVIOUS INSPECTION RECOMMENDATIONS

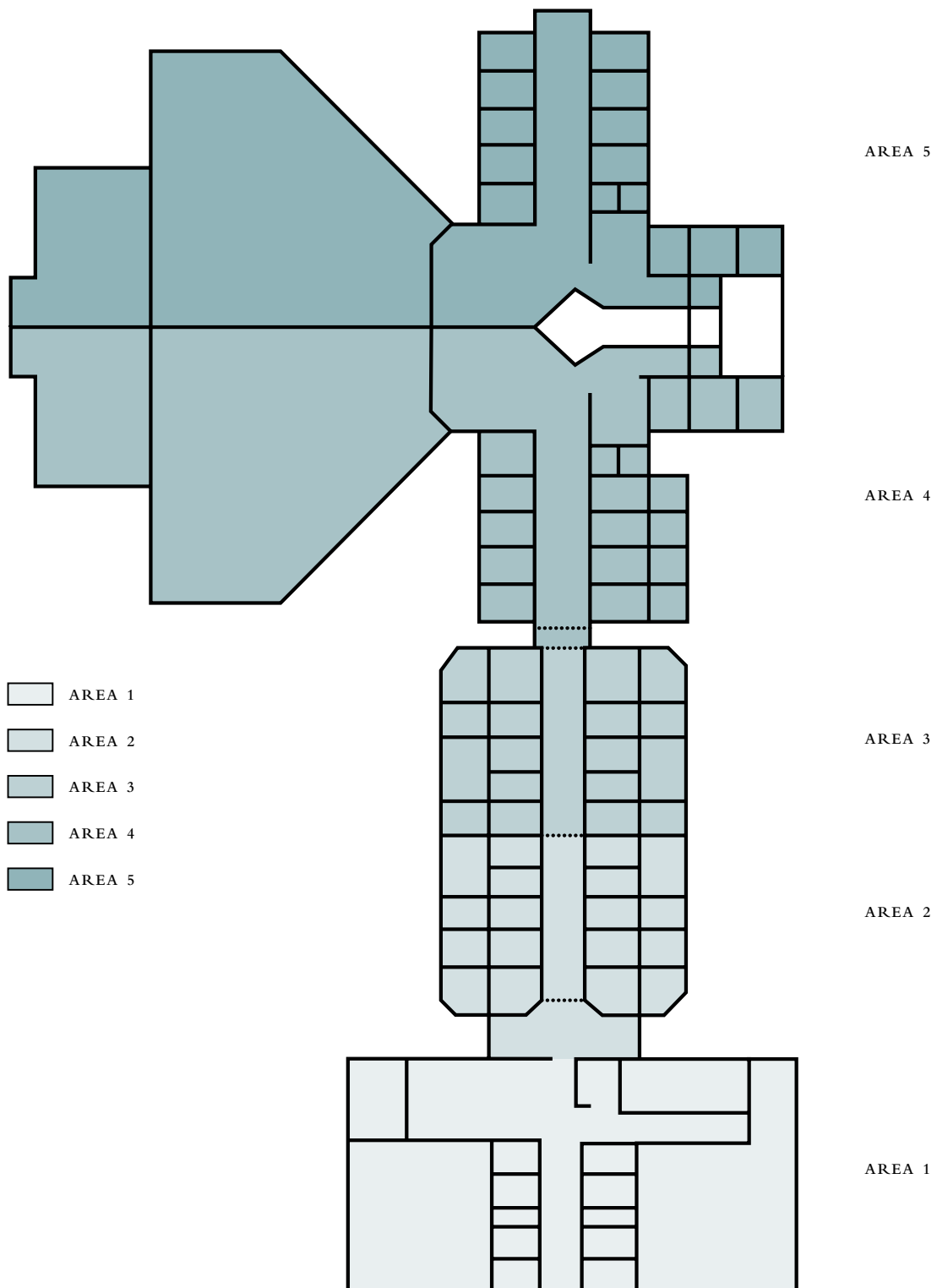
THE EXTENT OF IMPLEMENTATION

- 3.1 Thirteen recommendations were made following the previous Unannounced Inspection. The Department of Justice (the Department) agreed fully with seven of these, but qualified the others stating indeed that no further action was necessary for three of these. Despite this, the Follow-up Inspection found that some progress had been made in relation to all thirteen recommendations.
- 3.2 **Recommendation 1** called for a strategic review to achieve integration of all aspects of the special units. The Department fully agreed to action this recommendation by August 2001. In its submission to the Follow-up Inspection the Department reported that long-term residents of the Multi-Purpose Area (Area 2) are now included in monthly management meetings to consider prisoner needs and to progress their development and future placement plans. These arrangements were stated to be at a more advanced stage for prisoners in the Special Handling Area (Areas 4-5). Whilst these improvements have not been implemented for high protection prisoners in Area 1, the Department has committed itself to completing this work.
- 3.3 In a formal sense, the Department appears to have fallen short of the mark, given that the preface to the Inspection Report recommendations cautioned that piecemeal reform is liable to be counterproductive. However, the Inspection Team found qualitative changes underpinning the actual operations of the special management units. The prison management and the unit staff were clearly able to distinguish between the various categories of prisoners placed in these areas for long-term management. They now understood the entry criteria for special management. This is a fundamental first step in achieving integration of all aspects of the special units that is core to this recommendation. There is, of course, some distance to go before policy and procedures are refined and stabilised, but the fundamentals for change have been created. When measured against the public concerns that led to the previous Inspection, this is a large step in the right direction.
- 3.4 **Recommendation 2** required clarification of the entry and exit criteria for all areas. The Department agreed to fully implement this by August 2001. In the submission to the Follow-up Inspection, the Department reported that high-level policy had delivered improvements in this area, and that elements of the Kelly Report⁷ will be progressively added to existing rules and instructions.
- 3.5 The Department's response refers to Director General's Rule No 2 – 'Placement of Prisoners in the Special Handling Unit' – and Operational Instruction No 5 – 'Placement of Prisoners in the Special Handling Unit'. These Rules were issued in May 2001 to replace the previous Director General's Rule 3N. The Department's explanatory note states that the new Rule is brief and does not contain major changes from the previous Rule. However, new procedural features are evident in Operational Instruction 5. These features include the following requirements:
- Where a prison superintendent requests that a prisoner be considered for placement in the Special Handling Unit, the Superintendent of Casuarina Prison will conduct an assessment to

⁷ The 'Kelly Report' (2000) is an internal Departmental review of the special management units that recommended changes to the operational management of these units.

THE CURRENT STATUS OF THE PREVIOUS INSPECTION
RECOMMENDATIONS

SCHEMATIC REPRESENTATION OF CASUARINA PRISON SPECIAL
MANAGEMENT UNITS



THE CURRENT STATUS OF THE PREVIOUS INSPECTION RECOMMENDATIONS

determine the appropriateness of such a placement and provide a report to the Executive Director Prisons⁸. The information to be in the report includes:

- The referral memorandum from the forwarding prison stating the basis for the request including copies of all incident reports and any other material that supports the requested placement;
 - A detailed prisoner profile from the Information Analysis Unit;
 - A current sentence or case management plan;
 - Any pre-sentence report;
 - Current reports that includes detail on the prisoner's mental status and provides a diagnostic impression detailing the prisoner's mental health history and present condition, as well as recommendations about medication, expected future behaviour and the need for follow up mental health reviews;
 - A current medical report; and,
 - Recommendations about placement.
- The prisoner ordered to be placed in the Special Handling Unit must be informed of the reasons and the regimes that apply. Relevant staff are also to be informed of the reasons and the regimes;
 - A multi-disciplinary Management Committee is required to act in an advisory role to the Executive Director Prisons, to arrange for the compilation of prisoner management plans, and to conduct regular reviews of Special Handling Unit prisoners, facilities and procedures. This Committee is also required at least every three months from the time of placement to consider and make recommendations on each prisoner's readiness for release from the unit. The prisoner is to be interviewed and provided with a written decision from the committee; and,
 - An independent management strategy to facilitate future placement is to be drawn up for each prisoner prior to release from the unit following consultation with the Management Committee and approval from the Executive Director Prisons.

3.6 The Department accepted the concerns raised in the previous Inspection Report that policy and procedural requirements were not always complied with and consequently some prisoners were not able to progress out of the special management units despite their motivation to do so. The new policy and procedures sought to address these criticisms by layering the reporting requirements and being more inclusive of staff and prisoners. The requirement to maintain records also goes a long way to improving transparency and accountability.

3.7 This is a substantial piece of work comprehensively addressing the issues raised previously with regard to prisoners in the Special Handling Unit (Areas 4-5). The Department has already

⁸ A recent re-structure within the Department has resulted in some executive positions being retitled and responsibilities being reassigned. This Report reflects the titles in use at the time of drafting.

THE CURRENT STATUS OF THE PREVIOUS INSPECTION RECOMMENDATIONS

acknowledged that a similar approach has been adopted for prisoners in Area 2 and will progressively be extended to Area 1. Consistent with the end comment on the extent of implementation of Recommendation 1, a holistic approach needs to be adopted with regard to this Recommendation also.

- 3.8 **Recommendation 3** required improved accountability for the discretionary use of special management orders issued by the Superintendent. The Department's initial response to the Recommendation was to qualify its intention (regarding Section 36 orders), although a commitment was made to further examine options for greater accountability.
- 3.9 In the submission to the Follow-up Inspection, the Department reported that it had issued a new Operational Instruction that had resulted in improvements in this area. Operational Instruction No 2 requires the Superintendent to review on a daily basis any prisoner separately confined as a consequence of prison charges being laid and to notify the relevant Director in writing where this order exceeds 72 hours. This arrangement is not new. It is a restatement of the operational arrangements that existed prior to the issuing of the new Operational Instruction. However, the Department also reported that a new record has been introduced at Casuarina Prison to provide brief details for any Section 36 placement in the special management units.
- 3.10 Section 36 confers a broad power on the superintendent to ensure 'the good government, good order, and the security of the prison of which he (sic), is the superintendent.' The issue raised in the previous Inspection Report was that a highly transparent and accountable process under Section 43 had somehow come to be circumvented through the use of Section 36. There is no question that the superintendent has the statutory power; but what was lacking previously is the accounting for its use. At the time of the Follow-up Inspection, this had not been sufficiently addressed.
- 3.11 **Recommendation 4** related to the circumstance whereby a superintendent's powers pursuant to Section 36 were invoked in conjunction with disciplinary proceedings. This issue arose when prisoners were ordered to serve a period of separate confinement in a punishment cell by a Visiting Justice or Magistrate and, subsequently, the Superintendent routinely invoked Section 36 powers to additionally commence a lengthy period of close supervision, applying regimes that effectively mirrored the separate confinement regime. Prisoners complained of 'double jeopardy' where two penalties were applied for one offence, and where there was no recourse to appeal the application of the discretionary powers of the Superintendent acting pursuant to Section 36. The Department, in response to the previous Inspection Report, simply noted that close supervision may follow a period of punishment, but went on to state that a new Rule had been drafted to improve better regulation of this practice.
- 3.12 The Department, in its submission to the Follow-up Inspection, reported that a new Policy Directive No 3 and Operational Instruction No 1 had resulted in regulatory improvements in this area. Policy Directive No 3 – 'Hierarchy of Management (Privilege) Regimes and Close Supervision' – defines 'close supervision' as 'a management option to maintain the good order and security of a prison. It is not intended as a punishment or as a part of a punishment. Its purpose is to temporarily remove prisoners from the mainstream prison population because they pose a threat to other prisoners, staff or the security of the prison, and require a greater degree of supervision and management than general prisoners'. Operational Instruction No 1 – 'Hierarchical Prisoner Management Procedures' –

THE CURRENT STATUS OF THE PREVIOUS INSPECTION RECOMMENDATIONS

specifies that prisoners who completed a period of confinement imposed following conviction for a prison offence are not to be placed under close supervision unless their behaviour requires the placement in accordance with specified criteria.

- 3.13 The policy intent of close supervision in these documents has now been made abundantly clear, and to that extent the implementation of Recommendation 4 has been fully discharged. The Department should nevertheless ensure that this translates into practice, and must institute audit procedures to enforce compliance. It will be insufficient to rely on prisoner complaints to bring inappropriate practice to notice.
- 3.14 **Recommendation 5** sought to achieve a clear distinction between prisoner special management orders issued pursuant to Section 36 and Section 43. The Department, in responding to the previous Inspection Report No. 1 commented that the only relationship between Section 36 separate confinement and Section 43 orders is that Section 36 confinement may be used pending Section 43 approval. In so doing the Department considered that no further action was necessary.
- 3.15 Somehow the main point was missed. Section 36 is a broad discretionary power conferred upon the superintendent. In effect, it provides the authority to do all things necessary to achieve the specified results of good government, good order and security. There is no statutory requirement to issue orders in writing or to report them. Section 43, on the other hand, has more rigorous statutory requirements. The purpose of this Section is identical to Section 36; however, it must be put in writing by the chief executive officer, cannot exceed 30 days, must be reported to the Minister forthwith, and also requires that every cell used for this purpose be assessed to ensure that it will not injure the health of the prisoner so confined. Recommendation 5 called upon the Department to acknowledge the anomaly, and adopt management strategies to administer this.
- 3.16 In its submission to the Follow-up Inspection, the Department reported that the introduction of a new Policy Directive and a new Operational Instruction have resulted in improvements in this area. These documents are the same as those mentioned in Recommendation 4. The prison management reported to the Follow-up Inspection Team that only two Section 43 orders had been issued in the period between the two Inspections. Section 36 orders for separate management of prisoners subject to prison charges in certain circumstances, are now better recorded, as noted in the commentary relating to Recommendation 4, but this does not go far enough. Some prisoners reported to the Inspection Team that they were not fully advised about the regimes when placed in Areas 2-3. Clearly, the practice at the prison in some cases falls short of the Department's policy intention.
- 3.17 **Recommendation 6** drew attention to the practice of cross-designating cells. The issue relates to the creation of generic cells (the so-called 'multi-purpose' cells) for special management. The previous Inspection Report (No. 1) intended that the Department would develop a regime for each special management order, to be delivered in selected cells in the area designated by the placement order. For example, note the statutory requirement of Section 43 cells mentioned above in the commentary on Recommendation 5. The Department, in its response to the previous Inspection Report, stated that flexibility was required, but agreed that the issues raised would be kept under review.
- 3.18 In its submission to the Follow-up Inspection, the Department reported that the practice of mis-using parts of the designated Special Handling Unit (Areas 4-5) had been changed. Only prisoners

THE CURRENT STATUS OF THE PREVIOUS INSPECTION RECOMMENDATIONS

with specific orders for placement in these areas would be accommodated in these cells. In the event that the Superintendent required additional cells, other than those delegated for a particular special management purpose, then verbal approval would be sought from the Executive Director Prisons via the General Manager Public Prisons⁹.

- 3.19 Whilst this is a step in the right direction, the improvement is marginal and is not embedded into carefully constructed operational procedures that assess the impact on the health and well-being of the prisoner so confined, the prison management's ability to deliver regimes associated with the order, and the clarity of staff understanding of their roles in managing these different categories of prisoners. There is a real risk that generic cell classification would result in lowest common denominator standard setting¹⁰.
- 3.20 **Recommendation 7** called for individual case management to be actively pursued in relation to prisoners whose presence is not time-limited by the circumstances of their commitment to these Areas. The Department, in responding to the previous Inspection Report, agreed fully and committed itself to extending these arrangements to all prisoners, and not just to those on indeterminate placements.
- 3.21 The Department's submission to the Follow-up Inspection reported that case managers have been trained and assigned to all prisoners on indeterminate placement as well as high-protection prisoners and those prisoners located in Areas 2-3 for more than a month. This was confirmed in interviews with prisoners and officers during the Inspection. This strategy is consistent with the mainstream individual management/case management plans, but also incorporates extensive individualised psychological assessment and profiling of each prisoner.
- 3.22 This is a significant improvement in practice, achieved in a relatively short timeframe. It further demonstrated to the Inspection Team that this prison's operations, and in particular that of the special units, had sufficiently normalised to the point that the important correctional work previously interrupted by the aftermath of the riot could be fully operational restored. That a multi-disciplinary approach could so readily be applied to complex categories of prisoners is a credit to all involved, particularly to the prisoners whose differential previous experiences and sense of past injustices had to be overcome.
- 3.23 **Recommendation 8** referred to the re-establishment of the Case Management Review Committee to monitor the progress of all prisoners in the different special management areas. The multi-disciplinary composition of the Committee was intended to include medical, psychological and programs staff as well as uniformed staff and local prison management. It was recommended that the

⁹ This position subsumes the previous position of Director Metropolitan Prisons.

¹⁰ The Inquest into the death of a prisoner who committed suicide at Roebourne Prison in January 2000, made some interesting observations in this regard. The Coroner noted that a cell that was clearly marked as a punishment cell was commonly referred to by staff as a multi-purpose cell. During the inquest, staff gave very different explanations for the purpose of the prisoner's placement in this multi-purpose cell – that he was a danger to staff and other prisoners, that he was at risk of self-harm and should be monitored, and that he required close supervision on account of his threat to the good order of the prison. The Coroner found that, in reality, a Senior Prison Officer deliberately misled the Assistant Superintendent to ensure that the deceased would be placed in an uncomfortable and isolated cell as a punishment for not being more co-operative during an interview.

THE CURRENT STATUS OF THE PREVIOUS INSPECTION RECOMMENDATIONS

Committee meet no less than monthly and that its deliberations be properly minuted and made available to prisoners to whom it relates. It was also desirable for prisoners to be permitted to present their cases to the Committee, as appropriate. The Department, with some minor qualifications, committed itself to implementation.

- 3.24 In the submission to the Follow-up Inspection, the Department reported that monthly case management meetings are now in place. Prisoners are verbally advised of outcomes and also receive decision slips informing them of Committee decisions which relate to them. Prior to the meeting, a core group of Committee members interviews each prisoner. Prisoners are generally not present at the meetings, but are able to attend on request, or to attend at the request of the Committee, and can also make written submissions to the Committee. During the Inspection, prisoners confirmed that they were aware they could attend their case management meeting, and many had taken up the opportunity to do so.
- 3.25 The Inspection Team took the opportunity to speak to prisoners located within the special management units, also to others who had been transferred back to mainstream locations in recent times, examined related documentation, and met with a broad range of uniformed and non-uniformed staff. The Team found that some difficult cases involving prisoners who had been residents of the special units for long periods – in some case many years – resulted in those prisoners being returned to the prison mainstream. There was evidence of throughcare planning in the case management plans of these prisoners. The formal and structured involvement of the General Manager Public Prisons in overseeing this process, and in actively participating in the decision-making process, was noted as a significant change. This recommendation has been implemented comprehensively, and the benefits are clear to see.
- 3.26 **Recommendation 9** identified the urgent need for planning to enable appropriate rehabilitation and education programs to be delivered within what functions as the high protection unit (Area 1) and the Special Handling Unit (Areas 4-5). The Department agreed to full implementation.
- 3.27 In the submission to the Follow-up Inspection, the Department reported that a range of programs and activities had been implemented. There is a psychologist deployed within the special management units who attends daily to undertake counselling and assessment; art therapy classes are now conducted weekly; and, education staff also attend the Units once a week. The recreation plan provides some prisoners from Areas 1 and 2 with weekly access to the gymnasium. Some prisoners from Areas 4 and 5 have benefited from employment opportunities associated with a commercial contract to assemble wheelbarrows. The Department acknowledged that further progress is required with regard to this Recommendation. The Inspection Team formed the view that the effort to date nevertheless constitutes a good start. Some of the service improvements, such as the deployment of a psychologist into the special units and the attendance of the education staff, are highly significant.
- 3.28 **Recommendation 10** called for an active attempt to broaden the staff deployment base within these Areas, and in particular, to recruit female officers. The Department agreed to fully implement this recommendation.
- 3.29 In the submission to the Follow-up Inspection, the Department reported that it had not yet implemented appropriate strategies. It reported that there had been efforts made, but these had not

THE CURRENT STATUS OF THE PREVIOUS INSPECTION RECOMMENDATIONS

succeeded. A previous call for expressions of interest has not attracted female officers. The Department stated that, following the previous Inspection Report, the prison management had individually approached female staff at the prison, also without success. The Department also notified its intention to involve the Human Resources Directorate in developing strategies to achieve gender-balanced deployment of uniformed staff.

- 3.30 The Inspection Team made inquiries at the prison and was told that not all women officers had in fact been approached. This is a complex matter, and it will not be resolved by simple solutions. The women officers at the prison do not want to be pushed into working in the special management units. It is first and foremost important to create the right culture, to encourage participation and to offer long-term support. The Department is advised to set objectives and goals and then to engage the process of recruiting women for this difficult role. The Inspection Team was most impressed by the all-male unit staff who initiated discussion on this topic during one of the Inspection sessions. Their view was that the time is right for change, but that due deference to the operational complexities and to gender-relevant issues demanded that planning should be thorough.
- 3.31 The prison management explained that they were developing a staff deployment model for the special management units. This would involve the selection of a large body of staff to be rostered into the units for a long period (about three years). The Inspection Team encourages such a venture as long as the roles of the uniformed staff focus on services to prisoners, the criteria for selection reflects a team-based approach, there is strong local leadership, and the process provides for continuous review of all staff in these Areas to ensure individual suitability.
- 3.32 **Recommendation 11** related to the use of Unit 1 in the mainstream prison which was a standard accommodation unit with some structural modifications being used as disciplinary cells for prisoners ordered to undergo punishment. The Department qualified its response to this Recommendation. It stated that a degree of flexibility was required, especially with prevailing high prisoner numbers at the prison.
- 3.33 In the submission to the Follow-up Inspection, the Department reported that prisoners undergoing punishment were no longer housed in Unit 1. They explained that the reduced prison population since the time of the previous Inspection, had rendered this practice unnecessary. However, the Department restated its previous position contained in the March 2001 Action Plan on the need for operational flexibility.
- 3.34 The Inspection Team noted that allowing Unit 1 to revert to its standard original use has had a generally positive impact on the prison as a whole, as well as on the operations of the special management units. Allocating a large accommodation area such as Unit 1 with 70 bed spaces for special management sends a 'no tolerance' message to the prison population and shifts the balance from a 'correctional' regime to a merely custodial regime. It also gives rise to the issues raised in the commentary of Recommendation 4 about appropriate cells and sites for the delivery of the regimes associated with the placements. The limited exercise space associated with Unit 1¹¹ necessarily puts unintended pressure on staff and prisoners.

¹¹ Punishment prisoners exercise in caged spaces commonly referred to as 'dog runs'.

THE CURRENT STATUS OF THE PREVIOUS INSPECTION RECOMMENDATIONS

- 3.35 **Recommendation 12** refers to record keeping for major events, particularly use of the restraint mattress ('Blue Bed'); use of chemical agents, abnormal restraints, cell extractions; and self-harm incidents. The recommendation called for wholesale improvements and provided a guide for the standard required for record keeping. The Department agreed to implement the Recommendation. In its submission to the Follow-up Inspection, the Department reported that some improvements to record keeping have been achieved. Specifically, a register detailing use of the restraint mattress has been established and an electronic form, with details relating to authority and procedure, has reportedly been introduced¹². A register for the use of chemical agents and other restraints was made the responsibility of the Assistant Superintendent Security. The Department also reported that the suggested guide for record keeping was being applied to re-design relevant forms and that two senior prison managers would complete this task by mid-October 2001.
- 3.36 The General Manager Public Prisons, in his verbal presentation to the Inspection Team, reported that the Policy Directive No. 5, issued in May 2001, set tighter controls on the kind of force that can be used and the ways in which such force can be applied. The Policy Directive is intended to improve related record keeping.
- 3.37 The Inspection viewed the records currently in existence at the prison. During the previous Inspection it was not possible to properly scrutinise the scattered records related to these major prison events. Given the unequal power between prisoners and staff, it is incumbent upon the Department to be able to disprove allegations of excessive force and systematic brutality. This can only be achieved if proper records are scrupulously maintained. The Inspection Report called for record keeping protocols that match the seriousness of the events and the political and management risks that they pose. While there has been progress in this area, and there are the beginnings of a cogent system, there is still a long way to go.
- 3.38 **Recommendation 13** prompts the integration of improved practices into similar closed units in other prisons, including Hakea, Albany and Acacia Prisons. The Department agreed to full implementation. In the submission to the Follow-up Inspection the Department reported that the recommendation had been implemented by issuing new Director General's Rules and Operational Instructions. It was noted that the Operational Instructions do not apply to prisons under private-sector management (currently only Acacia Prison).
- 3.39 The development of appropriate operational cultures must not be limited to high-level policy documents. Active management systems to train and lead staff, to inform prisoners through induction and orientation programs, to enforce compliance and to report publicly must follow. The Inspection Team acknowledges the work done to set the strategic framework, but more needs to be done on the ground.

¹² The removal of the 'blue bed' from the special units subsequent to the Unannounced Inspection of the Special Units in December 2000 resolved the issue of its unacceptably threatening presence in this area. It was relocated to the prison's medical centre. This effectively compromises the therapeutic intent of a health centre and shifts the balance to an inappropriate custodial ethic. The 'blue bed' should be located elsewhere in the prison.

THE CURRENT STATUS OF THE PREVIOUS INSPECTION

THE BENEFITS AND THE BENEFICIARIES

- 3.40 The positive engagement of departmental executive management, the involvement of non-uniformed operational staff, and the co-ordination of the prison management team to effect these improvements must be acknowledged. Many people worked together with a common purpose to achieve this result. This galvanising experience should be built upon to finalise and sustain the good work that has been commenced.
- 3.41 The most important change has been in the improved quality of the relationships between prisoners and staff of the special management units. The main benefits for prisoners have been improved access to non-uniformed staff and enhanced delivery of programs, and confidence in the operational processes overseen by the re-established Case Management Committee. This is a balanced approach that has much to commend it, compared to the conflict that emanated from the previous ad hoc special management arrangements. The benefits for uniformed staff include access to a broad range of training, enhanced prisoner management options and improved role clarity. The benefits for the prison management and the Department include increased public confidence brought about by improved transparency of the operational procedures.

Chapter 4

LIFE IN THE UNITS

THE RECENT EXPERIENCE OF PRISONERS

- 4.1 Discussions with staff and prisoners confirm that, since the Unannounced Inspection in December 2000, there have been gradual improvements in the access to amenities and activities of the kind that are standard expectations in the mainstream prison. The Inspection Team was interested in these improvements from a number of points of view: firstly, it is essential to reduce the deleterious effects of isolation and thereby best assist the objective of returning prisoners to mainstream management; secondly, it gives meaning to the issued policies of the Department; and thirdly, it demonstrates that management can with applied effort, find operational solutions to complex security and management demands. The previous Unannounced Inspection noted that, despite the past recognition of these chronic problems, there was evidence of passivity at all levels of management. By contrast, during the Follow-up Inspection there was a sense of commitment to the process of change from Head Office, local management, staff in the special management units and the prisoners themselves.
- 4.2 The general atmosphere in the special management units was relaxed and prisoners and staff were confident in talking to the Inspection Team. Most prisoners knew why they were there and what they had to do to be released to the mainstream, although a remand prisoner had significant issues with the veracity of security information used to order his placement into the unit. Management and staff were able to clearly articulate the public safety risk involved for each of the prisoners involved.
- 4.3 Speaking with both prisoners and staff, it became obvious that case management is of a differential quality dependent upon all the usual situational and personality variables. However, its importance as a management tool has been grasped and it does appear to be reflected in some of the routine operations of the units. As well as being a tool to assist in making the transition from a closed unit into the mainstream and then into the community, case management assists in the management of the personal volatility that often develops amongst prisoners in the special management units.
- 4.4 The Inspection Team interviewed one prisoner whose lengthy stay in prison encompassed a history of conflict, punishment and self-harm. Boredom was said to be a motivating factor. By his own account, the prisoner had benefited from the recent introduction of case management to the Unit and he valued his working relationship with the particular officer assigned to him.
- 4.5 Two prisoners who had extensive special management placement experience advised that violence was not endemic in the unit. There were long standing issues between some prisoners that strained alliances and relationships, and disputes over simple matters occasionally escalated into violence. The whole tenor could change with one movement in or out of the unit. In most instances, staff acted appropriately when there were disputes, including those involving staff and prisoners. Staff and prisoners typically kept their distance from each other, but there was generally a respectful interaction between them and an understanding of where the boundaries lay.
- 4.6 The longer-term prisoners had been inducted through a rough process of trial and error by testing the boundaries of staff and prisoner tolerance in the unit. They said that the safest way to keep out of trouble was to keep a low profile and not to gossip. The shorter-term prisoners appeared less settled than their longer-term peers. Many had unresolved conflicts with other prisoners in the mainstream and they were anxious about moving back there. The issue here is that staff had not yet developed sufficient trust with the prisoners for these anxieties and fears to be dealt with, or for the conflicts to

be mediated. Consequently, communication was often about day-to-day matters or based on the exit criteria of the case management plan – i.e., it was functional rather than developmental. However, it was noted that there was discernible improvement to the interaction between these groups and the emergence of insights into unmet needs.

THE RESPONSIVENESS OF STAFF

- 4.7 The staff have a strong sense of unity and purpose. They view their work as demanding and stressful, but see themselves as experienced professionals who can manage their areas successfully. They are wary of new personnel placed on their roster, as they have to work closely with each other over an extended period. Trust and competence are key criteria for acceptance into the small team of staff deployed into the special management units. These units are the only ones in the prison with a guaranteed staffing level, that is not dependent on prisoner numbers.
- 4.8 Despite the reputation of the units as being volatile, staff generally considered themselves to be safe. They had confidence in their colleagues and felt they were part of a trained, skilled team. They recognised the value of having a repertoire of strategies to deal with prisoners who are potentially disruptive and considered that colleagues who rely on physical management strategies are a liability.
- 4.9 Generally, the staff supported the changes that had been implemented over the past nine months. They viewed them as constructive, and as increasing their involvement and responsibilities whilst giving them additional options in their management of prisoners. To equip them for this expanded role, the staff had been trained recently in case management strategies and practices. A significant change to the management of the units included the appointment of a clinical psychologist and improved access to the units by other health and program professionals. All of these personnel were considered to be an integral part of the team.
- 4.10 The case-management training program was also reviewed by the Inspection Team, and discussions held with the psychologists who had developed it. The training package appears to be relevant in that it was tailored for use within the special management units and also has appropriate ongoing review processes built in. This is a positive initiative that was long overdue. It deserves support and expansion.
- 4.11 As previously mentioned, the Inspectorate believes that the presence of female staff is an important factor in maintaining the normalisation (as far as possible) of prisoners. Currently, one female psychologist is working in the unit, and she is highly valued by her uniformed colleagues as well as by the prisoners. This is a significant milestone for the units, as many of the prisoners have a history of problematic relationships with women, particularly women in positions of authority. The psychologist's role is demanding and requires significant support from colleagues and the prison's administration.
- 4.12 The issue of uniformed female staff working in the special management units is complex. Female staff did in fact work in the units until the mid 1990's, but because of the placement of one particular prisoner considered to be a high risk of assaulting women staff all were removed and have not returned since¹³. A small group (seven) of experienced female staff from the mainstream prison

¹³ This sort of global and reactive response to a situation where women (staff or prisoners) are involved is a typical response of prison management in general. A more problem-solving approach is required.

LIFE IN THE UNITS

was interviewed to determine the women's views on working in the special management units. Almost all were totally opposed to working in Areas 4 and 5 under the current arrangements, primarily because they considered the work to be 'boring' and too much of a 'macho' domain. However, they were interested in working in Areas 1-3 because they thought they could be involved in actively managing prisoners.

4.13 The Department acknowledged at the start of the Follow-up Inspection that more needs to be done to change the operational culture of the special management units and to encourage uniformed women to work there. There are also management issues awaiting resolution about policy direction, leadership, team composition, roster design and location-specific training. The Inspectorate looks forward to witnessing the developmental work that is required, and to observing the outcomes.

SERVICES TO THE UNITS

Food

4.14 All the prisoners spoken to in Area 5 complained about the food. They said that it was of poor quality with little aesthetic and taste appeal. Some prisoners from other parts of the special management units also commented that the variety and quality of food should be improved. Food is an important barometer about life in general in the units and appetite may be impacted by prisoner/staff interaction, lack of constructive activity, smoking habits, types and levels of medication, and so on. Even so, the level of dissatisfaction was significant, and food-related issues such as a proper balanced diet, variety of food through menu rotation, and attractive presentation of meals at 'normal' times should always be quality-controlled and prisoners consulted in the process. This should include consideration of access to supplementary foods via the prison canteen.

Recreation

4.15 Recreation, like food, should be highly valued as a protective factor relating to healthy lifestyle; but additionally, it provides management options to vent highly charged emotions by this group of prisoners. Access to recreation activities for prisoners in Area 5 is poor and is confined to walking, static weights equipment, half-court basketball and a few other unattractive options within the walled, hard-surfaced internal yards. Given the potential for long-term stays in an abnormal and stressful environment, and the meagre use made of the current limited facilities, much more needs to be done.

4.16 For the prisoners in Area 1 there has been a marginal improvement through their recently approved access to the gym. Whilst this is important in demonstrating that effort is now being made to assign the escort staff necessary for this purpose, it is an exaggeration to refer to the arrangements as constituting a recreation program.

4.17 Prisoners in Areas 3-4 and some prisoners in Area 2 do not have access to the gym, nor do they have access to the facilities of the internal yards. The Departmental policy for some categories of prisoners within the five areas ambiguously refers to exercise rather than recreation. It should be reviewed.

LIFE IN THE UNITS

Library

- 4.18 Access to the library is seen as being extremely important, particularly by many of the Area 5 prisoners. The library provides them with educational opportunities as well as passive recreational opportunities. Library books (which in the special units, are discards from the main prison library) are provided on a trolley each fortnight, and prisoners can access up to three books at a time. The Inspection Team was advised that this is exceeded at various times if a prisoner specifically makes a request for additional items.
- 4.19 It seems short-sighted that more effort is not made to encourage prisoners to read. The quality, quantity and range of available literature could be substantially improved, with minimal effort and cost. A prisoner's visitor believed that the prisoner, who was an avid reader, was slowly atrophying partly through the lack of access to good reading material. There is a great deal of difference between providing a minimum standard service and positively encouraging a worthwhile activity.

Education

- 4.20 The access to education services has improved significantly through the very active and positive role now played by the staff from the Education Centre of the prison. The staff attend Area 5 on a weekly basis and seek out and encourage individual prisoners to participate in education programs, offering them various forms of assistance including one-on-one support. For some of the prisoners this was seen as an excellent opportunity. Some said that this was particularly valued because it was offered at a time when other prison conflicts were not distracting them from participation; in other words they confirmed that rehabilitative opportunities would be taken up if properly presented.
- 4.21 Prisoners in Area 1 went to safe locations outside their unit for specific programs and also received lessons within the unit. There were many positive comments about their involvement in the broad education program offered; this included formal academic courses and more creative options such as art. Art therapy had also been introduced into the unit and has been a great success with some prisoners.

Programs

- 4.22 The implementation of comprehensive programs for prisoners in Area 5 is not yet fully developed. While there are individual case management plans that have been established involving the uniformed staff and the clinical psychologist, there is a need for generic, group-focussed programs which address core offending issues, particularly violence and aggression.
- 4.23 The Inspection Team was advised that the Violent Offender Treatment Program is being considered for implementation in Area 5, when access to an appropriate venue and assignment of the necessary staff can be finalised. This would be an excellent initiative if implemented and would enhance the fledgling case management practices. The successful implementation of these programs at other prisons has depended upon the use of specially selected and trained prison officers who are supported by experienced psychologists or social workers, and who work together with serious offenders.

LIFE IN THE UNITS

4.24 The prisoners in Area 5 said they would welcome the chance to be involved in programs, particularly those core programs required by the Parole Board for any form of early release. They saw the value of utilising time, currently wasted on mundane activities that were meaningless to them, in a way that could achieve tangible results for them, the prison and the wider community.

Visits

4.25 The management of visiting arrangements was acknowledged by uniformed staff as important to the prisoners and capable of being less restrictive than is currently the case, particularly for prisoners in Area 5. These prisoners typically receive visits at specified visiting times away from the unit in the glazed 'official interview rooms' within the main visits area. Times are restricted because of the need for a two-officer escort. Staff commented that there had previously been a plan to convert a vacant section within Area 5 itself into a visits area. This would be beneficial for the prisoners and the staff as it would alleviate the need to send two officers on each visits escort, and by doing so it would improve the quality of family visits for prisoners. Staff pointed out that the refurbished area could also be utilised for prisoner programs. This should be evaluated by the Department.

Health Services

4.26 Generally, prisoners said access to health services had improved. The Inspection Team was also advised by unit staff that, although there was an ongoing problem with the extensive use of agency nurses who often had little working knowledge of the prison routines or prisoners, they had been instructed to make prisoners aware of their presence when they attended the special management units to ensure that prisoners were able to access necessary health services.

GENERAL OBSERVATIONS

4.27 Recently the 'austere unit' at Woodhill Prison in the United Kingdom adopted a new philosophy in an effort to encourage the prisoners (some of whom are the most violent and disruptive prisoners in England and Wales) to be less aggressive. The unit was refurbished and a wider range of amenities and activities was introduced. The Prison Governor reported that, over a three month period, the changes had reduced violence towards staff and prisoners. "This is nothing to do with appeasement", he said, "It's about normalising their situation as much as we can"¹⁴. The changes in the special management units at Casuarina, fall short of what has apparently been done at Woodhill Prison, but they are a welcome step in the right direction.

4.28 Prior to the Unannounced Inspection, the physical conditions of the special management units had deteriorated over time; the staff had little involvement with prisoners (both in terms of personal interaction and case management); and, they were to some extent isolated from the larger body of staff posted to the prison. The changes made since the Unannounced Inspection are acknowledged by staff as contributory factors to better management and they have been welcomed by prisoners. What is remarkable about the life in the special management units at Casuarina Prison is that, although local staff and prisoners have clear perspectives about what needs to be done, there is little

¹⁴ News Report by Home Affairs Correspondent on Woodhill Prison, 3 December 2001.

LIFE IN THE UNITS

debate about strategic objectives. Positive reinforcement of appropriate behaviour works to the immediate benefit of all those directly involved. The primary objective of the prison system to improve the resettlement chances of prisoners (in this case, first into the mainstream prison population and then into the community), will be more attainable by fully establishing within the special units, the kinds of services commonplace even in the mainstream of Casuarina prison, and that, as exemplified at Woodhill Prison, are precursors for correctional success.

Chapter 5

STRATEGIC PLANNING FOR THE FUTURE AND RECOMMENDATIONS

STATE SERVICES FOR SPECIAL MANAGEMENT OF EXCEPTIONAL RISK PRISONERS AND LOCAL PRISON NEEDS

- 5.1 The Special Handling Unit of Casuarina Prison is mandated to cater for exceptional risk prisoners, referred from many prisons in the State. Regulation 54C was established to frame the means for the Department's Chief Executive Officer to separate individuals from mainstream placement for management, control and security. The Regulation provides for special provision to be made for prisoners of a particular category or description and for a part of a prison to be set aside for these prisoners. Neither the current Director General's Rule No 2 nor the Operational Instruction No 5 elaborates on the description or category of prisoners for whom the Unit is intended. Nevertheless, what is implied in the statutory framework is that special arrangements may be made for exceptional risks. The Department has nominated the Kelly Report¹⁵ as providing the current relevant policy framework on this matter¹⁶. The matter of prisoner categories is taken up again later in this Report, in an effort to secure a visible operational application to the intent of the legislation.
- 5.2 The previous Unannounced Inspection of the special units primarily focused upon those prisoners managed in Areas 1-2 and 4-5. However, at Casuarina Prison, because the facility is there, prisoners who are normally managed in general accommodation units, and who, in other prisons would be sent for short periods to the so-called 'multi-purpose' cells, are brought into the special management units in large numbers. Between December 2000 and September 2001, there were 706 prisoners (comprising 612 distinct individuals) transferred in this way. Of this number, 50 prisoners were held for more than seven days, typically in Area 3. The rest were under special management for periods of less than seven days. The point is that, whilst large numbers are separated in this way, most are returned to mainstream management quickly, although some are then assessed for transfer to other Areas such as Area 2 and 4-5.
- 5.3 The basis of these placements vary, but are typically associated with the normal functioning of a large and complex secure prison, including:
- Separation to enable prison investigations to be completed, and where it is likely that aggravated prison or criminal charges will be laid;
 - Separation pending the outcome of charges that have been laid, where intimidation of witnesses may be a relevant factor;

¹⁵ The 'Kelly Report' (2000) is an internal Departmental review of the special management units that recommended changes to the operational management of these units.

¹⁶ See Recommendation 2 of Report No. 1 on the matter of entry, exclusion and exit criteria. The 'Kelly Report' proposes that any prisoner who has committed or demonstrated an intention to commit one of the following acts warrants referral for consideration for placement in the Special Handling Unit:

1. Abduction/hostage taking.
2. Serious incident of violence.
3. Possession of firearms, ammunition or high explosives.
4. Incitement or conspiracy to kill.
5. Serious threat to the good order of the prison.
6. Any escape or attempted escape with violence.

STRATEGIC PLANNING FOR THE FUTURE AND RECOMMENDATIONS

- Close supervision ordered by the superintendent for the good government, good order or security of the prison; and,
 - Separate confinement ordered as punishment by order of the Visiting Justice.
- 5.4 Once placed in Area 3, these prisoners become the day-to-day responsibility of staff deployed in the special management units. It is only because they come into the general area and are supervised by special management unit staff that they were included in the previous, and now this, Inspection Report.
- 5.5 The Inspection Team did not consider that these overlapping operational needs were in conflict. What is called for, however, is that there should be better clarity of purpose in published policy, and that entry, exclusion and exit criteria and the appropriateness of the routines applied to each category be actively managed. Without firm entry criteria it is likely that some prisoners will slip between the categories, resulting in stays initially intended to be short-term but converting into long-term placements. The Inspection Team saw evidence of this in the case of a prisoner who requested to remain in Area 2 for an unspecified period and without clarity of cause. In this case, the prisoner's needs and the agenda of management did not necessarily converge.

DEVELOPING A SINGLE UNIT ETHOS

- 5.6 A theme that emerged from the previous Unannounced Inspection and that is central to this Follow-up Inspection Report is the need for an integrated approach in the special management arrangements. The five Areas span what the prison referred to as two units; however, one team of staff manages them. The jargon and confusing terminology applied to the various categories is an unnecessary distraction for everybody and blurs what are important boundaries between the regimes. The policy pertaining to the various prisoner categories is still immature; the operational procedures are disjointed and are unlikely in their current form to deliver stated outcomes; the staff and the prisoners are confused by the drift of custodial emphasis in one direction or another; and public accountability is difficult to report. Despite all of this, the Inspection Team found that the fundamentals for change are intact. The obvious next step is to adopt a strategic perspective in planning for each discrete group of prisoners, as well as for the special management units overall.
- 5.7 Adopting a strategic perspective in planning necessarily means that the purposes for special management must be identified clearly and must inform the development of policy, operational procedures and routines that necessarily follow. Key objectives around security, control and special (rather than mainstream) management needs to be the focus of all effort. The single unifying objective for all is that every effort should be directed at creating an environment in which exceptional risk prisoners are motivated and assisted to behave responsibly, so as to facilitate their reintegration into a maximum security prison¹⁷.

¹⁷ The United Kingdom Home Office Research Study 219, *Evaluation of Close Supervision Centres*, January 2001, found that the central underlying principle of prisoner 'progression' applied by the Prison Service up to recent times was seriously flawed. The Prison Service has subsequently committed to a combination of control and treatment in managing prisoners assessed as requiring long term separate management.

- 5.8 Western Australia has a relatively small population of prisoners under long-term special management, and even then there are distinct groups within the broader category. This is all the more reason for care to be taken in planning for the individual and group needs of prisoners managed in this way. Second to the establishment of appropriate physical security arrangements are the procedural arrangements for assessing needs and service delivery requirements. Physical isolation of prisoners in units without the necessary structured supports is at best marking time but at worst detrimental to good correctional outcomes.
- 5.9 Many of the prisoners who have been referred to the special management units at Casuarina Prison in the past were selected in response to incidents of dangerous behaviour. That is, the placements were often reactive rather than protective. A key priority for the Department at this time is to reduce the rate of imprisonment, and in particular to reduce the reception of short-term non-violent offenders. As the prison demographics change to show higher concentrations of dangerous, violent and difficult prisoners, the prison service will need to develop better research-based assessment systems and to have purposeful and functional facilities to cater for the changing population profile. The need for a specialised unit to cater for a range of exceptional risk prisoners has already been demonstrated, and the infrastructure is already in place. What is now called for is the development of a revised and revitalised operational philosophy to guide integrated policy, operational procedures and evidence-based program services.

SELECTING AND PREPARING A MULTIDISCIPLINARY TEAM

- 5.10 In the previous Inspection Report (No. 1), Recommendation nine had to do with broadening the officer base, in order to protect against the development of an inappropriate staff sub-culture of conservative values with a primary focus on control and security. This Report takes the recommendation a step further, in calling for a fundamental review of the composition of the staff deployed in the direct management of the various categories of prisoners in the special management units, and assumes that there will also be commitment to a single-unit ethos to define the roles and responsibilities for these staff. The Recommendation is made in full recognition of the strengths of the present uniformed staff and the positive manner in which they have responded to recent changes. Any such review should take account of the quality of the present staff, and address the issue of enhanced training and development rather than wholesale change or replacement. The process should therefore be evolutionary and developmental.
- 5.11 A key point for the review is to accept the value of education, psychology and health services in engaging the prisoners to achieve successful integration into the mainstream prison population, and ultimately, the community. Special mention needs to be made also of the mental health services that are increasingly identified as a core service for prisoners categorised as having high control needs.
- 5.12 The structural arrangements for these specialist disciplines and the training and role developments for the uniformed staff need to be brought together in a cogent way. The task of managing exceptional risk prisoners is complex enough, without the added weakness of fragmented service delivery. This involves much more than attention to a smoothly running timetable of programs and activities; it relates to the exercise of authority to contribute to case management in its fullest sense. In this

regard, the Case Management Committee should clearly become, and be seen to become, a decision-making authority, so that there is no informal means by which key prisoner decisions are made outside the process. There needs to be a balanced approach in the value placed on the case management inputs of all the staff, including specialist non-uniformed staff. Capricious decisions founded upon unreliable security information must be avoided at all costs. A multi-disciplinary team, which equally values and integrates the contributions of uniformed and non-uniformed staff, is starting to emerge. This has a better chance of success than the previous arrangements.

THE HIGHEST LEVEL OF TRANSPARENCY AND ACCOUNTABILITY

5.13 The separate management of prisoners – accommodated in what the general public would see as ‘a prison within a prison’ – must necessarily attract the highest levels of transparency and accountability. These features must be evident in every aspect of management: the policy objectives; the operational procedures; the quality and nature of records kept; the composition, selection and development of staff; and, the decision-making authority. There need to be protocols for briefing the multi-disciplinary team with restricted category (security) information. Prisoners should be clearly and unambiguously notified of the assessed risks that led to their separation from the mainstream population. The Department also needs to consider a structured approach to satisfy itself through personnel integrity checks and compliance procedures that prisoners are properly managed in these closed units.

A GOOD START FOR SUSTAINABLE CHANGE

5.14 The previous Inspection was the first time that the Inspector of Custodial Services exercised statutory powers to cause the Department to publicly account for its operational performance. The Follow-up Inspection was planned as a review of progressive development within the special management units of Casuarina Prison. The focus of this Follow-up Inspection was on the qualitative changes made in day-to-day operations, as well as the readiness of the units to meet future challenges emanating from system-wide developments. The Inspection Team was encouraged by efforts made by the Department, the prison management and by the staff within the special management units. That is not to say that the Follow-up Inspection brings finality to the review; rather, it is a progress report on the good start made for sustainable change.

RECOMMENDATIONS

There are a number of recommendations from the previous Inspection Report that need more attention. In addition, this Report has elaborated on the need for a strategic review to achieve integration of all aspects of the special management units by calling for the development of a single unit ethos. Like the previous recommendations, the following recommendations too are direction setting, rather than finite in scope:

1. That the Department develops comprehensive strategies to achieve an integrated approach in the special management units.
2. That case management is thoroughly applied to each prisoner ordered to be in the special management units for more than one month. This includes full needs analysis, matched service delivery and risk-based decision making. The authority of the Case Management Committee should be made explicit.
3. That a full range of programs and activities is delivered on an assessed needs basis. The four cornerstones philosophy of the Prison Service should be applied as a minimum standards template to guide this assessment.
4. That better supervision and accountability measures are implemented for the use of Section 36 powers. The disparity in the arrangements for Section 43 orders should be noted and guide this implementation.
5. That the cells and unit environs for various placement categories are examined to confirm they will not injure the health of prisoners and also that they are fit for intended purposes, including the delivery of all case management programs and activities. A certification process to record the decisions should be established.
6. That the composition of staff reflects the multi-disciplinary services to be delivered, and that the selection, preparation and training of uniformed staff be complementary to this approach. The staff plan should also provide for continuous assessments of performance and suitability. Consideration should also be given to supporting women appropriately to become part of the multi-disciplinary team.
7. That general accommodation units not be used for special management placements, except as an option of last resort.
8. That further improvements to the standard of record keeping be made for incidents of self harm and use of force. These records should contain statements of compliance with policy and operational instructions.
9. That an effective operational compliance system be established to ensure that local prison practices are consistent with policy directives.

Appendix 1

THE SPECIAL HANDLING UNIT AND INDUCTION AND ORIENTATION UNIT INSPECTION TEAM

Professor Richard Harding	The Inspector of Custodial Services
Robert Stacey	Director of Operations
Peter Upton-Davis	Senior Inspections Officer
Gareth Morris	On secondment from the Department of Justice

Appendix 2

OUTLINE AND STATUS OF RECOMMENDATIONS FROM REPORT 1 AND THIS REPORT, AND RESPONSE BY THE DEPARTMENT OF JUSTICE

Report of the Unannounced Inspection of the IOU and SHU at Casuarina Prison (Report No. 1)

Inspector's Recommendations	Department of Justice's Response	Current Status of the Previous Inspection Recommendations
1 Department broaden its current review mechanisms (epitomised in 'Kelly Report') to consider appropriate use of the multi-purpose cells area.	Agreed.	New operational arrangements have been introduced for some prisoner categories. The previous Inspection Report cautioned against piecemeal reform. Nevertheless, qualitative changes are evident in the operations of the special management units.
2 Entry and exit criteria to all areas be clarified.	Agreed.	The Department advised that elements of the 'Kelly Report' will be progressively added to existing rules and instructions. The Department accepted that policy and procedural requirements were not always complied with and consequently some prisoners were not able to progress out of the special management units despite the motivation to do so.
3 Use of S36 orders be made subject to rigorous Director General's Rules so as to push accountability to the highest levels within the Department.	The ability of superintendents to exercise the broad provisions of S36 are important to ensure the good order and management of the prison. However, the issue of greater accountability will be further examined.	The Department has issued a new Operational Instruction.
4 Strict rules be imposed to regulate circumstances in which S36 order may follow a period of punishment.	It appears that reference to a S36 order relates to use of close supervision after a period of confinement. Close supervision may follow a period of punishment and new DG's rules have been drafted to provide improved regulation of this practice.	The Department has issued a new Policy Directive and Operational Instruction. The policy intent of close supervision in these documents has now been made abundantly clear.
5 Further review of the relationship between S36 and S43 orders.	The only relationship between S36 separate confinement and S43 order is that S36 may be used pending S43 approval.	The Department has issued a new Policy Directive and Operational Instruction.

OUTLINE AND STATUS OF RECOMMENDATIONS FROM REPORT 1 AND
THIS REPORT, AND RESPONSE BY THE DEPARTMENT OF JUSTICE

**Report of the Follow-up Inspection of the Special Management Units at Casuarina Prison,
September 2001 (This Report)**

Recommendations	Department of Justice's Response
1 The Department develops comprehensive strategies to achieve an integrated approach in the special management units.	As previously agreed, we reconfirm our commitment to the full implementation of the 'Kelly Report' at Casuarina, other existing units or any that may be established in the future.
2 Case management is thoroughly applied to each prisoner ordered to be in the special management units for more than one month. This includes full needs analysis, matched service delivery and risk-based decision making. The authority of the Case Management Committee should be made explicit.	In place.
3 A full range of programs and activities is delivered on an assessed needs basis. The four cornerstones philosophy of the Prison Service should be applied as a minimum standards template to guide this assessment.	In place.
	As per recommendation 5.
4 Better supervision and accountability measures are implemented for the use of Section 36 powers. The disparity in the arrangements for Section 43 orders should be noted and guide this implementation.	The Department acknowledges the difference between S43 and S36 and will review arrangements for accountability systems for each.

OUTLINE AND STATUS OF RECOMMENDATIONS FROM REPORT 1 AND THIS REPORT, AND RESPONSE BY THE DEPARTMENT OF JUSTICE

Report of the Unannounced Inspection of the IOU and SHU at Casuarina Prison (Report No. 1)

Inspector's Recommendations	Department of Justice's Response	Current Status of the Previous Inspection Recommendations
6 The practice of cross-designating for multiple purpose be reviewed.	The multi-purpose use of cells is necessary for flexibility at this time, but will be kept under review.	The practice of using parts of the designated Special Handling Unit (Areas 4-5) had been altered. There were no other changes made to the practice of cross-designating other cells.
7 Individual case management be actively pursued in relation to prisoners whose presence is not time limited by the circumstance of their commitment of these areas.	Agreed (for all prisoners, not just those on indeterminate placements).	Case Managers have been trained and assigned to all prisoners on indeterminate placement as well as high-protection prisoners and those prisoners located in Areas 2-3 for more than a month.
8 A Case Management Review Committee be re-established to monitor the progress of all prisoners held in these areas; the committee be constituted by medical, psychology and program staff as well as uniformed officers and management; meet no less than monthly; deliberations be properly minuted and made available to prisoners to whom it relates; and, prisoners be permitted to present their cases to the committee as appropriate.	Mainstream improvements (such as Individual Management Plans and case management) will provide a better standard of case management. High protection prisoners will be managed in this way. All other prisoners (i.e., designated SHU, or those who are not high protection but have been held in the area for more than one month) will be overseen by the case committee.	Monthly case management meetings are now in place.
9 Planning should commence at once to enable appropriate rehabilitation and education programs within the high protection IOU and level 3 SHU.	Agreed.	A range of programs is now in place. The Department acknowledged that further progress is required with regard to this recommendation.
10 The Department actively attempt to broaden the employment base within these areas and in particular to recruit female officers.	Agreed.	Appropriate strategies have not yet been implemented.

RESPONSE OF THE DEPARTMENT OF JUSTICE AND AIMS CORPORATION
TO THE RECOMMENDATIONS OF THE REPORT

Report of the Follow-up Inspection of the Special Management Units at Casuarina Prison,
September 2001 (This Report)

Recommendations	Department of Justice's Response
<p>5 The cells and unit environs for various placement categories are examined to ensure they will not injure the health of prisoners and also that they are fit for intended purposes, including the delivery of all case management programs and activities. A certification process to record the decisions should be established.</p>	<p>Agree with the objectives of the Recommendation and commit to review the specific purposes of the intended regimes within these areas.</p>
<p>6 The composition of staff reflects the multi-disciplinary services to be delivered, and that the selection and preparation of uniformed staff complements this approach. The staff plan should also provide for continuous assessments of performance and suitability. Consideration should also be given to appropriately supporting women to become part of the multi-disciplinary team.</p>	<p>Agreed.</p>

RESPONSE OF THE DEPARTMENT OF JUSTICE AND AIMS CORPORATION
TO THE RECOMMENDATIONS OF THE REPORT

Report of the Unannounced Inspection of the IOU and SHU at Casuarina Prison (Report No. 1)

Inspector's Recommendations	Department of Justice's Response	Current Status of the Previous Inspection Recommendations
11 Prisoners undergoing punishment no longer be housed in Unit 1, enabling that unit to revert to its intended use.	A degree of flexibility in the use of Unit 1 is required, especially with current prisoner numbers.	Prisoners undergoing punishment are no longer housed in Unit 1. However, some prisoners under the close supervision regime continue to be placed in the Unit, albeit in greatly reduced numbers
12 Record keeping in relation to major events – particularly “blue bed”, chemical agents, abnormal restraints, cell extractions and self-harm incidents – be radically improved along the lines specifically set out in paras 4.8 – 4.10 of this Report.	Agreed.	Some improvements to record keeping has been achieved.
13 The overall review by the Department of the SHU/IOU areas recommended above take note of the need to integrate practices in the other main closed prison areas in the state – Hakea, Albany and Acacia prison – with those at Casuarina.	Agreed.	New Director General's Rules and Operational Instructions have been issued.

RESPONSE OF THE DEPARTMENT OF JUSTICE AND AIMS CORPORATION
TO THE RECOMMENDATIONS OF THE REPORT

Report of the Follow-up Inspection of the Special Management Units at Casuarina Prison,
September 2001 (This Report)

Recommendations	Department of Justice's Response
7 General accommodation units not be used for special management placements, except as an option of last resort.	Agreed and actioned.
8. Further improvements to the standard of record keeping be made for incidents of self harm and use of force. These records should contain statements of compliance with policy and operational instructions.	Agreed. Checklists are being developed to assist in the record keeping function consistent with the recommendation.
9 An effective operational compliance system be established to ensure that local prison practices are consistent with policy directives.	The Department is developing a corporate compliance framework that will encompass policies and procedures at an operational level in prisons.



OFFICE OF THE INSPECTOR
OF CUSTODIAL SERVICES

Level 27, 197 St George's Terrace, Perth, Western Australia 6000
Telephone +61 8 9212 6200 Facsimile +61 8 9226 4616 www.custodialinspector.wa.gov.au