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OFFICE OF THE INSPECTOR OF CUSTODIAL SERVICES

REPORT OF AN ANNOUNCED INSPECTION
OF BROOME REGIONAL PRISON



**Report title: Report of an Announced
Inspection of Broome Regional Prison**

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The Inspector's Overview

BROOME REGIONAL PRISON AND THE NEED FOR AN INTEGRATED CUSTODIAL MANAGEMENT STRATEGY FOR THE KIMBERLEY

In 2000, during my first visit to Broome Regional Prison, I discovered that the well-known quip about “Broome time” had spilled over into prison administration, with managers and staff speaking of the “amnesia cloud” that apparently enveloped Head Office personnel as their plane lifted off the runway and headed south. Their point was that as the drinks trolley made its first foray down the aisle the promises made on the ground were already forgotten; nothing would happen to enhance the prison, though the visitors had had a good time.

Until that time there had perhaps been more than an element of truth in this perspective. The converse was that there was no real pressure for prison managerial practices to change; local management had a relatively free hand. Up to a point, the “amnesia cloud” suited everybody – though the views of the prisoners had not been sought about this.

However, with the inception of the inspectorate system and the initial inspection of Broome Regional Prison in June 2001, this has started to change. Partly, this is because Broome has been one of the beneficiaries of the emphasis this Office has placed on bringing all regional prisons to the forefront of Department of Justice attention; there had hitherto been inadequate appreciation of the crucial role that they perform in making State imprisonment practices equitable. Even more markedly, this is because Broome is not only a regional but also an “Aboriginal prison” – by which is meant one whose typical daily population is at least 75 per cent Aboriginal. The significance of this is that the conditions we found in the Aboriginal prisons – Broome, Roebourne, Eastern Goldfields and to a markedly lesser extent Greenough – were such that simply would not be tolerated if they were predominantly “white fella” prisons. By insistently drawing attention to this, the Office of the Inspector has succeeded in refocussing political and Departmental attention.

Arising directly from this is the third factor – the development of an understanding that in the Aboriginal areas of the State it is not enough to have a prisons policy. Rather, it is necessary to have an integrated “custodial management” strategy that encompasses degrees and styles of incarceration, not just standard imprisonment. Ideally, this strategy should meld with non-custodial strategies and should also straddle the age and gender boundaries. Thus it was that, in the context of the Kimberley, a proposal simply to build a replacement prison in the Broome area for the overcrowded and physically degraded central Broome facility became unacceptable to the government. Some hard thinking was required about a total custodial management strategy for the whole of the Kimberley.

This has become increasingly urgent as the numbers and percentages of Aboriginal prisoners burgeon. As I write this (1st February 2005) there are 1,386 Aboriginal prisoners, constituting 40.6% of the population, in Western Australian adult prisons (as

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opposed to 3% of Aboriginals in the general population); this is the highest number historically since colonial times. Many Aboriginal prisoners thus find themselves accommodated long distances from their own lands; in the case of the Kimberley about 50% of local prisoners are held at various points down south.

Moreover, the flow into the adult system is likely to be maintained for the foreseeable future; there are 116 Aboriginal juveniles, constituting 79.5% of the population, incarcerated in juvenile detention centres. The most cogent single predictor of admission to the adult prison system is experience in the juvenile detention system.

The Department of Justice, for its part, has attempted to keep up with the rapidly changing agenda. During 2002/03, the Prisons Division developed a Strategic Plan for Aboriginal Services – generally, not just in the Kimberley. In abstract terms, it is a good document, though from the perspective of this Office it has not flowed through convincingly to developments on the ground. Simultaneously, a consultation process in the Kimberley led to the development of a Kimberley Regional Justice Project, though this has little to say about custodial management strategy.

In 2000 a work-camp was opened at Bungarun, near Derby, and in late 2001 another at Wyndham. These were laudable projects in themselves, though not really arising from a cohesive overall strategy. Thinking within the Department had still not moved far away from the notion of a replacement and larger prison in the Broome area itself. If there has been a unifying philosophy, it is found in the 2003 Department “Statement of Philosophy and Planning Brief for Regional Prisons” – a useful document as far as it goes but again very much focussed upon traditional prisons. Philosophically, the Department was still floundering.

In this regard the COAG (Council of Australian Governments) performance criteria in relation to service provision offers guidance with its reference *points of equity, effectiveness, access and appropriateness* (Report on Government Services: Indigenous Compendium 2004). The Chairman of the Productivity Commission has stated that “Indigenous people are often best placed to know what is likely to work and help governments think ‘outside the square.’”

During 2004 it came to be understood at a Ministerial and a community level that the issue of an integrated custodial management strategy could not be permitted to drift any longer. Some focus and resolution was urgently required. In November the Minister for Justice announced the establishment of a Ministerial Task Force to consult and advise upon a strategy paying particular attention to the views of Indigenous people. This Task Force is to be led jointly by the Inspector of Custodial Services and the Director General

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of the Department of Justice. The expectation is that this model will in due course be applied to other areas, notably the Goldfields and the Pilbara.

The inspection of Broome Regional Prison and the submission of the draft report occurred at a time when the Department was still thrashing around, a situation exacerbated by hiatuses at the senior management level within the Prisons Division. This, I believe, is the explanation for the atypical response to our recommendations – atypical in terms of the lowest acceptance rate that an inspection report has yet received. To compound matters, the comments accompanying a rejection not infrequently read like the preliminary to an acceptance – there was an apparent disconnect between the reasoning and the conclusion. There had been some evidence of similar ambivalence in the responses to the Karnet inspection report (No. 26), but it is more marked in relation to this report.

Whatever the explanation – confusion, defensiveness, leadership hiatus – the bottom line is that Broome Regional Prison needs to improve, even though in its present configuration and role its remaining life span should not extend beyond the current decade. This Office will continue to assist this process through liaison visits and if necessary a further inspection.

However, the main game should now start to shift – to the development and implementation of a total custodial management strategy for the Kimberley. Exactly what form this will take remains to be seen. It would be unwise to assume that it will simply involve another prison in the Broome area. The evidence to date, from community consultations carried out by this Office prior to the establishment of the Ministerial Task Force, suggests that the Kimberley stakeholders, both Aboriginal and non-Aboriginal, are looking for something far more culturally appropriate, correctionally imaginative and future orientated than that.

Richard Harding
Inspector of Custodial Services

1 February 2005

Chapter 1

‘WA’S WORST JAIL’?

- 1.1 On 7 July 2001, eight days after the completion of this Office’s first Inspection of Broome Regional Prison (‘Broome Prison’¹), the then Justice Minister announced the construction a new \$50 million prison for the Kimberley. A newspaper article, describing the Broome Prison site as ‘WA’s worst jail’, reported that the Minister said it was ‘chronically overcrowded and needed replacing’ and that the women gaoled in Broome were ‘the worst treated prisoners in WA’.²
- 1.2 What was not reported was that, just eight years earlier in 1993 and after the publication of adverse findings by Amnesty International, Wyndham Regional Prison in the East Kimberley had been closed.³ The Broome Prison site then became the sole correctional facility in the Kimberley region, an area of 421,451 square kilometres, one-sixth the size of the State.⁴ All Kimberley prisoners had to be accommodated in Broome or be ‘sent south’, to use the language of the State’s northern prisons.
- 1.3 The subsequent opening of a small work camp at Wyndham in July 2002 clearly strengthens the efforts of the Department of Justice (‘the Department’) to ensure that prisoners,⁵ in particular Aboriginal prisoners,⁶ are able to retain connections with their families and communities. It also, like the other Kimberley work camp in Derby, alleviates something of the overcrowding at the Broome Prison site. However, this cycle of prison closure, resultant prisoner overcrowding and dislocation, and the eventual commissioning of new (or re-opening of closed) facilities⁷ leaves the impression that the Department operates within a culture of reactive and ostensible ‘quick fixes’, rather than on the basis of long-term analysis and the sustained interest which is required to respond to the complex issues confronting it.

1 Broome Prison refers to the Broome Prison site and the two Kimberley work camps unless the context indicates otherwise.

2 Anne Burns, ‘\$50m to replace WA’s worst jail’, *The West Australian* (7 July 2001), p. 8.

3 According to the Department the announcement to close the prison was made on 31 August 1993, and the Ministry of Justice *Annual Report 1995* reported that the prison was not used after October 1993 (at p. 20). Amnesty International published a report in April 1993 which commented that the cramped dormitory with bunk beds at Wyndham Regional Prison, where there was virtually no privacy or space for personal belongings, was balanced by prisoners being relatively free to move about the prison compound during the day with many more being employed outside the prison itself. However, Amnesty also went on to condemn the ‘cultural suppositions [which were] used as an excuse to provide grossly inadequate, overcrowded or degrading communal accommodation specifically for Aboriginal people’: Amnesty International, *Australia: A Criminal Justice System Weighted Against Aboriginal People* (January 1993), pp. 10–12.

4 Department of Justice, ‘Statement of Philosophy and Planning Brief for Regional Prisons Facilities and Services’ (December 2003), p. 14.

5 Department of Justice (December 2003), op. cit., p. 9.

6 Department of Justice, *Prisons Division Strategic Plan for Aboriginal Services 2002–2005* (undated), p. 15.

7 See for example, the Department’s draft ‘Prisons Resource Plan 2004–2008’.

‘WA’S WORST JAIL’?

The Department should take a more active role in educating the public on prisons and prisoner related issues so that it has the capacity to address issues of public concern in a more measured way and after consideration has been given to the practical repercussions of policy and other proposed changes.⁸

- 1.4 In the instance of ‘WA’s worst jail’, the 2001 announcement of ‘a new prison’ in the Kimberley (if indeed that is what is needed⁹) appears hardly closer to becoming reality than when this Office last inspected Broome Prison.¹⁰ ‘WA’s worst jail’ continues to function three years later with only minor structural improvements. In spite of the new Wyndham Work Camp, the severe overcrowding and many of the other key issues identified in the previous Inspection Report¹¹ remained largely unaddressed when the re-inspection commenced on 3 May 2004.¹²

AN UNEXPECTED SUCCESS.

- 1.5 In spite of this, it is important to acknowledge that in some very significant ways, Broome Prison is also an outstanding and, given the difficulties it faces, an unexpected success which does not deserve the tag of ‘WA’s worst jail’.
- 1.6 The state of the physical facilities and the extent of overcrowding mean that the treatment of prisoners is a crucial factor in assessing Broome Prison. An additional factor to be taken into account is that Broome is also one of the highest receipt prisons in the State¹³ and that newly sentenced and remand prisoners are particularly vulnerable and potentially high risk, requiring specialised management.¹⁴ It is of particular significance in these circumstances that the last death in custody at Broome Prison occurred in 1996.

⁸ The Department states that the intent of this recommendation requires clarification and that the risk of not implementing it was rated as ‘low’. The Department cited a number of instances where it has undertaken consultation and research in the Kimberley, including a reference to one process, the Aboriginal Justice Agreement (‘AJA’) implementation, which ‘proactively provides information on justice issues as well as engaging people in the planning process’. It is of note that while community consultation can meet the important function of identifying issues of public concern, it is not, to paraphrase the Department, the proactive provision of information to the public on justice issues (public education – which was only referred to once in the Department’s response). The intent of the recommendation was to suggest that the Department might benefit from adopting a more active role in public education in order to reduce the demand for ‘quick-fixes’ to issues of public concern.

⁹ See Chapter 7 ‘Planning’, below.

¹⁰ The Superintendent of Broome Prison indicated that he expected it to take at least six years for a new facility (Superintendent Broome, Briefing, 3 May 2004), and the Department’s Prisons Division does not envisage the new regional prison to be operational until 2009 (Department of Justice, Prisons Division, ‘Building and Infrastructure Program 2004/05–2007/08’, p. 9).

¹¹ Report No. 6, *Announced Inspection of Broome Regional Prison – June 2001* (Office of the Inspector of Custodial Services, Perth, 2002). The Bungarun Work Camp had begun operation just prior to that Inspection, in March 2001.

¹² For a description of the approach adopted for ‘second phase Inspections’, refer to Report No. 24, *Announced Inspection of Roebourne Regional Prison – November 2003* (Office of the Inspector of Custodial Services, Perth, 2004).

¹³ Data for 1 January 2003 to 31 December 2003, ‘All Receptions by Reception Prison’, provided by the Department, 17 August 2004.

¹⁴ Report No. 22, *The Diminishing Quality of Prison Life: Deaths at Hakea Prison 2001–2003* (Office of the Inspector of Custodial Services, Perth, 2004), p.25.

- 1.7 The inquest into that death documents a high level of commitment and care from the officers and other staff of Broome Prison. The Coroner further commented that:

it is most important, particularly for Aboriginal prisoners, for such a prison to be available in the Kimberley. Aboriginal prisoners sent from the Kimberley region to Perth are separated from families, friends and familiar environment which can be a distressing experience.¹⁵

- 1.8 It is somewhat paradoxical therefore, that this event, which highlighted the humanity of staff at Broome Prison, appears to have generated a security regime which over the years has become increasingly inhumane.¹⁶ By the time of the last Inspection security considerations were found to have been ‘out of balance’ with the other correctional cornerstones for prisoner management.¹⁷ Much of this Report concerns this Office’s assessment of how the competing correctional cornerstones of care and wellbeing, reparation, rehabilitation and reintegration are met at Broome Prison in spite of both the apparent increasing preoccupation of the Department’s Head Office with security issues, and the inadequate and substandard conditions at the prison facility.

- 1.9 The effectiveness of Broome Prison can be seen in the fact that there have been no further deaths in custody for the last eight years. There also have been comparatively few incidents of self-harm; for example, in 2002/03 the prison reported just three such incidents.¹⁸ A significant factor in the success of Broome Prison in this regard—and one that should be acknowledged at the outset—is the quite exceptional culture of the prison and its position in the Kimberley community. As identified in the previous Inspection Report, one striking distinction is that the prisoners are not made ‘invisible’; instead the prison has an:

ongoing presence in the local community of appropriate prisoners performing community service ... a low key and positive reminder of the reality and function of prisons.¹⁹

- 1.10 In 2002 community consultation in the Kimberley on behalf of the Department indicated strong support for retaining all Kimberley offenders in the region – including juveniles and adults of all security classifications.²⁰ This is consistent with this Office’s own community consultation²¹ which, like the Department’s consultations,²² identified significant community support for non-prison custodial facilities so that offenders can be near their relatives. The Department reported there was ‘no apprehension about having the system operating near where they [the respondents] live’.

15 Coroner, Inquisition into the death of Alan Bangmoro, 20 June 1997, p. 13.

16 The increasing emphasis on security at Broome Prison has been associated with publicity concerning the two escapes by this prisoner just prior to his death in custody.

17 Report No. 6, *op. cit.*, esp. p. 29.

18 Broome Regional Prison, Business Plan 2003/2004, p. 16

19 Report No. 6, *op. cit.*, p. 57.

20 Colmar Brunton WA & Colmar Brunton Social Research, *Kimberley Region Justice Project: Community Research Workshops* (August 2002), pp.41–45.

21 Stakeholders meeting, 4 May 2004; Community Consultation, 4 May 2004; and meeting with Shire of Derby, 6 May 2004.

22 Department of Justice, *Kimberley Region Justice Project: report back to Kimberley communities on the research and consultations so far* (Department of Justice, April 2003), p. 14.

‘WA’S WORST JAIL’?

- 1.11 It is difficult to imagine such attitudes being expressed in the metropolitan area, and as also commented in the previous Inspection Report, Broome Prison in many respects constitutes one of the few ‘community prisons’ in WA.²³ In turn, the positive connection with the broader community reinforces positive relations with prison staff, some of whom, for example, will override administrative systems to ensure that Kimberley prisoners can remain in the Kimberley (discussed further in Chapter 4 below). As a result, despite the comparatively poor conditions to which Broome prisoners are subjected, there is also much that is positive to be learned from Broome Prison.

The Department should seek to replicate those aspects of Broome Prison which contribute to its strong community affiliation in other prisons throughout the State.²⁴

²³ Report No. 6, op. cit., p. 57.

²⁴ The Department agrees with this recommendation, citing positive strategies to enhance community affiliations with each prison. It assessed the risk of not implementing the recommendation as ‘low’.

Chapter 2

OVERVIEW OF BROOME REGIONAL PRISON

THE REGION

- 2.1 The Kimberley is a vast region, twice the size of Victoria and three times the size of England.²⁵ It is divided into four local government shires—Broome, Derby–West Kimberley, Halls Creek and Wyndham–East Kimberley—and there are six major towns and more than 100 Aboriginal communities scattered throughout the region.²⁶
- 2.2 Although only 2.2 per cent of Western Australia’s population reside in the Kimberley, it has one of the fastest growing populations in Australia and it is anticipated that there will be more than 50,000 people in the region by 2031. There is a very diverse mix of cultures and ethnic backgrounds; however, with more than 33 per cent of the population being Aboriginal, the Kimberley region has by far the highest proportion of Aboriginal people of any region in the State.²⁷
- 2.3 In spite of the multimillion-dollar industries in the Kimberley (including mining, petroleum production, tourism, pastoral, pearling and agriculture industries²⁸), State and Commonwealth governments traditionally do not provide services comparable to those found in the more populous south of the State. This applies equally to the justice system and perhaps even more so to prisoners. So, for example, in the whole of the Kimberley region there is just one aged and sub-standard prison and one magistrate, whose circuit traverses the region on an almost weekly basis.
- 2.4 Before leaving the topic of the Kimberley region, it should be acknowledged that the creation of any region’s boundaries, as in many land distribution exercises, is arbitrary and not necessarily related to specific geographical, population or other defined criteria. The Kimberley region itself is far from homogeneous. As a result it is important not to limit strategic thinking about northern communities on the basis of these arbitrary boundaries. In some respects it might be more sensible, for example, to consider the joint needs of Broome and Port Hedland (600 kms apart) irrespective of these towns being in different regions, than to seek to develop a single strategy to address the needs of Broome and Kununurra, more than 1,000 kilometres away in the East Kimberley. The issue of strategic planning for the northern communities is discussed further in Chapter 7.

ONE ‘ABORIGINAL PRISON’ AMONGST MANY

- 2.5 The Department’s Prisons Division ‘Strategic Plan for Aboriginal Services 2002–2005’ was developed in part in response to this Office’s recommendation in its previous Broome Prison Inspection Report that its ‘Aboriginal Services Strategic Plan 2001’ be updated and strengthened.²⁹ The revised plan stands as a very fine statement of principle. The question

25 Department of Justice (2003) *op. cit.*, p. 47.

26 Kimberley Development Corporation, *Annual Report for the period ended 30 June 2003*, p.5.

27 *Consulting Citizens: Engaging with Aboriginal Western Australia* (Perth: Department of Indigenous Affairs, undated), p. 10; Kimberley Development Corporation, *op. cit.*, p.5.

28 Kimberley Development Corporation, *op. cit.*, pp. 5, 6.

29 Report No. 6, *op. cit.*, p. 73, Recommendation 1.

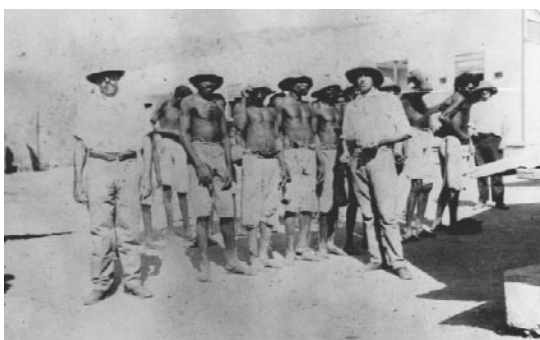
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remaining to be assessed by this Report is whether the Department has implemented that statement in practice, in particular whether the ‘dominant’ issue it identifies has been addressed:

The dominant issue facing the Western Australian prison system in 2002 is the massive overrepresentation of Aboriginal people amongst its inmates – although comprising only 3% of the general population of Western Australia, Aboriginal people comprise approximately one third of all inmates in prison.

The Department of Justice recognises the history of injustice towards Aboriginal people in this State following European settlement and the degree of social and economic disadvantage, cultural and personal dislocation which this history has created.

The criminal justice system generally and the prison in particular have played central roles in the historical subjugation of Aboriginal people and have contributed to the social conditions which are now reflected in the alarmingly high Aboriginal incarceration rate.³⁰



(A) ‘Aborigines in chains at Wyndham’ (JL Thompson c.1901) No. 004652D, Courtesy Batty Library: see paragraph 3.8



(B) ‘Native prisoners, roadmaking Broome’ (c.1912) No. 003159D, Courtesy Batty Library: see paragraphs 3.8 & 5.8

- 2.6 The unparalleled high levels of imprisonment of Aboriginal people in WA has been described as a ‘peculiarly local pattern’ and analysed within the context of the different political climate which applied during the colonisation of northern Australia than that which applied to the earlier occupation of southern, and in particular south-eastern, Australia.

Centralised police forces, a magistracy governed from the capital cities of the colonies, Supreme Courts which expected some observation of legal standards, urban political classes which were occasionally sensitive to the abuses of colonisation—all these forces encouraged a greater attention to the formalities of justice—and to the uses of the prison, rather than summary justice of the rifle.³¹

³⁰ Department of Justice, Prisons Division ‘Strategic Plan for Aboriginal Services 2002–2005’, p. 1.

³¹ Mark Finnane, *Colonisation and Incarceration: The Criminal Justice System and Aboriginal Australians* (London: Sir Robert Menzies Centre for Australian Studies, Institute of Commonwealth Studies, University of London, 1997), p. 4. It should be acknowledged that this does not mean that the ‘summary justice of the rifle’ was not also implemented as part of the colonisation of the north-west of WA; refer, for example, to John Bailey, *The White Divers of Broome: The True Story of a Fatal Experiment* (Sydney: Macmillan, 2001).

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- 2.7 As early as 1840, Western Australia established the country's only prison specifically for Aboriginal prisoners at Rottne Island. By the 1890s, a number of other institutions in the colony were primarily 'Aboriginal' prisons, including Broome Prison which was established in 1894. What has been described as the 'fierce encounters' with the 'settlers' in the 1880s and 1890s is said to explain the patterns of detention in WA and, as the conflict persisted, the law was changed to secure easier convictions and harsher punishments of Aboriginal offenders. By 1909, 42 per cent of the prison population in WA were Aboriginal.
- 2.8 Subsequently imprisonment rates of Aboriginal people fell throughout the years of 'Aboriginal Protection' legislation which:
- [e]ffectively...shifted indigenous people out of the domain of citizenship and criminal justice and into a welfare enclave. Here, as in the rest of Australia between 1910 and about 1960, it appears that Aborigines were generally under-represented in the prisons, in part because so many of them lived their lives under another form of control.³²
- 2.9 However, it is thought likely that even during this period Aboriginal people in WA continued to be imprisoned at higher rates than elsewhere.³³
- 2.10 Upon the admission of Aboriginal Australians to citizenship after 1967, their imprisonment levels increased once more and the continuation of what has been described as this 'peculiarly local pattern' in WA was confirmed by the evidence of the Royal Commission into Aboriginal Deaths in Custody ('RCIADIC') after 1987. The RCIADIC found that WA had 'by far the highest level of Aboriginal disproportion in prisons', at 26.3 times the rate of Aboriginal compared to non-Aboriginal prisoners.³⁴
- 2.11 It is of note that today Broome Prison continues to be an 'Aboriginal' prison, together with five other of the 15 prisons or juvenile detention facilities in WA: Roebourne, Eastern Goldfields, Greenough and the two metropolitan juvenile detention facilities, Rangeview and Banksia Hill.³⁵ In fact some of these 'Aboriginal' facilities have approximately 90 per cent Aboriginal prisoners/detainees. Given that Aboriginal people in WA today comprise only three per cent of the population,³⁶ the contemporary function of so many of WA's prison and detention facilities is particularly striking.
- 2.12 As this Report was being written the number of prisoners in Western Australia reached an all-time high, with over 3,200 people being detained in the State's custodial facilities. Approximately 38 per cent of male prisoners, and 47 per cent of female prisoners, are Aboriginal.³⁷ Clearly the

³² Finnane, op. cit., p. 6.

³³ Ibid. For further information on the treatment of Aboriginal West Australians under the 'form of control' of the 'welfare enclave' refer to Q Beresford & P Omaji, *Our State of Mind: Racial Planning and the Stolen Generations* (Fremantle: Fremantle Arts Centre Press, 1998).

³⁴ RCIADIC, *National Report* (Canberra: Australian Government Publishing Service, 1991), Vol. 1, [9.3.3].

³⁵ The criterion adopted by this Office in assessing a facility to be an 'Aboriginal' prison (or detention facility) is that more than 75 per cent of the inmates are Aboriginal.

³⁶ *Western Australian Aboriginal Justice Agreement* (March 2004), p. 2.

³⁷ Department of Justice, 'Weekly Offender Statistics' for 2 September 2004 and 'Adult Offenders' as of 1 September 2004.

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peculiarly local pattern of high imprisonment rates for Aboriginal people in WA has persisted in spite of legislative change. For example, there was an initial significant decline in prison receivals after the introduction of the *Fines, Penalties and Infringement Notices Enforcement Act 1995* (WA) reducing the number of people imprisoned for default of payment of fines to just 76 in 1995.³⁸ However, in 2002/3 there were 736 imprisonments for fine default.³⁹ Although new legislation came into effect in April 2003 to again attempt to reduce fine default imprisonments,⁴⁰ there were 371 such imprisonments in just the first six months of 2004.⁴¹ In a context where imprisonment is meant to be a last resort, it bears restating the obvious. That is, the courts have not assessed the offences of people imprisoned on fine default as serious enough to warrant a custodial sentence and it would appear that in many instances their incarceration has more to do with poverty than the nature of their crimes. In 2003, 65 per cent of the 720 prisoners serving time for fine default were Aboriginal.⁴²

- 2.13 Although the annual number of prisoner receivals in Western Australia⁴³ from 1994/95 to 1999/2000 was lower than the number of receivals in 1993/94,⁴⁴ the proportion of prisoners on remand increased. This reflects an Australia wide phenomenon, with the rate of remands tripling between 1984 and 2002.⁴⁵ Between 1990/91 and 1996/97 the number of remand prisoners in WA increased by 200 per cent.⁴⁶ This is difficult to reconcile with basic legal principle, as well as with the Australian Standard Correctional Guidelines, which require that people on remand be presumed innocent; a presumption which might be expected to result in remand prisoners less frequently finding themselves in custody.⁴⁷ However, in 2003 some three-quarters of prisoners entering WA prisons were on remand.⁴⁸ Even more alarming, many remand prisoners exited prison without having been convicted or sentenced to a custodial term; for example, in 2003 more than two in five prisoners exiting the prison left in these circumstances.⁴⁹ Of those remand prisoners who entered and exited without being

38 JA Fernandez & NSN Loh, *Crime and Justice Statistics for Western Australia: 2002* (Crawley: Crime Research Centre WA, 2003), p. 142.

39 Department of Justice, 'New Sentencing Regime for Western Australia', (undated), p. 1. In its response to the draft of this Report the Department cites different data which indicate that there were in fact 1,745 prisoners who served time for default of fine in 2002/03, 755 of whom served sentences for fine default only.

40 *Fines, Penalties and Infringement Notices Enforcement Amendment Act 2003* (WA).

41 Department of Justice data on 'Fine Default Only Sentences Commenced by Placement Prison at time of the Fine Default Placement 1/01/04–30/06/04'.

42 Department of Justice data on 'Fine Default Only Sentences Commenced by Placement Prison at time of the Fine Default Placement 1/01/03–21/12/03'.

43 Includes sentenced and unsentenced prisoners.

44 Department of Justice, 'Annual Statistical Report Adult Custody Period 1 July 2001–30 June 2002' (undated), p. 5.

45 Australian Institute of Criminology, *Australian Crime: Facts and Figures 2003* (Canberra: Australian Institute of Criminology, 2004), p. 74.

46 Auditor General (WA), *Waiting for Justice – Bail and Prisoners in Remand* (1997), pp. 6–7.

47 See 'Draft Revised Standard Guidelines for Corrections in Australia 2004', 1.9.

48 Department of Justice data on 'Remand Reception by Reception Prison 1/01/03–21/12/03' and 'All Reception by Reception Prison 1/01/03–21/12/03'. The figures show that of the 6,187 receivals in 2000, 4,019 were receivals while on remand.

49 Department of Justice, 'Annual Statistical Report Adult Custody Period 1 July 2002–30 June 2003' (undated), pp. 18–19. Consistent with other disproportionate rates of Aboriginal involvement with the criminal justice system, almost half of the prisoners who entered and exited the prison system without conviction/sentence were Aboriginal prisoners.

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sentenced to a custodial term in 2002/03, two per cent had the charges against them dropped, 63 per cent were released from custody to bail or home detention, and 32 per cent were acquitted or, although convicted, were considered by the court to have already served sufficient time or that their crimes warranted only a non-custodial sentence.⁵⁰ Paradoxically while a court's capacity to impose a custodial sentence on an offender *after* they have been convicted is strictly circumscribed,⁵¹ the use of custodial detention for remand purposes *prior* to conviction appears to be far less rigorously regulated.

- 2.14 This perhaps explains why the number of people in prison for less than six months almost doubled between 1995 and 2002 despite legislative changes prohibiting sentences of less than three months coming into effect.⁵² The impact of that legislation (and more recent legislation prohibiting sentences of less than six months⁵³) is significantly reduced by the extremely high incidence of remand imprisonments.

Urgent research and legislative response is required to address current imprisonment practices resulting in some half of the prison receivals in this State involving prisoners who will exit custody without receiving a custodial sentence⁵⁴ or who are imprisoned on default of fine.⁵⁵

- 2.15 The predilection for imprisoning people, and in particular Aboriginal people,⁵⁶ is not without

⁵⁰ The data have been corrected to reflect the Department's comments on the draft of this Report that its classification of prisoners exiting custody as 'unsentenced' in fact includes prisoners who exit with a *non-custodial* sentence. The Department's classification of such prisoners as 'unsentenced' is consistent with the concern raised in this Report that the courts have not assessed such prisoners as requiring a custodial term.

⁵¹ See, for example, *Sentencing Act 1995* (WA) s 6(4).

⁵² JA Fernandez & NSN Loh, *Crime and Justice Statistics for Western Australia: 1995* (Crawley: Crime Research Centre WA, 1996), p. 114; (2003), *op. cit.*, p. 146.

⁵³ *Sentencing Legislation Amendment and Repeal Act 2003* (WA), effective 15 May 2004.

⁵⁴ The Department disagrees with this recommendation as it relates to prisoners exiting custody without receiving a custodial sentence. It regards the number of such prisoners as small in comparison to the total courts population; identifies such prisoners as generally spending little time in custody; and states that it is not a legislative problem as research has already been conducted into factors underlying bail and remand. However, additional data provided by the Department also shows that custodial sentences are only very rarely given in the lower courts in any event (more than 94% of cases in 2003 did *not* result in a custodial sentence). According to the Department's figures, the cost of imprisoning those who exited prison without receiving a custodial sentence in 2002/03 was something of the order of \$15 million. It is important to note that if these defendants had been convicted as opposed to being on remand it would be *unlawful* to sentence them to short stays in custody (the average being some three weeks in custody). In this Office's view if custody is a last resort for those who are convicted, it should even more so be a last resort for those on remand and it appears that the Department could do much more to achieve this, for example, by the implementing adult bail assistance as is currently carried out in the juvenile justice jurisdiction.

⁵⁵ The Department disagrees with this recommendation as it relates to imprisonment for fine default. It cites a Cabinet approved legislative amendment from April 2004 which has yet to receive drafting priority, another legislative amendment which is still before Parliament to ensure that prisoners who would otherwise be eligible for CEO parole are not made ineligible because of also serving a fine default term, and an initiative in the Goldfields of an integrated Community Justice Services/Sheriff position to deal with fine collections and conversions and which is proposed to be implemented in the Kimberley. In spite of disagreeing with the recommendation, the Department also states that: 'There is some acknowledgement that some investigation is required to consider the place of fines on the sentencing hierarchy... Changes to the sentencing hierarchy and more innovative sentencing options may need to be investigated'.

⁵⁶ Fernandez & Loh (2003), *op. cit.* p. 143. With an adult imprisonment rate for Aboriginal people of 2,5443.4 per 100,000, WA has the highest rate of Aboriginal incarceration in Australia.

cost. Even if the social and emotional costs which attach to imprisonment are ignored, WA is second only to the Northern Territory in terms of the recurrent expenditure on corrective services per head of population.⁵⁷ According to Departmental data, the cost of incarcerating adult prisoners in WA for just 2002/03 was some \$265 million.⁵⁸

- 2.16 Recently the Department's report *Reform of Adult Justice in Western Australia* highlighted that the rate of Aboriginal imprisonment in WA in 2001/02 was more than one-third higher than every other State and Territory in the country.⁵⁹ (Interestingly WA's rate of imprisonment for non-Aboriginal people, at approximately one-twentieth the rate of Aboriginal imprisonment, is comparable with non-Aboriginal imprisonment rates across the country.⁶⁰) Nor would it seem that imprisoning people at these rates is effective, if the intention is to prevent the commission of future crimes: WA has the highest recidivist rates in the country, at 45 per cent of sentenced prisoners over a two-year period, and excluding those imprisoned on fine default.⁶¹ Over five years, the State's recidivism rate is close to 60 per cent.⁶²
- 2.17 Research undertaken on an Australia-wide basis indicates that around four in every five Aboriginal prisoners have previously been in prison and that the proportion of Aboriginal prisoners⁶³ who had prior imprisonment was higher than for non-Aboriginal prisoners. If the intention is to prevent the commission of future crimes, imprisonment of Aboriginal people appears to be a particularly inept tool. Although the Department has identified the need to reduce the overrepresentation of Aboriginal people in the prison system as its primary objective this 'peculiarly local pattern' continues.⁶⁴

THE PRISON

Broome Prison Site

- 2.18 Broome Regional Prison was gazetted as a gaol on its present site in 1894. Centrally located in the township and occupying approximately 2.5 hectares, the prison has highly 'permeable' boundaries, with large numbers of visitors going into the prison precinct and large numbers of prisoners going into the surrounding community for work release, education, offending behaviour programs and recreation.

⁵⁷ *Ibid.*, p. 91.

⁵⁸ Figure based on Departmental data on average number of adult prisoners in 2002/03 times the average daily cost. This figure excludes the cost of community correctional services.

⁵⁹ *Reform of Adult Justice in Western Australia* (undated), p. 6.

⁶⁰ Fernandez & Loh (2003), *op. cit.* p. 143 (using ABS data on Aboriginal to non-Aboriginal ratios).

⁶¹ *Ibid.*, p. 19. The Australia average is 35 per cent, and NSW is the only state with a recidivism rate above 35 per cent: *Reform of Adult Justice in Western Australia* (undated), p. 6.

⁶² Department of Justice data 'Exits of Prisoners under Sentence and Returns to Prison under sentence by Prison of Exit. Includes Exits and Returns due to fines Default... Early Release Orders...', Returns within 5 years from 2003/04.

⁶³ Steering Committee for the Review of Government Service Provision, *Overcoming Indigenous Disadvantage — Key Indicators 2003 Report* (2004), [9.6]–[9.7]. The statistics for WA appear similar – see Department of Justice, 'Annual Statistical Report Adult Custody Period 1 July 2002–30 June 2003' (undated), p. 14.

⁶⁴ In its response to the draft of this Report, the Department noted that 'The use of imprisonment as a deterrent in the criminal justice system is not within the scope of the Prisons Division'. Nevertheless, the obligation to develop strategies to reduce the rate of imprisonment resides within the Department.

OVERVIEW OF BROOME REGIONAL PRISON

- 2.19 The Broome site is a male and female minimum-security prison that has facility for a limited number of medium- and maximum-security remandees/prisoners holding and remandees. As indicated previously, it has one of the highest number of receivals in the State. With a design capacity of 66 prisoners the Broome site comprises just 22 cells.⁶⁵ It is important to bear this in mind when considering the Department's comments such as those referring to the total prison system operating at 29 per cent above capacity, with Broome and some other prisons operating as high as 200 per cent above capacity.⁶⁶ In Broome, 200 per cent above capacity translates to an average of more than eight prisoners per cell. In contrast, the design capacity of other WA prisons (excepting the Eastern Goldfields Prison, itself another 'Aboriginal' prison) is based on one prisoner per cell,⁶⁷ with similar levels of overcrowding beyond capacity in fact translating to just three prisoners per cell.
- 2.20 Cells at the Broome Prison site generally have a single and a double bunk bed, as well as a toilet and basin. The women's cells also have a shower recess, while the men use communal shower blocks.⁶⁸ In 2004, work commenced on the men's ablution facilities to provide prisoners with privacy while using the toilets and showers⁶⁹ (Photograph C). The upgrades are commendable, although overdue. The prison does not have a mother and baby facility and nor does it have self-care units.⁷⁰ However, for all its limitations, the site, with its outdoor furniture and umbrellas where minimum-security prisoners eat alfresco,⁷¹ creates a pleasant aspect (Photograph D).
- 2.21 As commented in the previous Inspection Report, although many of the original buildings at the Broome Prison site have been replaced over the years, the 'bullpen' (a roofed cage-like tropical enclosure) remained as a structural reminder of the 19th century origins of the prison. Minimum-security prisoners continue to use the 'pen' for recreation. It is also, when locked and guarded, used for family and other visits to secure prisoners (Photograph E).⁷² The other and far more recent cage-like secure areas accommodate male and female medium- and maximum-security prisoners. Since 1999 the male secure area in particular has become increasingly heavily fortified with grilles, manganese bars and razor wire and is known as 'the cage' within the prison. Medium- and maximum-security prisoners are rarely allowed out of these secure areas and then only if

65 Four secure male cells and one secure female cell, 15 minimum male cells and two minimum female cells. See Ministry of Justice, 'An Introduction to Broome Regional Prison' (undated), p. 2.

66 Department of Justice, Prisons Division, 'Building and Infrastructure Program 2004/05 to 2007/08', p. 1.

67 Prisons generally have a small number of cells which are designed to accommodate more than one prisoner, but these are a minority of the total number of cells.

68 Ministry of Justice, *op. cit.*, p. 2.

69 Superintendent Broome, Pre-Inspection Briefing, 3 May 2004. Prisoners state that they try not to use the in-cell facilities during lock-down, and wait until they can access the ablution blocks in the morning.

70 Ministry of Justice, *op. cit.*, p. 2.

71 As it is termed by some in the prison. Apparently *alfresco* dining is required because the indoor dining facilities at the Broome Prison site are too small to accommodate all prisoners at the one time.

72 'Secure prisoners' are rated as medium- or maximum-security, and in Broome are often those who are held on remand; that is, without being convicted of an offence. Refer to Chapter 4 'Visits' and 'Cultural sensitivity' for more information on the bullpen.

they are handcuffed or shackled, even while within the prison precinct. The cages are a testament to a more modern impulse to treat prisoners—to adopt the words used by many of the officers and prisoners during the course of the Inspection—‘like animals’.
(See Chapter 3 ‘Security Inside the Prison’.)

Work Camps

- 2.22 Work camps (for men only) in Derby and Wyndham were opened in 2000 and 2001 respectively, bringing the design capacity of Broome to 107 prisoners in total. Bungarun Work Camp is located near the local Mowanjan community, approximately 20 kilometres out of Derby. It was a leprosarium up until 1985, but is now owned by the Aboriginal Lands Trust. There are approximately 20 buildings on the site (some in relatively good condition, others in various stages of disrepair) with the work camp only utilising a limited number. The other buildings are used intermittently for conferences and tourist accommodation. The men live in dormitory style accommodation in one of the larger buildings; the rooms are cramped with up to six beds. The building is relatively sound but requires some upgrading.⁷³ This will depend upon the continuation of the lease and negotiations between the Department and the Trust appear close to being finalised.
- 2.23 Wyndham Work Camp is located adjacent to the airport approximately one kilometre from the Wyndham townsite. The camp consists of a group of half a dozen buildings set out in a rough square with another in the centre. Other than the airport facilities there are no other buildings in the vicinity. The buildings are mostly old dongas, and although some are somewhat decrepit they are rated for cyclones and have been made relatively comfortable. The design capacity is based on a ‘double up’ of prisoners in each donga. Because of the nature of the work camps, with the use of prison labour in the local area, both Bungarun and Wyndham Work Camps, like the Broome site, are integrated components of their local communities.

The Cost of Imprisonment

- 2.24 According to the Broome Regional Prison Business Plan 2003/04, the average direct cost per day of incarcerating prisoners at Broome Prison site was \$127.79; at Bungarun it was \$95.52; and at Wyndham Work Camp it was \$113.18.⁷⁴ If these figures are adjusted to take into account overall Departmental costs, the Department estimates that the daily costs increase to \$266.85, \$205.60 and \$211.85 respectively. This should be compared to the estimated average daily cost of incarcerating prisoners across the State of \$255⁷⁵ and the estimated average for regional prisons of \$309.14. When the additional allowances and costs for labour in Broome are taken into account,⁷⁶ the relative under-resourcing of Broome Prison becomes apparent.

⁷³ Letter to the Inspector from The Executive Director Public Health, 25 August 2004, ‘Health Assessment – Derby Bungarun Work Camp’.

⁷⁴ At pp. 6–7.

⁷⁵ Department of Justice, *Annual Report 2002/03*, p. 251.

⁷⁶ Such additional costs are significantly more than most other regional prisons. Indeed it has been estimated that there is approximately a 100 per cent mark up on the labour costs at Broome (Discussion with Finance Manager, Prisons Division, 22 July 2004).

OVERVIEW OF BROOME REGIONAL PRISON

In fact at an estimated average cost of \$252.61 per prisoner per day, Broome Prison appears to be the cheapest run regional prison in the State.

- 2.25 It is also significant that Broome prisoners generate more of the \$2.78 million worth of Section 94 (prisoner-release) community work than any prison in the State. Broome Prison with its work camps generate some \$700,000 worth of community work a year, almost twice the value of any other prison which participates in Section 94 work release programs. To make the point here very clear, the Aboriginal Prison of Broome is the cheapest regional prison to run, it generates more community work than anywhere else and has totally sub-standard facilities.

The Staff

- 2.26 There are 29 approved full-time uniformed staff positions for Broome Prison. With approximately 90 prisoners, the ratio of uniformed prison staff to prisoners (at 0.3; one officer to three prisoners) is the lowest in the State.⁷⁷ In 2002/03, two of the 29 uniformed staff were women and one was an Aboriginal man.⁷⁸ The average length of service per officer was 14.8 years.⁷⁹ Shortly before the Inspection, three new female prison officers commenced at Broome, and three more commenced in July 2004. Of the six new staff four are Aboriginal. This is another positive action implemented by the Department since the previous Inspection and goes some way to meeting Recommendation 2 in this Office's previous Broome Report.⁸⁰
- 2.27 Also performing significant functions within the prison are the education, administrative, and health staff-members, in addition to a psychologist who regularly attends the prison to provide psychological assessment and assistance for prisoners.⁸¹ There is also a full-time (male) Prisoner Support Officer (PSO) and a recently established part-time female PSO position which was filled shortly after the Inspection. There are currently no programs staff at Broome Prison and it is only one of two prisons in the State that has not trained its staff to run cognitive skills training programs for prisoners. At the time of this Inspection all programs were delivered by external community agencies. However, we were advised that the Department had recently approved the creation of a Programs Coordinator position at Broome Prison⁸² and that approval had been given for two staff members to attend cognitive skills training in Perth.

⁷⁷ Based on TOMS data, 'Current Adult Custodial Count' (27 May 2004) and the 'Uniformed Staffing Requirements' as at 30 June 2004, 'Approved FTE'. Note that this does not represent the ratio of uniformed staff actually on duty to total prisoner numbers.

⁷⁸ Broome Regional Prison Business Plan 2003/2004, p. 21.

⁷⁹ Broome Regional Prison Business Plan 2003/2004, p. 8.

⁸⁰ Report No. 6, *op. cit.*, p. 73. It is important that these initiatives be sustained. It was noted with some irony that in evidence to the Royal Commission into Aboriginal Deaths in Custody as recorded in the 1991 *Report of the Inquiry into the Death of Dixon Green* at Broome Prison, the then Superintendent advised that there was one Aboriginal prison officer but it was hoped that a recruitment drive would result in four to six further Aboriginal officers. (Canberra: Australian Government Publishing Service, 1991 – see 'Underlying Issues').

⁸¹ At present this Office has not been able to access information from the Department on the number of non-uniformed staff.

⁸² Superintendent Broome Regional Prison, 'Briefing Notes – Inspector of Custodial Services, May 2004', p. 3, although the position had still not been filled four months after the Inspection.

The Prisoners

- 2.28 In May 2004, the month of the Inspection, 93 per cent of the prisoners held at Broome Prison and its associated work camps were Aboriginal, and seven per cent of the total number of prisoners were Aboriginal women.⁸³ The prison's education unit reports that the majority of prisoners are not functionally literate and that English is often a prisoner's second or third language.⁸⁴ The majority of prisoners also are expected to return to remote communities upon their release from prison.⁸⁵ Contrasting to the previous Inspection, this time there were few foreign national prisoners being held at Broome or its work camps.⁸⁶
- 2.29 The detailed prison census of 30 June 2003 found that 30 per cent of prisoners from the Kimberley region were incarcerated at other prisons throughout the State.⁸⁷ Given the focus by the Department on prisoners maintaining community and family involvements, a figure indicating the displacement of one in three prisoners appears unacceptably high. However, it also should be noted that the figure for other regions is far higher, for example in the Goldfields (Eastern Goldfields Regional Prison), the Pilbara (Roebourne Regional Prison) and the South West Region (Bunbury Regional Prison) the figure is almost one in two prisoners.⁸⁸ Given the high displacement of Pilbara prisoners it is of note that 24 per cent of the prisoners held at Roebourne Regional Prison are prisoners from the Kimberley who, according to the Department, cannot be accommodated in Broome because of their medium/maximum-security status.⁸⁹
- 2.30 Using weekly census data provided by the Department, between 30 June 2000 and 31 March 2004, the most serious offence/charge against prisoners held at Broome were as follows: two in five were held for offences against the person, one in five for traffic offences, one in seven for break/enter or steal, and one in eight for justice or good order offences (such as failing to appear in court). According to prison staff, prisoners and community input, key factors in the major category of 'offences against the person' related to alcohol abuse and family violence.⁹⁰ It is of interest to note that traffic offences, many of which are also believed to be related to alcohol use, accounted for almost half as many of those in prison for violence.
- 2.31 Almost half of Broome prisoners are received into the prison while on remand.⁹¹ Although not convicted, these prisoners are often held in a secure 'cage' due to their security rating.

83 Department of Justice, Weekly Offender Statistics – 26 May 2004. No non-Aboriginal female prisoners were detained in Broome Prison.

84 *Education and Vocational Training at Broome Regional Prison: Overview for 2004 Inspection*, p. 1.

85 *Ibid.*, p. 1.

86 Generally, in the past, detained on illegal fishing or people-smuggling charges. See Report No 6, *op. cit.*, p. 41.

87 Department of Justice, *Statement of Philosophy and Planning Brief for Regional Prisons Facilities and Services* (December 2003), p. 18.

88 *Ibid.*, pp. 19–20, 22.

89 *Ibid.*, p. 20.

90 This is consistent with consultation conducted by the Department – see Colmar Brunton WA, *op. cit.*, at pp. 48, 116 (43% of remote respondents identified alcohol as the reason behind the trouble leading to prison) and Steering Committee for the Review of Government Service Provision, *op. cit.*, [8.7]–[8.9]. See also Chapter 6 below.

91 Department of Justice data on 'Remand Receptions by Reception Prison and All Receptions by Reception Prison 1/1/03 to 31/12/03'.

OVERVIEW OF BROOME REGIONAL PRISON

(This is, in part, the result of a security assessment program which historically has not been designed to assess remand prisoners and therefore does not automatically factor in considerations such as that the person has not been convicted and whether bail was set or not.⁹²) Departmental data indicate that of the total of 585 prisoners who exited Broome Prison between 1 June 2003 and 31 May 2004, 201 prisoners (35%) were in remand for the whole of their prison stay. On average these remand prisoners spent almost three weeks in custody, although the imposition of prison sentences of less than six months is now against the law. In addition, Broome also had 189 fine default prisoners in 2003, second only to the number who served time at Hakea Prison, which means that one in four fine default prisoners across the State served time in Broome Prison.⁹³

- 2.32 Perhaps the most favourable interpretation of the data provided in this overview of Broome Prison is that the judicial and administrative system is doing nothing more than reflecting society's level of concern for those who are Aboriginal and poor. The accuracy of this interpretation will be demonstrated by whether this situation continues now that these matters have been identified and placed on the public record.

Role and Function of Broome Prison

- 2.33 In this context it is important to acknowledge the Department's own estimation of the role and function of Broome Prison. In its 'WA Prison System: Role and Function Profile' the Department states that it has adopted a model for the management of prisoners which is guided by 'the four cornerstones' of custody and containment, care and wellbeing, reparation and rehabilitation and reintegration.⁹⁴
- 2.34 The particular 'correctional purpose' allocated by the Department to Broome Regional Prison as a 'component [part] of the prison system' and in the context of the four cornerstones is set out in full below:

Broome Regional Prison manages short to medium term male and female prisoners and receives prisoners from courts and lockups throughout the Kimberley Region. Although minimum security, Broome Prison provides facilities for both maximum and medium security prisoners of a short-term nature for court appearance and visits.

Broome's prison population is mainly short to medium term offenders. The majority are Kimberley Aboriginals from remote communities with few work skills and limited work prospects after release. Alcohol misuse and related violence, particularly family

⁹² The difficulties with the existing assessment system 'MAP' has been acknowledged by the Department and we were advised during this Office's pre-Inspection briefing by the Department on 22 April 2004 that a new MAP (assessment tool) specifically for prisoners on remand was being developed. The security classification system is discussed in more detail below.

⁹³ Department of Justice data 'Fine Default Only Sentences Commenced by Placement at Prison at the time of Fine Default Commencement, 1/1/03 to 31/1/2/03'.

⁹⁴ Department of Justice, 'WA Prison System: Role and Function Profile' (May 2003), p. 3; and see Prisons Division 'Building and Infrastructure Program 2004/05–2007/08', p. 2.

OVERVIEW OF BROOME REGIONAL PRISON

and community violence are widely recognised as a serious social and health problem for Aboriginal people. These are contributing factors to many offences. Broome's focus is therefore on addressing these issues to encourage re-entry and resettlement of prisoner's [sic] back into their community on release. Broome services two work camps, one at Derby and the second at Wyndham.

Broome is located within the township and is highly integrated with the local community through its extensive Section 94 program. Work camps in Derby and Wyndham are also highly involved in community activities.

Broome Prison faces unique challenges including old and inadequate facilities, overcrowding and a high proportion of Kimberley Aboriginal prisoners.

Within the overall prison service configuration, the correctional purpose of Broome Prison is:

- To receive and house both male and female prisoners from the local Kimberley regions;
- With recognition of the cultural differences of its population through the delivery of flexible services;
- Staffed by officers who possess a strong understanding of the cultural issues relevant to the particular population;
- To encourage effective interaction with the local community;
- Through the promotion of Section 94 programs and the involvement of the community within the prison;
- To promote the successful re-entry of prisoners back into the community; and
- Through participation in education, skill development and programs which address substance misuse.⁹⁵

2.35 The above is a clear statement that the Department places primary emphasis upon Broome Prison 'housing' Kimberley Aboriginal prisoners, as well as fostering community interaction and re-entry for those prisoners. The 'correctional purpose' identified for Broome Prison by the Department appears to be entirely consistent with the commendable sentiments expressed in the Department's 'Strategic Plan for Aboriginal Services 2002–2005' (referred to previously), and indeed with the broader context of the issues outlined in the previous Chapter. As a result the Department's 'correctional purpose' is accepted by this Office as providing an appropriate focus for an assessment of the functioning of Broome Prison for the purposes of this Report.

⁹⁵ Department of Justice, *WA Prison System: Role and Function Profile*, op. cit., p. 46.

Chapter 3

CUSTODY AND CONTAINMENT

3.1 The Department describes the cornerstone of custody and containment in the following terms:

Prisoners are to be kept in custody for the period prescribed by the court at the lowest possible level of security necessary to ensure their continuing custody, the good order and security of the prison and the safety and protection of the general public.⁹⁶

Although custody of course plays a significant factor in any prison operation, it is of note that the Department highlights the other cornerstones of care and wellbeing, reparation and rehabilitation as the particular ‘correctional purpose’ of Broome Regional Prison. However, as indicated below, issues surrounding custody and containment have come to play an increasingly dominant role at Broome Prison.

SECURITY WITHIN THE PRISON

3.2 As noted in the previous Inspection Report, the locked gate and wire-topped perimeter fence of Broome Prison is relatively secure compared to other minimum-security prisons, but fairly low key as far as secure perimeters go. To some extent the need to accommodate prisoners at all security levels, typically associated with the ‘regional’ prisons, results in some stark contradictions and tensions. In Broome, minimum-security prisoners are able to move around the prison freely and large numbers move in and out of the gatehouse for visits and Section 94 work releases. At the same time, male medium- and maximum-security prisoners are locked in ‘the cage’, with secure females in a slightly more amenable ‘cage’. On the rare occasions secure prisoners are allowed outside their ‘cages’ they are handcuffed, even within the prison precinct.

Mechanical restraints and escorts

3.3 Until an escape by a medium-security prisoner in 1996,⁹⁷ secure prisoners were moved within the prison precinct under the escort of an officer and without mechanical restraints.⁹⁸ Subsequently, the mechanical restraint of secure prisoners was used, but only in exceptional circumstances. However, following a Head Office security review of the prison in 1999,⁹⁹ secure prisoners were required to be escorted by two officers and handcuffed to one of them at any time they were outside of the maximum-security area.¹⁰⁰ Later that year, the use of restraints within the prison was further expanded so that secure prisoners were also required to be handcuffed or shackled¹⁰¹ when in the medical centre, which although within the prison precinct was not regarded as a secure location.

⁹⁶ *Ibid.*, p. 3.

⁹⁷ See footnote 16.

⁹⁸ Report No. 6, *op. cit.*, pp. 29, 31.

⁹⁹ Correspondence from Assistant Director (Training and Specialist Services) to Director (Prison Operations), 1 June 1999.

¹⁰⁰ Broome Regional Prison Local Order No. 48, 4 June 1999.

¹⁰¹ In its ‘Factual Issues and Update’ provided in response to the draft of this Report, the Department claims that: ‘Shackles are not an approved mechanical restraint and are therefore not used at Broome Regional Prison’. The Department apparently refers to ‘shackles’ as ‘leg irons’, one being a chain with padlocked metal cuffs while the other is a chain with two padlocks. The distinction made by the Department does not diminish the substantive point made in this Report about the inappropriate use of mechanical restraints. (A photograph of the device currently in use at Broome Prison and elsewhere can be found at p. 32 of Report No. 6, *op. cit.*)

- 3.4 The issue of the mechanical restraint of secure prisoners, especially when seeking medical assistance within the prison, was identified as a particular concern in the previous Report, and Recommendation 4 sought the immediate discontinuance of the practice. The use of two prison officers to escort secure prisoners within the prison was also identified as an issue in that it diverted officers towards a security role and away from other functions within the prison. To adequately assess the impact of this use of prison officer time at Broome, it should be reiterated that at a ratio of 0.3, Broome Prison has the lowest officer to prisoner ratio of all of the public prisons in the State.¹⁰²
- 3.5 The Department advised in 2002 that it would not be altering its procedures in relation to the use of mechanical restraints, saying that it 'is one of a number of undesirable consequences of the physical inadequacies of Broome Prison'. However, just prior to the current Inspection, on 14 April 2004, a new Local Order was issued. The Local Order made some reforms, particularly relating to the use of mechanical restraints on physically disabled prisoners, and the Department stated that it had been:
- amended and reissued to allow for prisoners within the Medical Centre to be unrestrained where the Medical Officer approves for this to occur.¹⁰³
- 3.6 This statement is misleading to the extent that the Order was not '*amended* and reissued to allow for prisoners within the Medical Centre to be unrestrained where the Medical Officer approves for this to occur'. There had been provision for medical staff to request the removal of restraints at least since 2001, and the problems raised by such a procedure were referred to in the previous Report.¹⁰⁴ As such, the key issue—that is, that medical staff continued to feel that the onus remained on them to identify whether restraints were 'appropriate' when medical treatment was being provided—remained unaltered by the amendment. In other words, medical staff felt that responsibility (and potential blame should anything go wrong) was being shifted to them.
- 3.7 On the day prior to the exit de-brief for the current Inspection, 6 May 2004, another Local Order was issued. This Order removed the requirement for medium-security prisoners to be restrained during medical consultations inside the prison. This final version of the Order went some way to addressing the concerns about the use of mechanical restraints and is commendable insofar as it does so. The goodwill which no doubt prompted the implementation of the new Order and the considerable courage it would take to implement such a change in the current climate where security issues appear to override all else is also

¹⁰² Based on TOMS data, Current Adult Custodial Count (27 May 2004) and the 'Uniformed Staffing Requirements' as at 30 June 2004, 'Approved FTE'.

¹⁰³ Letter from the Director General to the Inspector, 20 April 2004.

¹⁰⁴ Broome Regional Prison Local Order No. 9, 14 April 2004, clause 1,3 reads: 'Nursing Staff will provide the Senior Officer a written list of security prisoners required ... and will indicate on that list whether restraints are inappropriate for consultation', reflecting similar arrangements implemented in Broome on 9 July 2001 (Memorandum from Broome Superintendent to all staff, 9 July 2001). See also the comments in Report No. 6, *op. cit.*, [3.30] at p. 33.

acknowledged. The delay, however, in implementing this very positive change is unfortunate and although it is conceded that it can be linked to the improved security of the medical facilities, these appear to have been completed some years prior to the current Inspection.¹⁰⁵

- 3.8 Finally in relation to this issue it needs to be said that in all instances, regional prisons which lack secure perimeters but accommodate ‘secure’ prisoners are ‘Aboriginal prisons’. This means that the routine use of restraints to move prisoners within prison facilities is particularly an ‘Aboriginal’ phenomenon. At the same time, the historical use of shackling to restrain Aboriginal prisoners in the northwest makes the use of restraints within (and outside¹⁰⁶) the prison precinct highly problematic and provocative (Photographs A & B).¹⁰⁷

*The long tradition of mechanically restraining Aboriginal prisoners in this State should be an impetus to remedy the unnecessary use of restraints as a matter of priority, rather than become a basis for the continuing toleration of these practices into the 21st century.*¹⁰⁸

‘The Cage’

- 3.9 As previously indicated, the Male Secure Unit of Broome Prison is known as ‘the cage’. The increasing fortification of this section of the prison has taken place between 1999 and 2001, and occurred in tandem with the increasing use of mechanical restraints on secure prisoners at all times they are outside the secure areas.
- 3.10 Since 1999 ‘the cage’ has had new ‘lozenge’ grillage, additional under-eaves lining, ‘soffit’ security improvements, new boiler grillage and ‘man barrier tape’ installed (Photograph F). Other than when attending visits in the ‘bullpen’, undergoing medical examinations or during escort to court, funerals or another prison, secure male prisoners are confined in the cage at all times. Although previously such prisoners had been allowed to access the prison basketball court while under supervision, for some years now secure prisoners have had no access to active recreation, education or programs. Prisoners also questioned why they needed to be locked into their cells at night when they were inside a cage: ‘Where are we going to go?’ One complained that the high security prison Casuarina would be better: ‘There you have recreation and can walk around’. Prisoners within the secure areas also have limited access to anything other than minimum gratuities.¹⁰⁹ This appears to breach the draft Guidelines for Corrections in Australia (4.2) relating to prisoners’ entitlement to access ‘a range of productive employment and facilities which provide them with the opportunity to utilise their time in prison in a constructive and beneficial manner’.

¹⁰⁵ The Nurse-Manager confirmed in late August 2004 that the new arrangements were working satisfactorily.

¹⁰⁶ Discussed below under ‘Prisoner transport’.

¹⁰⁷ In its response to the draft Report, the Department reiterated its position that ‘Shackles are not an approved mechanical restraint and are therefore not used at Broome Regional Prison’. However, the Department’s distinction between ‘shackles’ and ‘leg-irons’, referred to in footnote 101 above, was not employed by those who are restrained by the mechanical restraint devices in their discussions with members of the Inspection Team.

¹⁰⁸ The Department disagrees with this recommendation stating, amongst other things, that it does not use any of the historic methods of restraints photographed in this Report. Unfortunately upon this Office seeking the details of the Department’s advice that it had made further changes to the policy since the Inspection, it appears that this advice was not correct.

¹⁰⁹ Those prisoners who undertake cleaning duties can receive level 3 gratuities, others receive the minimum rate (\$2.25 per day) because there is nothing else available for them to do.

CUSTODY AND CONTAINMENT

- 3.11 In the afternoons the sun sets over the minimum-security unit roof and shines directly into the Male Secure Unit. The Unit is hot, humid and oppressive. The passageway at the rear of the Unit is shaded and cooler, but it is 'out of bounds' to prisoners, despite being under surveillance by movement sensitive cameras and bounded by grilles and coils of razor wire (Photograph G). The design capacity for the Male Secure Unit is for 12 prisoners, three per cell,¹¹⁰ although this Office has been advised that it not infrequently holds up to 26 prisoners.
- 3.12 The Female Secure Unit consists of an even smaller cage (Photograph H), enclosing one cell designed to hold three women. There is no access to any recreational facilities within the cage. Fortunately for secure female prisoners, the goodwill of other female prisoners enables them to move around the enclosed Female Unit so they are not confined to their cage at all times.¹¹¹ Because the Female Unit has recently undergone some renovations, it provides a relatively pleasant, if still highly confined, environment (Photograph I).
- 3.13 On figures from 2002/03, an average of 15 prisoners per day are held in Broome's cages.¹¹² Prison administration advised that they seek to keep prisoners in the secure areas for only short terms, the maximum being two weeks.¹¹³ This is because of the acute consciousness of the extremely sub-standard conditions in the secure areas: one staff member stating that 'the RSPCA would condemn the cage if it was used to confine animals'.¹¹⁴ The dilemma for both prison staff and Kimberley prisoners, particularly Aboriginal prisoners, is that the alternative is for them to be 'sent south' to Roebourne, Greenough or to the Perth metropolitan prisons. These tensions are often played out in the reclassification of prisoners' security ratings, with a lower rating allowing Kimberley prisoners to remain in the overcrowded conditions of Broome Prison and this is discussed further below.
- 3.14 Clearly the conditions for secure prisoners in Broome are incompatible with almost every correctional standard, in particular those requiring that prisoners on remand be treated at least as well as sentenced prisoners, and requiring the promotion of 'dignity and respect' through interactions between staff and prisoners.¹¹⁵ The latter point is particularly significant. At present many of the prison's staff members express views strongly critical of the treatment of secure prisoners, as indicated below in Chapter 7. Given that it is far more comfortable to justify what we are required to do as part of our daily work, this is very much to the credit of the people working at Broome Prison. However, the Department can hardly be said to be fostering dignified and respectful interactions between staff and prisoners by requiring staff to treat prisoners in ways which both staff and prisoners perceive as 'animal' management.

¹¹⁰ Service Review Team, 'Broome Regional Prison Service Review Report' (2001).

¹¹¹ To allow the secure female prisoner access to the courtyard, other female prisoners must agree to vacate their cells and be locked outside of their unit.

¹¹² Broome Regional Prison Business Plan 2003/04, p. 45.

¹¹³ This is confirmed by data provided by the Department for 1 June 2003 to 31 May 2004, which indicates an average stay of 7.5 days in the male secure area and 13.5 days in the female secure area. It is of note that averages of course are just that, and it seems that over the same period there were 168 'stays' of 10 days or more, including 15 of 30 days or more.

¹¹⁴ Also reflected in comments in the Staff Survey discussed in Chapter 7.

¹¹⁵ 'Draft Revised Standard Guidelines for Corrections in Australia 2004', 1.9, 1.10, 1.45.

CUSTODY AND CONTAINMENT

*The Department should immediately review the situation of secure prisoners held in the cages of Broome Prison to ensure that they have access to appropriate education, recreation and work.*¹¹⁶

PRISONER TRANSPORT

- 3.15 Prisoners at Broome Prison come from all over the Kimberley region, with many likely to have been transported long distances to the prison. Large numbers of Kimberley prisoners are also held in prisons outside the Kimberley and they too are likely to have been transported by prisoner transport services.¹¹⁷ Prisoners also access transportation services to attend funerals, transfer to and from the work camps, and to receive medical treatment that is unavailable at the prison.
- 3.16 Often prisoners are transported these very long distances in vans the standard of which this Office reported as seriously deficient in relation to both safety and amenity in November 2001.¹¹⁸ One of the two fleet vehicles in use at Broome at the time of the current Inspection had not been subject to modification; it continued to have unpadded metal ‘pods’ for prisoner transport and, like all other fleet vehicles, had no safety harnesses for prisoners¹¹⁹ (Photograph J). The ‘pods’ in a number of the vehicles used for these trips hold up to 12 prisoners in each,¹²⁰ and also contain unsecured chemical toilets. The two smaller ‘segregation pods’ for individual prisoner transport at the rear of the vehicle either have no toilet facility whatsoever, or else require the prisoner to rest his or her feet on it because of the lack of space (Photograph K). It is of note that prisoners may be confined in these vans for many hours without being allowed to exit the vehicle. If prisoners are fortunate enough to have access to the toilet facility they must use it in front of other prisoners and while being viewed on the CCTV which is telecast into the front of the van. Women being transported who have to attend to female hygiene needs are also required to do so in front of other (female) prisoners (unless segregated) and in any event while being televised on the CCTV. The fleet appears to also be becoming less reliable and over just six weeks in July and August, vehicle breakdowns had occurred three times in the Kimberley.

¹¹⁶ The Department disagrees with this recommendation stating that there is limited capacity to provide more structured recreation and work within the existing facility. This Office remains gravely concerned about the lack of recreation in particular for secure prisoners and believes that innovative means to address this issue should be developed. The Department’s advice that it will however re-examine the provision of education to prisoners in the secure section is welcome.

¹¹⁷ On 30 June 2003, 49 Kimberley prisoners (30%) were located in other prisons and 117 (70%) were located at Broome Prison: Prisons Division, *op. cit.*, p.17.

¹¹⁸ *Report No. 3, Report of an Announced Inspection of Adult Prisoner Transport Services* (Office of the Inspector of Custodial Services, Perth, 2001). This Office has been advised that new transportation vehicles will be ‘phased in’ from July 2004.

¹¹⁹ Nor does it appear that there are any ‘safety-belt anchor points’ as the Department claimed in its response to recommendation 2, see the Department’s ‘Report of the Current Status of Recommendations made in OICS Reports Nos. 1–22’, p. 8.

¹²⁰ According to AIMS staff; although prisoners dispute this claiming the number can be far higher on occasion.

3.17 If it were not for the benches along the walls (half of which require prisoners to travel facing backwards) it might be concluded that such vehicles were not designed with a view to transporting human ‘cargo’ at all, and it appears that this in fact is the case.¹²¹ Although the critical deficiencies in the existing prisoner transport vehicles were highlighted by this Office’s Report of November 2001, the Department advised in June 2004 that ‘[n]ew vehicles are being introduced incrementally *starting this year* and the majority should be in place by 2005’.¹²² However, other Departmental information indicates that the changeover is not expected to be completed until 2008.¹²³ The Department’s failure to address such serious and high-risk matters over the three years since this Office’s Report remains inexplicable.

*At the very least the Department should take immediate steps to ensure that all AIMS vehicles used for prisoner transport have the bare metal interiors coated with spray on foam rubber in accordance with this Office’s Report of 2001.*¹²⁴

3.18 Another issue highlighted in this Office’s *Report on Adult Prisoner Transport Services* was the unacceptability of the AIMS ‘blanket policy’ of using mechanical restraints on all prisoners being transported.¹²⁵ Unfortunately, the situation appears to have deteriorated since then with recent escapes from AIMS custody, including one from Broome Courthouse in the week prior to the Inspection. When clarification was sought from the Executive Director of Prisons, he advised that minimum-security prisoners were only being handcuffed if the Superintendent stipulated in writing that this was required. However, this Office received a copy of the relevant directive sent on 30 July 2004 by the AIMS Operations Manager to AIMS supervisors and copied to senior Departmental staff (not including the Executive Director). The text of that directive was as follows:

121 It should be noted however, that with reference to prisoner safety, the AIMS vehicles are actually an improvement to those which had been utilised by the Department prior to contracting out the transport services.

122 Email from Departmental Project Manager Custodial Inspections, 17 June 2004 (emphasis added).

123 Department of Justice, ‘Business Case for the Procurement of a Secure Fleet for Prisoner Transportation’ (February 2004). In the draft Report reference was made to a lack of capital funding for the acquisition of the vehicles. The Department advises that the Department of Treasury and Finance will acquire the vehicle fleet and that the cost of leasing the vehicles has already been included in the Department’s recurrent expenditure. The Department also advises that the ‘novation’ of the current AIMS lease of fleet vehicles to the State is expected to be finalised by the end of October 2004, although this subsequently appears to have been extended to 1 December 2004. The Department advises that a Secure Vehicle Plan is currently being finalised, which will define the process for the design, approval and acquisition of new fleet vehicles.

124 The Department disagrees with this recommendation stating that ‘previous consideration has been given to this matter and further options are still being reviewed’, that another option ‘will still need to be examined’, and that ‘[t]he Department and AIMS will continue working on this matter in a bid to find a suitable solution’. It appears that very little has progressed in relation to this issue. It is also of note that on the same day the Department provided its response to this recommendation, the Department’s 2004 Annual Report for the AIMS contracted services was tabled in Parliament. Contrary to the Department’s response to this Office’s recommendation, the Annual Report stated that ‘AIMS Corporation also improved vehicle safety and security during the year by ... installing padding on the seating of the inter-prison vehicles to provide a safer and more comfortable rise for prisoners travelling long distances’ (p.11).

125 Report No. 3, *op. cit.*, p. 36 (Recommendation 8).

CUSTODY AND CONTAINMENT

We have reached agreement with the Department of Justice regarding the application of restraints to be applied to PIC's [Persons in Custody] outside of Prison.

Minimum Security Institutions will indicate on the movement authority the level of restraints required. If a minimum security PIC is to be restrained then the Prison will need to provide a reason written next to the restraint instruction [emphasis added].

Medium and Maximum Security Prisons will indicate on the Movement Authority any changes to AIMS double cuffing procedure, i.e. single handcuffs only, and provide a reason for the change written next to the restraint instruction.

If nothing is indicated on the MAR in respect to restraints then PIC's regardless of security rating are to be double cuffed in unsecure locations or any other time restraints are required [emphasis added].

- 3.19 It appears that AIMS transport staff, understandably,¹²⁶ decided to err on the side of caution by handcuffing all prisoners if a written instruction requiring otherwise was not provided. At the same time, at least some superintendents were of the view that if they committed nothing to writing, minimum-security prisoners would not be restrained. And according to Head Office staff, all prisons understood the new arrangements and were complying, other than Boronia the new showcase women's re-entry prison.¹²⁷
- 3.20 Approximately one week after this discrepancy was brought to the attention of the Executive Director¹²⁸ a new direction was issued by AIMS which apparently was consistent with the Executive Director's initial advice to this Office. However, at the same time this Office obtained a copy of a draft AIMS form, being developed in collaboration with the Department, reverting to a requirement that prisons indicate on an individual basis for each prisoner on each transport whether they were to be restrained or not, irrespective of their security rating.¹²⁹ That form was subsequently implemented. Perhaps the most favourable interpretation of the above is that there is a failure of communication between various areas of the Department. However, it appears unlikely to be coincidental in the current climate that the outcome has been the double handcuffing of prisoners who, on the Department's own assessment as minimum-security prisoners, pose no risk to the community and resulting once more in the privileging of 'custody and containment' over all other cornerstones for prisoner management.

¹²⁶ Particularly given the precarious status of the AIMS transport contract; see the Minister of Justice's Media Statement, 'State Government takes control of Supreme Court security' (14 June 2004); Richard Hooker, *Inquiry into the Escape of Persons Held in Custody at the Supreme Court of Western Australia on 10 June 2004* (July 2004), ('the Hooker Report') and the Premier's Media Statement, 'AIMS told to lift its game or lose contract' (17 August 2004).

¹²⁷ Boronia staff stated that the Superintendent took responsibility for the non-use of restraints on its prisoners; however, Head Office stated that it had been required to authorise the non-use of restraints for Boronia prisoners in AIMS' custody in writing.

¹²⁸ Email from the Inspector to the Executive Director, 12 August 2004.

¹²⁹ 'AIMS Offender Movement – Supplemental Information' provided 1 September 2004.

- 3.21 The absurdity of this approach can be seen in the following example. As discussed elsewhere in this Report, Broome Prison has been heavily dependant upon Section 94 releases to provide meaningful activity for its prisoners, to provide repatriation to the community and to ease the overcrowded conditions and poor facilities within the prison site. Prisoners accessing Section 94 are often subject to minimal supervision and are not mechanically restrained. One of the approved sites to which prisoners are released under Section 94 is the Broome Courthouse. As a result, a prisoner may be released to clean and garden at the Broome Courthouse one day, and the next be placed in a vehicle and driven across the road to the Court Custody Centre by AIMS. Because the Centre is not connected to the old Courthouse (which is generally used for magistrates' hearings), prisoners and others in custody have been handcuffed and then walked across the open land from the Court Custody Centre to the Courthouse.¹³⁰ Similarly, minimum-security prisoners who may normally reside and work at the work camps, or who attend recreation, programs and education outside the prison and without mechanical restraints, will be 'double-cuffed' for funerals and medical treatment, which fall within the jurisdiction of AIMS. The result is not only absurd, but also has the capacity to severely compromise prisoners' commitment to rehabilitation and the prison's efforts to acknowledge good conduct by prisoners. It also arguably offends the Correctional Guideline requiring that prisoner transport not subject prisoners to 'unreasonable hardship', particularly when attending funerals or seeking medical assistance.¹³¹
- 3.22 The current situation is undoubtedly influenced by the nature of the contract between the Department and AIMS. Under the terms of that contract the same financial penalty attaches to an escape by a minimum-security prisoner as by a maximum-security prisoner.¹³² As a result, there is a very real disincentive for AIMS to distinguish between the level of restraint it applies to different categories of prisoner.¹³³
- 3.23 As well, the Department's requirement that prison staff personally authorise the removal of restraints from minimum-security prisoners appears to prioritise the 'custody and containment' cornerstone above the other cornerstones of custodial management to which it professes to adhere. It is true that provision is also made for departing from blanket policies which are driven predominantly by security considerations, but such departures increasingly are implemented as a result of an individual's exercise of discretion and not as 'a general rule'. Examples of this include the operation of the classification system (see discussion below), and

¹³⁰ 'Audit of Person in Custody (PIC) Movement Services provided by AIMS Corporation at Regional Sites in Western Australia', (April–May 2004), p. 1.

¹³¹ 'Draft Revised Standard Guidelines for Corrections in Australia 2004', 1.82.

¹³² Refer to the definition in Schedule 1 (p. 2) of the 'Contract for the Provision of Court Security and Custodial Services between the State of Western Australia and Corrections Corporation of Australia Pty Ltd', January 2000.

¹³³ In its *Annual Report on the Contract for the Provision of Court Security and Custodial Services* of September 2003, the Department stated (at p. 21) that negotiations with AIMS were 'close to satisfactory resolution and agreement between the parties at year-end ... [including] the introduction of two escape categories for "secure and non-secure" people in custody, with non-secure escapes being termed abscondments and a range of consequential amendments which follow from the new categories'. At the time of writing, almost a year later, these changes had not been implemented.

the earlier policy concerning the restraint of prisoners receiving medical assistance within Broome Prison. The resulting tendency is one in which the Department takes responsibility for ensuring security, while individuals in the prison system take responsibility for decisions which give practical effect to the other cornerstones of prisoner welfare, rehabilitation and reparation. In this way, should there be any blame associated with a breach of security (generally highly sensitive issues for the public) the Department evades responsibility. Needless to say, there appears to be an increasing reluctance for the designated individuals to exercise their discretion and assume responsibility for lesser transport security measures, resulting in undue and unreasonable weight being given to security considerations within the prison system.

The Department should urgently review and clarify its position in relation to the mechanical restraint of minimum-security prisoners on transports to ensure that these policies are not unreasonably harsh and that the Department assumes responsibility for all four of the cornerstones of custodial management which it espouses. This review should be reflected in terms of its contract with AIMS.¹³⁴

ESCAPES OR SOMETHING ELSE?

3.24 The number of escapes from prisons in WA has declined dramatically since 1995, attributed by the Department to the introduction of the new assessment process in late 1999.¹³⁵ However, Broome Prison has not conformed to this trend and in 2003 Broome Prison alone contributed 45 per cent of all known prison escapes in WA for that year. The treatment of ‘escapes’ is indicative of the competing goals, values and interpretations within the Department – particularly the priority to be given to prisoner welfare at Broome and the extent to which this competes with Head Office’s interpretation of ‘protection provided to the community through safe and secure custodial services’ as it applies to minimum-security prisoners.¹³⁶ The failure to differentiate between prisoners who pose a risk to the community and those who do not is also reflected in the terms of the AIMS contract as highlighted above. Such failures rest upon indiscriminate notions of prisoner ‘dangerousness’ so that all prisoners require quarantining from our communities – in stark contrast to the focus of Broome Prison upon repatriation and rehabilitation through community interaction.

¹³⁴ The Department disagrees with this recommendation. It stated that its policies on mechanical restraints are now operating successfully throughout the State, although there had been some difficulties initially. The Department did, however, admit that it is reviewing its contractual arrangements with AIMS and that a proposed variation to that contract is that minimum-security prisoners who escape AIMS custody would be considered to have absconded rather than to have escaped. According to the Department ‘this would facilitate a more refined set of procedures that could reflect the prisoner’s risk rating’. It is of concern to this Office that while the Department appears to concede that current procedures do not reflect prisoners’ risk ratings it also disagrees with the recommendation.

¹³⁵ Manager Assessment (Hakea Prison), ‘Changes to how Escapes are Defined and Managed’, 25 February 2004.

¹³⁶ Department of Justice, *2002/03 Annual Report*, p.150. Although Broome Prison’s identified ‘target’ for 2003/4 was no escapes whatsoever, this target was not achieved. See Broome Regional Prison Business Plan 2003/2004, p. 16.

- 3.25 A recent Departmental review of escapes attributed Broome Prison's performance to prisoners being:
- wrongly scored and that many scores were overridden from Medium to Minimum security to keep the prisoner at Broome Prison to be near their families.¹³⁷
- 3.26 Broome Prison's position is that it is obliged to comply with the Director General's Rules which require that, in determining the security status of a prisoner, consideration be given to the location of the prisoner's usual residence, the lowest security rating applicable to manage the prisoner and not increase the risk to the community and, if need be, to consider the earlier reduction in security rating to facilitate these aims.¹³⁸ It is significant here to also highlight that as an Aboriginal prison it may be thought commendable of Broome Prison staff to go to such lengths to try and ensure that Aboriginal prisoners are able to remain in their region.
- 3.27 In justifying its position Broome Prison further highlights that:
- sixty-five per cent of its escapees have been apprehended returning to the prison or otherwise voluntarily surrendered;
 - it is extremely rare for any of this group to have attracted further charges other than that pertaining to their escape from legal custody;
 - overrides occur where prisoners have demonstrated their ability to comply with the prison regime;
 - the central location of the prison means that news of domestic issues which were not present at the time of admission can spread rapidly to inmates.¹³⁹
- 3.28 The goal of any prison system is that prisoners are where they are supposed to be. However, there is a question as to whether the fact that a prisoner is not where he or she is supposed to be should necessarily correspond with the one category of 'escape'. In 1999, the then Attorney General had approved an amendment to the *Prisons Act 1981 (WA)* to differentiate between escapes and absconds, but this did not go ahead.¹⁴⁰ That distinction would parallel that applied in Scotland, for example, where the Scottish Prison Service distinguishes between 'Extreme Risk Escapes', 'Other Escapes' and 'Absconds', the latter referring to prisoners who are unlawfully at large but who have not breached a secure perimeter or escort.¹⁴¹ In Scotland there is no target set for the number of absconds in a year and the number of absconds is not viewed by the Justice Minister as a measure of how efficiently and effectively the Scottish Prison Service is delivering its business on behalf of the Scottish public.

¹³⁷ Manager Assessment (Hakea Prison), 'Changes to how Escapes are Defined and Managed', 25 February 2004.

¹³⁸ Director General's (DG) Rule 13 – 3.1.1, 3.1.2 and 3.1.10. In its response to the draft of this Report, the Department stated that this Rule does not apply to a newly received prisoner but that Rule 14 does apply. On seeking clarification from the Department it appears that there is a complicated history associated with these two Rules and neither directs the decision-making in the circumstances described. Significantly Rule 14 makes no specific mention that 'consideration be given to the area the prisoner is from'.

¹³⁹ Assistant Superintendent, Broome Regional Prison, 'Comments from Broome on Changes to how Escapes are Defined and Managed', 24 March 2004.

¹⁴⁰ Manager Assessment (Hakea Prison), 'Changes to how Escapes are Defined and Managed', 25 February 2004.

¹⁴¹ The Scottish system could not be readily deployed in WA because there are a number of minimum-security prisoners held within secure perimeters in order to accommodate the needs of higher security prisoners held at the same location. Similarly, as noted above, all prisoners are currently subjected to secure escorts in WA.

- 3.29 Broome Prison staff make the similar argument that it is not appropriate to categorise all prisoners who are out of bounds as ‘escapees’. In their view it is significant that many prisoners pose little or no risk to the community and also that they have no intention of permanently avoiding detention. Prison staff are of the view that generally prisoners have a particular family issue which they feel needs to be addressed urgently and that prisoners are often apprehended returning to the prison after the issue is sorted out.¹⁴²
- 3.30 In seeking to balance custody and containment with the other cornerstones of prisoner management as adopted by the Department it is not adequate to simply rate all prisoners as a risk to society. For example, as indicated previously, large numbers of prisoners, particularly in Broome, are imprisoned on remand or for non-payment of fines. The difference between these people and others may be nothing more than access to money. This bears no correlation to their potential risk to the community and presumably if they were wealthier they would be free to participate in the community.¹⁴³ Broome staff recognise that the risk posed by many Broome prisoners is minimal and have sought to have a lesser category of ‘abscond’ apply to minimum-security rated prisoners. This appears an appropriate distinction and could also be extended to the AIMS contractual obligations, discussed previously.

It is recommended that the Department recognise the difference between escapes by secure prisoners and by minimum-security prisoners in its own performance targets.¹⁴⁴

- 3.31 Broome Prison also proposed a new form of authorised leave which would allow for prisoner absences to address urgent family issues. It was proposed that this be a form of supervised leave which would have the potential for patterning appropriate behaviour in stressful familial situations prior to a prisoner’s release. The Department has not adopted this proposal. In discussions with prisoners throughout the State, urgent family matters were repeatedly cited as a reason for escape from custody; a finding which the Department’s own research confirmed.¹⁴⁵ The proposals of Broome Prison staff appear to this Office to have much merit.

¹⁴² Assistant Superintendent Broome Regional Prison, op. cit.

¹⁴³ In responding to the draft Report, the Department commented that its classification system is an instrument to assess the potential risk to escape and the risk to the community of such an escape. It is pleasing to note, however, that although the Department appears to disagree with the Report it altered its classification scores on 15 September 2004 so that the severity of any offence resulting in a prisoner being in custody on fine default would automatically be scored as low.

¹⁴⁴ The Department partially agrees with this recommendation and assessed the risk of not implementing it as ‘low’. It states that from the 2003/4 financial year the terminology for its Performance Outputs has been changed to ‘Escape/Abscond Rate, by Security Rating’. While this is a positive development there appears to be very little consequence arising from the distinction between ‘escapes’ and ‘absconds’ at the present time.

¹⁴⁵ This is consistent with research undertaken by the Department of Justice, ‘Analysis of Escapes from Legal Custody January 1997 – December 1998’ (1999), in which a sample of escapees were interviewed. The analysis found that ‘[f]or many of these offenders the precipitating factor to their escape was bad news from home, which they felt their presence would alleviate’ (p. 54). It is also consistent with a study undertaken in New Zealand, see: Department of Corrections and Ministry of Justice (NZ), ‘Escape Pressures – Inside views of the reasons for prisoner escapes’ (June 1996).

*The Department should introduce a form of supervised leave for prisoners needing to address urgent family business.*¹⁴⁶

CLASSIFICATION SYSTEM

- 3.32 All of the above issues directly relate to the adequacy of the existing classification system and its capacity to allocate reasonably accurate security ratings to prisoners. The Department has already acknowledged the limitations of the classification system in that it was not developed to assess the security risk of prisoners on remand.¹⁴⁷ An example of the inadequacy of the existing system is that it does not take into account whether bail has been set for the charge resulting in imprisonment nor the amount of bail.¹⁴⁸ While prison officers can use this information to override the automated assessment they do so at their own risk (as indicated above, they will be regarded as being ‘incorrect’ should the particular prisoner escape at some time in the future.)
- 3.33 This Office has noted elsewhere its concerns with the adequacy of the existing classification system and, in particular, the system’s tendency to overrate the potential security risk of Aboriginal prisoners.¹⁴⁹ For example the assessment tool privileges a stable work history and residential address. Although regional Aboriginal people are less likely to have either, and therefore are more likely to be automatically assessed as a flight-risk, prison officers state that because of the extremely strong family and community links of Aboriginal prisoners they are in fact less likely to leave the region than non-Aboriginal prisoners who may have both a ‘stable’ work and residential history.¹⁵⁰ Prison officers have also commented that police will often charge Aboriginal prisoners with very serious offences, thereby increasing their security classification, but that the light sentences imposed following trial indicate that the actual offence was not as serious as the charge might appear.¹⁵¹
- 3.34 In an undated ‘Draft for Interim Policy’ entitled ‘Application of Classification Instrument to meet the Unique Cultural Needs of Aboriginal Offenders’ the Department acknowledged the difficulty in applying the existing classification system to Aboriginal prisoners. This policy was issued to the prisons and has been implemented, although it was never formally adopted. The policy states in part:

¹⁴⁶ The Department agrees with this recommendation subject to government approval being granted to its proposal, and assessed the risk of not implementing it as ‘low’.

¹⁴⁷ The nominated A/Director of Regional & Rural Prisons for the Inspection, Pre-Inspection Briefing, 22 April 2004.

¹⁴⁸ Management and Placement Checklist (‘MAP’) – Version 11. DG Rule 13 provides at 10.2 that an Assistant Superintendent ‘may approve’ security ratings which take into account the surety level set, however, this is an ‘override’ and is not part of the automated calculation of security ratings through the MAP process.

¹⁴⁹ Report No. 24, *op. cit.*

¹⁵⁰ In responding to the draft Broome Report, the Department commented that the DG Rule 14 appendices ‘give guidance to staff equating circumstances to ensure there is a cultural component’ and that the ‘examples provided in the Draft Report are in fact addressed in the explanatory notes’. It appears that some efforts have been made to update the relevant appendices to include cultural components relating to ‘stability’ factors such as residential address (but not work); however, this occurred in July 2004 after our Inspection. It is unfortunate too that contrary to its generally very positive practice, the updated information is not readily available from the Department’s website.

¹⁵¹ This issue also was highlighted in the recent report by Charlie Staples, ‘Review of Acacia Prison Aboriginal Services’, (May 2004), at p. 14.

It is accepted that the new assessment and classification instrument does not neatly meet the management needs of many Aboriginal prisoners at the more remote prisons. ... if the instrument is used without discretion many Aboriginal offenders would be moved to the more secure prisons in the south of the state. This is clearly not necessary given the long history managing such prisoners in their local prison nor is it culturally appropriate to remove prisoners to a situation that increases their personal vulnerability.

This policy seeks to allow additional discretion in decision making with respect to Aboriginal Prisoners in Regional Areas.

- 3.35 The Department is well aware of the limitations of its existing policies and directives, particularly as they apply to prisoners such as those in Broome Prison. It is also aware that it does not have the facilities to hold all Kimberley prisoners who, in the absence of the exercise of the discretion to override, would be scored as medium- or maximum-security. At the same time, however, by failing to integrate the above policy into its automated system, the Department appears content to pass responsibility and, if relevant, blame onto its prison staff, dismissing their actions as wrong or incorrect.
- 3.36 The counterpoised positions adopted by the Department in relation to prisoner classification as detailed above are once again indicative of the competing priorities in prisoner management. It is not good enough for the Department to 'have a bet each way' and simply let its prison staff wear the consequences when things go wrong and prisoners either escape, or alternatively self-harm and suicide because of being 'sent south'.

The Department urgently needs to develop a coherent classification system which realistically estimates the security risk posed by Aboriginal prisoners, and in particular has the capacity to take into account relevant factors relating to remand prisoners and which also addresses those biases in the existing system which tend to over-classify Aboriginal prisoners.¹⁵²

¹⁵² The Department disagrees with this recommendation stating, amongst other things, that its classification system is 'an effective and coherent measure of risk to the community should the prisoner escape' and that '[t]he systemic overrepresentation of Aboriginal violent offenders in the criminal justice system is the primary factor underlying any perceived systemic over-classification of Aboriginal offenders'. It is of note that reported crime 'against the person' (violent offences) for many Aboriginal communities is significantly higher than the State average (see Crime Research Centre, *Regional Chart Supplement to WA DIA Statistical Report 2001* (February 2003)). In this Office's view it is likely that the high reported violence for the Kimberley arises because it has the highest proportion of Aboriginal people in the State, and it should be noted the reported violence levels in Kimberley Aboriginal communities are by no means the worst in the State. Nonetheless the Department's agreement to reconsider its emphasis on the criminal definition of an offence rather than the sentence details for previous sentences is positive. Other very positive initiatives not referred to in its response to this recommendation are also of note, such as the revision of the security rating of fine default offences referred to in footnote 143 above, and the efforts to address cultural factors described in footnote 150. Another significant issue which unfortunately was not referred to in the Department's response at all is the Departmental undertaking to develop an assessment tool for remand prisoners. This Office understands such an assessment tool will vary the current 'scoring' of remand prisoners so they will no longer necessarily be scored as if they were in receipt of a sentence of imprisonment of between three to five years.

3.37 It is important to note that the adequacy of the existing classification system is also a significant factor in the context of proposed alternative correctional facilities in the Kimberley, discussed further at Chapter 7. The security classification determines the nature of the custodial facilities required and the Department is basing the projected demand for facilities of current security assessment procedures. As a priority the Department should revise its classification system to address those issues raised in the 'Draft for Interim Policy' so that prisoners are in practice 'afforded the lowest security rating necessary'. The revised classification system should be the basis for determining the regional projected custodial needs, and the nature of the facilities required to meet these needs, in the Kimberley.¹⁵³

¹⁵³ In responding to the draft Report, the Department stated that there is difficulty in revising a classification system to meet the concerns raised in paragraph 3.33, referring to comments that officers advised that Aboriginal prisoners were often charged with very serious offences which were not reflected in the sentences given. However, the Department's revisions of its classification assessment as outlined in footnote 152 above would go a considerable way to addressing concerns raised in this Report.

Chapter 4

CARE AND WELLBEING

4.1 The Department describes the cornerstone of care and wellbeing in the following terms:

*Prisoners needs emotionally, physical, spiritually and culturally are acknowledged and appropriately addressed.*¹⁵⁴

OVERCROWDING

4.2 The design capacity of Broome Prison is virtually always exceeded, and in the month prior to the Inspection, April 2004, the average daily number of prisoners was approximately 118 (Photograph L).¹⁵⁵ April was not anomalous, with Departmental data showing that there was an average of 116 prisoners held at the Broome Prison site and its work camps between July 2003 and March 2004; 18 on remand and 98 sentenced.¹⁵⁶ The Inspector commented at the exit de-brief for this Inspection that it is not enough to say that a prison is outdated and overcrowded. There are opportunities to manage service delivery in these circumstances and a key factor in Broome Prison's capacity to achieve positive outcomes has been its utilisation of Section 94 prisoner release programs, as is discussed elsewhere in this Report.

4.3 Consistent with other aspects of imprisonment at Broome, the problem of overcrowding is not easily resolved. In relation to prisoner receivals, decisions must be made as to whether they are to remain in Broome Prison or, after a night in the 'cage', continue the long and arduous journey 'south' the following day. Prisoners continuing the journey were regarded as being in 'transit' and received no formal medical and psychological risk assessment, although it appears that informal assessments by nursing staff do occur.¹⁵⁷ Into this complex mix of factors also must be added prisoners' and particularly Aboriginal prisoners' preference to remain local. The dilemma then facing prison staff may often be whether to send prisoners 'south' or to hold them in the 'cage' if they do not. This in turn may influence decisions as to security ratings, as referred to earlier.

External Pressures

4.4 It is worth noting the obvious here: the key issue of overcrowding at Broome Prison is in many ways outside the prison's direct control. One example of the kind of external pressures resulting in overcrowding at the prison is the proposed establishment of multi-function police facilities in the remote communities of the Kimberley, following from the Gordon Report recommendations.¹⁵⁸ In the Goldfields similar developments resulted in a sharp increase in prison numbers. The Department's advice is that the initial increase in imprisonments in the Goldfields related to the serving of outstanding warrants, but it is expected (and hoped) that this will change over time to the more serious matters relating to family violence, as was the Report's intention.¹⁵⁹

¹⁵⁴ Department of Justice (May 2003), *op. cit.*, p. 3.

¹⁵⁵ TOMS report, 'Care and Wellbeing: 2.1 Prisoners Managed', April 2004.

¹⁵⁶ Department of Justice data based on prisoner numbers as at the last day of each month.

¹⁵⁷ During this Office's pre-Inspection briefing by the Department on 22 April 2004, the Director of Rural and Regional Prisons advised that this issue was going to be addressed. This is discussed further below under 'Health'.

¹⁵⁸ Department of Justice (December 2003), *op. cit.*, pp. 24–26.

¹⁵⁹ OIC pre-Inspection briefing by the Department on 22 April 2004.

- 4.5 Another issue relates to remand and sentencing patterns. In 1992, the Royal Commission into Aboriginal Deaths in Custody ('RCIADIC') recommended that justices of the peace lose the authority to determine criminal charges and sentence offenders to prison.¹⁶⁰ However, in WA the government concluded that:

Justices of the Peace are critical for the administration of justice most particularly in country and remote areas of the State. It is not practical or possible to operate the justice system without Justices of the Peace, and maintain appropriate customer services, unless substantial resources were secured for additional magistrates to undertake the role.¹⁶¹

Instead, it was determined that sentences of imprisonment imposed by a justice of the peace should require review and confirmation by a magistrate.¹⁶²

- 4.6 In light of the Royal Commission's recommendation it is perhaps ironic that the Department's Kimberley Community Justice Plan identifies as its first priority the training and recruitment of justices of the peace.¹⁶³ There does not appear to be any data collated on the exercise of power by justices in regional areas, so their impact upon 'customer service' which is of such concern to government, cannot be assessed.¹⁶⁴ Anecdotal information indicates that justices in the Kimberley tend to remand into custody rather than sentence; and elsewhere that community-based justices tend to rely too heavily upon imprisonment as a penalty; in either case the use of justices of the peace perhaps resulting in unnecessary incarceration.¹⁶⁵ It is of note that in almost all regional prisons, where there is a greater reliance upon justices of the peace, there appear to be a high proportion of prisoners who have been remanded into custody but, when the charges are eventually determined, are released from court without a custodial sentence.¹⁶⁶

¹⁶⁰ RCIADIC, *National Report*, recommendation 98 and see [22.4.8]–[22.4.14].

¹⁶¹ *Government of Western Australia 2000 Implementation Report - Royal Commission into Aboriginal Deaths in Custody* (June 2001), p. 62.

¹⁶² *Sentencing Act 1995* (WA) s 38.

¹⁶³ Department of Justice, Kimberley Community Justice Planning Action List – March 2004, p. 1.

¹⁶⁴ The Department's Justice of the Peace Branch and the Broome Courthouse advised this information was not collated. The Planning Action List states that recognition of the need for 'more Aboriginal JoP' was 'part of the government's response to the Gordon Inquiry' (ibid, p. 1). However no reference can be found to this proposal in either the Gordon Report or in the Government's Response to the Gordon Report, so the data which supports this proposal, if any, cannot be assessed (see S Gordon, K Hallihan, D Henry, *Putting the Picture Together, Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities* ('the Gordon Report') (Department of Premier and Cabinet, Western Australia, 2002) and *The Western Australian Government's Action Plan for Addressing Family Violence and Child Abuse in Aboriginal Communities: The Response to the Inquiry into Response...* (Western Australian Government, November 2002)).

¹⁶⁵ In any event under the s 16A(3) of the *Bail Act 1982* (WA) justices cannot grant bail for offences relating to violence restraining orders.

¹⁶⁶ Department of Justice, 'Annual Statistical Report Adult Custody Period 1 July 2002–30 June 2003' (undated), p. 18. This is indicative of prisoners who have been acquitted but also of those whose time in custody on remand is considered by the court to be sufficient punishment for a crime committed.

Before recruiting additional justices of the peace the Department should examine the remanding and sentencing practices of justices of the peace, particularly in regional areas, with a view to determining whether these are consistent with current government policy objectives of having imprisonment as a last resort, reducing Aboriginal imprisonment and disallowing short-term incarceration.¹⁶⁷

- 4.7 Other significant factors impacting upon prison numbers are the lack of legal representation and skilled staff both across the region and within Broome itself. For example, at the time of the Inspection the Aboriginal Legal Service did not have a lawyer appointed to its Broome office,¹⁶⁸ and there were extended delays until representation was available for prisoners. Prisoners may be remanded into custody while pre-sentence reports are prepared, in part at least arising because of the need for them to be transported to locations where qualified staff and magistrates are available to determine sentence.
- 4.8 While the prisons exercise some control over whether to hold prisoners or to transfer them elsewhere, it is often magistrates' or justices' decisions as to a return court appearance date or directions requiring matters to be heard at a particular court which will determine where remand prisoners must be located. For example, if the return date is in two weeks there is insufficient time for the remandee to be sent to Roebourne Regional Prison and returned for the hearing. At the same time if the return dates are extended this may mean that prisoners—who are not yet convicted and who in fact may be found not guilty or be given a non-custodial sentence—can spend weeks imprisoned hundreds or even thousands of kilometres away from their communities and families. In other instances overcrowding at Roebourne can mean that long-term remandees or sentenced prisoners may end up even further away from the Kimberley – at Greenough, Hakea, Casuarina or Bandyup prisons. Given the Department's recognition of the importance of retaining contact with kinfolk, homelands and communities, especially for Aboriginal prisoners, the above outcomes are not acceptable.

Until adequate regional facilities are available for regional prisoners, at the very least the Department should ensure that there is a system in place whereby prisoners who are (involuntarily) imprisoned elsewhere are monitored and their particular needs are being met, for example through access to regular visits, video link facilities and appropriate interpreter services or community contacts.¹⁶⁹

- 4.9 Mr Charlie Staples recently completed a review of Aboriginal Services at Acacia Prison on behalf of the Department of Justice, and in response to Recommendation 33 of this Office's Report No. 19.¹⁷⁰ Although the focus was upon the Ngaanyatjarra communities of the

¹⁶⁷ The Department advises that this recommendation is 'noted', stating that it is a matter for court administration and sentencing authorities and does not relate to prison administration. However, as indicated, the Department nonetheless identified the training and recruitment of justices of the peace as the first item in its 'Kimberley Community Justice Planning Action List'. See also footnote 64 above.

¹⁶⁸ It is noted that this position was subsequently rectified in August 2004.

¹⁶⁹ The Department states that it partially agrees with this recommendation and assesses the risk of not implementing it as 'low'. It states that it provides inter-prison transfers for family visits, video conferencing and 'where necessary', interpreter services (however see footnote 182 below).

¹⁷⁰ C Staples, 'Review of Acacia Prison Aboriginal Services' (May 2004); Report No. 19, *Announced Inspection of Acacia Prison – March 2003* (Office of the Inspector of Custodial Services, Perth, 2003).

Goldfields region, many of the recommendations have a broader application. As discussed, in some aspects Broome Prison currently operates in such a way that the significant needs of its Aboriginal prisoners in particular are being met. However, it is also the case that given the large number of Aboriginal communities in the region (more than anywhere else in the State) and its vastness, Kimberley prisoners held at Broome Prison or its work camps may nonetheless be over a thousand kilometres from their families, communities and language groups. Many of these prisoners may also experience at least some of the dislocations referred to in the Staples' Report.

The Staples Report should be considered by the Department and all prisons in Western Australia, including Broome, and its recommendations adapted and implemented for Aboriginal prisoners who are incarcerated long distances from their communities.¹⁷¹

RECEIVALS

- 4.10 Prisoner reception in Broome may involve photographing, weighing and measuring the height of the prisoner; personal data collection and entry into the Total Offender Management Solutions ('TOMS') database; property intake, recording and storage; the allocation of clothing; preliminary security and at risk assessment; provision of initial phone calls; and, in the past, also involved some preliminary orientation, such as the showing of the orientation video. Given the volume of prisoner receptions and the high number of total prisoner movements at Broome,¹⁷² it is of concern that there is only one Reception Officer position and that the position maintains standard hours, officially 8am to 4pm Monday to Friday. It is of even more concern that the position is also responsible for all prison video links, MAPs (Management and Placement Checklists) as well as appearing to be a major point of contact for telephone enquiries, described by one staff member as requiring the occupant to be 'up and down like a fiddler's elbow'.
- 4.11 As a typical Kimberley offender issue is one of alcohol use, it would be of concern if in this pressured environment new prisoners in withdrawal were not adequately assessed or treated. Although the risk assessment sheet does not include withdrawal, the Reception Officer relies on experience and questioning of the prisoner to assess risk. Prisoners at risk of withdrawal are placed in special purpose cells. The nurse will also observe the prisoners waiting for processing and, where indicated, Valium is left for custodial staff to administer. As a result, the informal processes and personal experience of staff at Broome reduce the risk associated with this possibility, and the location of the prison close to the hospital also means that medical assistance can arrive quickly if needed.

¹⁷¹ The Department agrees with this recommendation and assesses the risk of not implementing it as 'low'. The Department's undertaking to put arrangements in place to develop a strategy of applying the Staples' recommendations where relevant is positive.

¹⁷² There were 673 receptions in 2003 according to Departmental data, making Broome, Eastern Goldfields and Bandyup the major reception prisons other than Hakea. There were also in excess of 5,000 prisoner movements between March 2003 and March 2004: Correspondence from Workforce Planner to Director Regional and Rural Prisons, 15 April 2004.

- 4.12 However, late sittings by the magistrate, police reluctance to hold people in lockups, and the routine late arrival of transport vehicles from across the region mean that large numbers of prisoners arrive at the prison when the Reception Officer is not on duty. In fact, at the time of arrival, the prison may have only three officers on duty.¹⁷³ The late court sittings may also mean that the status of prisoners is uncertain, for example, with information from the court being received too late for prisoners to arrange to see family and say their ‘goodbyes’ prior to being transported elsewhere early the next morning. This is a particular issue given the Department’s policy because prisoners are not only being removed from their ‘homeland’ but are also denied the opportunity to contact family at a potentially distressing and difficult time.
- 4.13 The level of work and stress associated with the Reception Officer position is also of concern in that it is not only resulting in ‘short-cuts’¹⁷⁴ but the potential for dedicated staff to ‘burn-out’. Of particular concern is that staff advise that this issue has been raised repeatedly with the Department for some years, and that nothing has been done to address it. Just prior to this Inspection this Office was advised that the matter would be addressed with the creation and filling of two additional positions.¹⁷⁵ This Office also has a copy of a report dated 15 April 2004 recommending that an additional two officer positions be created at Broome Prison to meet the heightened workloads in reception.¹⁷⁶ Five months later no additional positions had been approved, let alone filled.

*The Department should urgently act to address the current staffing levels at Broome Regional Prison, which operates with the lowest uniformed staff to prisoner ratio in the State, with particular consideration given to its status as one of the highest receival prisons in the State, to ensure that the reasonable needs of prisoners and staff are being met.*¹⁷⁷

NEW PRISONERS

- 4.14 Staff generally regarded the induction and orientation process at Broome Prison as very thorough. On late admissions prisoners are given only a brief overview of the environment. The following day all prisoners are picked up by the Yard Officer who completes a comprehensive induction, filling out the required paperwork and giving an in-depth explanation of the prison, its routine and what is expected of prisoners. This is thoroughly documented and a file audit indicated that this process had occurred and an estimated 85 to 90 per cent of prisoners had documentation in their unit files. Broome Prison no longer uses the standard Departmental orientation video as the prisons education unit had collaborated with 25 to 30 local prisoners in 2003 to create their own DVD and video. The Yard Officer arranged for this video to be shown at least once per week for all new prisoners.

¹⁷³ Memorandum to Director, Regional and Rural Prisons, from Workforce Planner, 15 April 2004.

¹⁷⁴ For example, Return Trip Orders were often recorded as Temporary Placement Listings because doing so involves less administration.

¹⁷⁵ Director (Regional and Rural Prisons), 22 April 2004.

¹⁷⁶ Memorandum to Director, Regional and Rural Prisons, from Workforce Planner, 15 April 2004.

¹⁷⁷ The Department agrees with this recommendation but rates it as being of no risk, stating that the recommendation has been implemented. In fact, however, the approved new positions remained unfilled when the Department provided its response at the end of October 2004.

- 4.15 It was difficult to determine the extent of understanding of the orientation given to prisoners as some said they had seen the video and others said they had not. Language barriers may play a significant role in this area. When asked what he thought of the presentation one prisoner said ‘I only looked at the pictures’. The orientation video states that if the prisoner didn’t understand what was being said, that he/she should ask for an interpreter. The issue here is not just one of such advice being inaccessible to any prisoner who didn’t understand. Communication in a prison such as Broome is extremely complicated. Broome Prison caters for the whole of the Kimberley region where 34 distinct regional languages are spoken,¹⁷⁸ and Aboriginal ‘skin groups’ and avoidance relationships further complicate communication.
- 4.16 It is of note that data published by the Department for 2000/2001 indicate that just 45 of 675 (7%) requests for Departmental Interpreter Services were made by prisons. Interestingly more than 85 per cent of requests were from the courts.¹⁷⁹ The Kimberley Justice Project also focused on the problem within the courts, recommending that Aboriginal language interpreters be available, and discussions with Broome Prison staff indicated that a failure to understand court processes and rulings may contribute to the number of Aboriginal people imprisoned for breach of court orders and fine default. However, there was no reference to the need for interpreter services in prisons.¹⁸⁰ It appears that the issue does not present as a major concern in Broome Prison and, consistent with discussions with prisoners, it appears that it is other prisoners, and particularly peer support prisoners,¹⁸¹ who provide interpreter services for prisoners, as seems to also be the case throughout the WA prison system. Peer support prisoners also advised that they played a significant role in the orientation and induction of new prisoners, especially those from their own communities.
- 4.17 Prisoners’ contribution to the welfare of other prisoners is a very important component of effective and humane prison operations. However, reliance by the prison system generally upon prisoners as the primary interpreter service is problematic. Are prisoner interpreters being adequately remunerated (albeit within the gratuities scale) for their translation work? Are their skills adequate and their translations accurate? What about the privacy of the prisoner requiring the service, particularly in trying to seek assistance in relation to medical or family-related matters?

*The Department needs to ensure that interpreter services are available and utilised by prison staff in appropriate situations. In circumstances where prisoner interpreters are utilised, the Department should ensure that they are appropriately remunerated, and if ongoing, examine the feasibility of obtaining accreditation.*¹⁸²

¹⁷⁸ Department of Indigenous Affairs, www.dia.wa.gov.au/DIA/Region/Kimberley (as at 4/8/04).

¹⁷⁹ Department of Justice, ‘Language Services Policy and Practical Guidelines 2002’, p. 2.

¹⁸⁰ Kimberley Region Justice Project: Community Research Workshops (August 2002), p. 32.

¹⁸¹ Peer support prisoners are prisoners who are nominated to provide assistance and support to other prisoners and who work closely with the Peer Support Officer.

¹⁸² The Department partially agrees with this recommendation but assesses the risk of not implementing it as ‘low’. It states that peer support prisoners are used to provide interpreter services in Broome Prison and that they are paid the highest level of gratuity. It also advises that there are limitations on the use of external interpreter services in the Kimberley due to the large number of dialects. It is of note, however, that the Kimberley Interpreting Service, described as ‘specialising in traditional Aboriginal languages’ and with 50 interpreters on its books, has just been funded to provide services to government in the region (‘Interpreting service gets state contract’, Message Stick Online, 12 November 2004 (www.abc.net.au/message/news/archive.htm)).

VISITS

Minimum Security Prisoners

- 4.18 At Broome, minimum-security prisoners can have visits between 9.00 am and 3.30 pm daily, including weekends. However, these times appear to be flexible as, during the Inspection, visits were observed to still be in progress at 3.40 pm. Visits take place at the front of the prison on grassed and brick-paved areas. At the time of the Inspection, there were two round plastic tables with umbrellas, approximately 12 plastic chairs and three or four wooden tables with bench seats. There is a sandpit with two wooden horses (on springs) and a spinning semi-enclosed piece of playing equipment for children. Visitors visiting minimum-security prisoners have access to male and female toilets located inside the entrance to the prison. There are also food and drink vending machines located inside the entrance, which visitors and prisoners can access and consume in the visits area. Prisoners are prohibited from taking food and drink into the prison. Prison officers have the task of watching the visits area from the gatehouse. There are also meant to be infrequent roaming patrols of the visits area.
- 4.19 Overall the visits process was well managed, family oriented and very interactive (between visitors and prisoners). Staff have been successful in allowing visits to function in an open and friendly manner. Visitors commented that they felt it was a great step forward, being able to come and visit any day without booking and being able to fit a visit in around family demands/needs. Broome Prison has not allowed the introduction of the Gatehouse Project and the restrictions of pre-booked visits to hinder this positive aspect to the visits process, and the staff monitoring is non-intrusive to non-existent, which has both positive and negative effects.

Medium- and maximum-security prisoners

- 4.20 Medium- and maximum-security prisoners are allowed visits between 1.00 pm and 3.00 pm daily, including weekends. Visits take place in the 'bullpen' located inside the prison walls. As for minimum-security prisoners, there appears to be, in practice at least, no limit on the number of visitors any prisoner can have per day. Medium-security prisoners have their hands handcuffed together and are escorted to the visits area in the bullpen by a prison officer; maximum-security prisoners are handcuffed to one prison officer and also accompanied by another officer as they are escorted to the visits area in the bullpen. In cases where visitors are brought to the bullpen before the prisoner is escorted to the area, prisoners' family/significant others, including in some cases the prisoners' children, witness this process. One or two prison officers then sit outside the bullpen while the prisoner spends time with his/her visitor. After the previous Inspection, tea and coffee making facilities were installed in the bullpen, however at the time of the current Inspection there were no cups or tea, coffee and sugar available for prisoners and their visitors in the pen. Visitors of medium- and maximum-security prisoners have access to a single toilet located inside the bullpen, which is used by prisoners and potentially both male and female visitors. Secure prisoners are unable to have visits with other prisoners from within the prison in the bullpen, and prisoners have been seen speaking to each other through the bars of the security cage.

- 4.21 Secure prisoners advised Inspection Team members that they are humiliated in front of family and friends by participating in visits at the ‘bullpen’. One prisoner stated that with the two-officer escort and handcuffs, he would prefer not to see his family. Prisoners also stated that they felt like animals at the zoo, one saying he felt as if he was on display, asking other prisoners who were observing his family visit: ‘Why don’t you give me a peanut?’ (Photographs E and M). It should be reiterated here that many of the secure prisoners at Broome Prison are remand prisoners who may not have been convicted or sentenced.
- 4.22 In correspondence to this Office leading up to the current Inspection and dated 20 April 2004, the Department describes the bullpen as ‘a secure visits area which is *now* provided’ although it was being used as a secure visits area at the time of the last Inspection, and as such is not an improvement on the conditions available for secure prisoners at that time.¹⁸³ The Department goes on to state that the bullpen is provided:

to promote the well-being of prisoners without compromising security. The new procedures improve prisoners’ dignity at the same time as maintaining security.¹⁸⁴

It may well be that the physical facilities within the bullpen have improved slightly since the previous Inspection,¹⁸⁵ however, if reference is made to Photograph E, it is clear that the conditions in the bullpen three years ago must have been very poor indeed.

Security issues

- 4.23 Although the Department had introduced a new visitor’s identification process as part of its Drug Plan, concerns were expressed that while these may improve security, they were not considered to be appropriate to a regional Aboriginal prison. For example, the issuing of visitor identification requires the visitor to supply a Western birth date and have a photograph taken. Many visitors to Broome do not know their Western birth date and resist having their photograph taken for cultural reasons. Visitors may also be reluctant to attend given that their details and photograph are placed on TOMS and attached to the details of the prisoner. Another recent initiative is the requirement to pre-book visits, although as indicated this is not rigorously enforced at Broome Prison. The implementation of these policies at Broome is likely to adversely impact on the prison’s capacity to meet the needs of Aboriginal prisoners and their visitors and, again, removes staff from other functions within the prison.

Supervision

- 4.24 The staff supervision of minimum-security visits appeared very poor and the view of the visits area from the gatehouse was limited. In another sense, it could be said that the visits regime was relaxed in a manner appropriate to the prison regime and prisoner profile. However, during the Inspection, personnel from this Office observed a female visitor being assaulted by a prisoner

¹⁸³ Report No 6, *op. cit.*, p. 9.

¹⁸⁴ Letter from Director General to the Inspector, 20 April 2004.

¹⁸⁵ It appears that drink-making facilities have been added as well as a small tiled area evident in the left-hand corner of Photograph E.

whom she was visiting. This would seem to indicate that there is need for more careful observation and supervision, and that this aspect of prison activities is understaffed. By contrast, the level of staffing resources allocated to supervising visits to secure prisoners appeared excessive.

*If the prison is unable to ensure more active supervision of minimum-security visits at Broome Prison through roaming patrols within its current staffing level, it should re-evaluate the current staff-intensive procedures for secure visits to ensure an appropriate balance between the overall positive character of the visits regime at Broome Prison and meeting its obligations to visitors attending the prison's precinct.*¹⁸⁶

- 4.25 Another issue raised with us by several uniformed officers was that in some instances the contact of sex offenders with child visitors had not been appropriately authorised. It was not entirely clear whether they were referring to children being in the same general visiting area with sex offenders or to children actually visiting such offenders as part of their visiting group. Whichever it was, the arrangements were much less stringent by their account than in prisons such as Karnet and Bunbury. Director General's Rule 7 provides for a blanket prohibition against certain sex offenders receiving visits from children. Although there is a process for varying this prohibition in appropriate individual circumstances, at the time of the Inspection this had not been done in writing at Broome Prison. Subsequently, on 26 August 2004, a new Local Order was promulgated, as follows:

If a prisoner identified as restricted to 'No visits with children' receives a visit and any children are in the area that the visit takes place, then the restricted prisoner will be under direct supervision of a Prison Officer for the duration of the visit or for the total period of time that children are in the area.

This new Local Order appears designed to meet the concern that we had identified, so there is no longer a need to make a recommendation about this matter.

Videoconferences

- 4.26 Videoconferences are conducted at Broome Prison through the usual teleconferencing process and are the responsibility of the Reception Officer. It seems that the use of such an alternative option had reduced over the months preceding the Inspection due to the extreme workload of reception. Receipts provided by the prison also indicate that there had been technical faults with the video four times in two months.¹⁸⁷ The current workload of the Reception Officer is adversely impacting on prisoners' access to video visit. This is extremely unfortunate given that videoconferencing can be a significant tool for maintaining links for prisoners who are located long distances from their families and communities, as are so many of the prisoners in the Kimberley. This provides even more reason for the Department to act urgently to engage additional reception staff at Broome Prison.

¹⁸⁶ The Department partially agrees with this recommendation and assesses the risk of not implementing it as 'moderate'. It advises that visit supervision procedures have been reviewed.

¹⁸⁷ Tax invoices for repairs or technical assistance dated 11/02/04, 20/02/04, 27/02/04, 17/03/04.

Work camps

- 4.27 Visits at the work camps appear to be more restricted than at Broome Prison; for example, at Wyndham Work Camp visits are only allowed between 12.00 pm and 4.00 pm on Saturdays and Sundays. The restricted visiting hours are in place primarily because prisoners often work at remote locations which presents some difficulty for the small number of work camp staff if they are required to arrange for the transport of prisoners back to the camp for unannounced visits. Although the Inspection Team was told that there was a degree of flexibility in these arrangements if visitors had travelled long distances, prisoners nonetheless felt that it was unfair that they should have less access to visits than prisoners at Broome Prison.
- 4.28 It is difficult for a work camp, with its work commitments, to accommodate a liberal visits policy such as that operating at Broome Prison. However, it could go some way to addressing this perceived unfairness by being more flexible. For example, Wyndham prisoners felt that they should be trusted to accompany the work camp football players to watch the weekend matches. This would give them an opportunity to meet with relatives and community members.

CULTURAL SENSITIVITY

- 4.29 In many ways the overcrowding at Broome Prison is symptomatic of the preparedness of key Broome Prison personnel to act sensitively within the existing physical constraints of the prison to accommodate Aboriginal prisoners' desire to remain within their region and in contact with their communities and families. Prisoners' preference to share extremely overcrowded cells rather than be isolated in other cells (or other prisons) has been given priority ahead of senior management's personal disquiet over cell conditions. Prison officers' practice in allowing prisoners to choose their own cells reflects a similar consciousness of the importance of Aboriginal community relations in enabling prisoners to cope with incarceration, one officer stating 'I would rather let them choose themselves than have to go in and clean the blood off the walls at 10 o'clock tonight'. In the coronial inquest into the death at Broome Prison referred to earlier, the Coroner commented positively on this practice, saying that 'it is difficult to see how the Ministry could better have located the deceased. The deceased was placed into a cell of his own choosing'.¹⁸⁸ The degree to which prisoners are prepared to tolerate the difficult conditions to remain at Broome Prison was made very clear when renovation work was undertaken on the Men's Secure Unit. Secure prisoners spent their days in the bullpen, unless there were visits, when they would be moved (while shackled) to the holding units. Prisoners were given a choice of whether they would prefer to move elsewhere, but considerable numbers elected to stay (Photograph E).
- 4.30 It is of note that the extent of overcrowding at Broome Prison does not allow prisoners to solely cohabit with those they would choose to. One prisoner commented that 'Prisoners fight over TV and music in the cells – but only those you are not related to. You have two to three relatives in your cell and then another mob. One group is better – they respect each other.' Given the current

¹⁸⁸ Coroner, Inquisition into the death of Alan Bangmoro, 20 June 1997, p. 12.

conditions at Broome Prison it is likely that, for the foreseeable future, prisoners will be required to share cells with prisoners they would not choose to.

Where cell-sharing is not at the election of prisoners, prisoners' preferences should be accommodated as far as possible and the Department should introduce a Shared Cell Risk Assessment procedure.¹⁸⁹

FEMALE PRISONERS

4.31 One of the most positive developments to have taken place at Broome Prison since the last Inspection was in relation to the treatment of female prisoners, particularly given the very poor conditions they were subjected to in 2001. These developments realised the Department's undertaking to treat the conditions and services for regional women prisoners as a critical priority and the reforms go a long way to meeting Recommendation 3 in the previous Report.

4.32 Amongst the many commendable reforms are:

- The upgrade of facilities for women prisoners, with the renovation of ablutions in the cells, the addition of a demountable with computer and limited self-care facilities, the provision of artwork and shading in the women's outdoor courtyard;
- The creation of a Women's Advisory Support Group comprising female prison staff and community female stakeholders. The group organises activities for female offenders and provides advice to the Superintendent on relevant issues;
- The employment of additional female, and in particular Aboriginal female, prison officers;
- The creation of a Women's Support Officer position at 0.2 FTE (filled after the May 2004 Inspection);
- The alteration of female prisoner lockdown times, so that these are now the same as male prisoners; and
- The trialling of female offending behaviour programs in 2003 (although it is of note that these had yet to be implemented on an ongoing basis at the time of the Inspection in May 2004).

4.33 Issues remain for female prisoners, most particularly the absence of programs and access to recreation, and these are discussed further below.¹⁹⁰ It is also of note that women are denied the opportunity of participating in work camps and as such there is less flexibility in assisting them to maintain connections with their communities and families, of enjoying the relatively unfettered environment of the camps, and of undertaking constructive work. Consideration should be given to additional designated day releases of female prisoners to counter the current non-availability of work camps and the poor access to recreation.

¹⁸⁹ The Department disagrees with this recommendation. It states that current practice accommodates prisoners' preference in most instances and that an assessment of risk is made at the time of receipt and taken into account on cell allocation. This Office holds the view that the extent of prisoner's preferences and risk assessment claimed by the Department should be fully documented.

¹⁹⁰ Refer also to the discussion of the Female Secure Unit, under 'Custody and containment' above.

HYGIENE

- 4.34 In this Office's previous Report on Broome Prison it was observed that '[h]ygiene standards in the kitchen were abysmal'.¹⁹¹ Recommendation 5 proposed that a system be put in place to address hygiene issues throughout the prison and to ensure that acceptable levels of hygiene (particularly in kitchen areas) are established and maintained. The Department's response was that a new cleaning policy had been deployed and that a second cook instructor was to be employed to ensure appropriate standards were maintained. However, a health assessment of the Broome Prison site conducted in late May 2004 found that the 'kitchen was below an average standard of cleanliness and repair' and that 'increased diligence in cleaning is needed'.¹⁹²
- 4.35 At the time of our Inspection, work had commenced on prisoner ablution facilities and we were informed that the prison kitchen was due for upgrade in July 2004.¹⁹³ The Acting Director of Regional and Rural Prisons stated at the Inspector's exit de-brief that while the limitations of the existing prison site made meeting some of this Office's recommendations difficult, there was no excuse for the extensive delays in addressing the issue of the kitchen.¹⁹⁴ In August 2004 work on the kitchen commenced, and this Office was advised that the more recent delays were for reasons outside of the control of the prison.

FOOD

- 4.36 Recommendation 6 of this Office's previous Report on Broome Prison was that special diets needed to be catered for and that traditional foods be provided for Aboriginal prisoners. The Department's response was that a review of diets/nutrition by the Department of Health was underway and that all prison catering centres have a comprehensive special meals guidelines booklet. It also stated that traditional food was supplied weekly.
- 4.37 At the time of the current Inspection, the menu at Broome Prison was considered to be generally high in fat and sugar. Although a diabetic diet was said to be available, the options were few and there is concern that prisoners were not able to access a proper diabetic diet. Some prisoners appear to like the food but it is a struggle for the health service to promote weight loss for diabetics as long-term complications are often far from prisoners' thoughts. Generally, however, prisoners found the food to be monotonous, saying that all they received was cold meat and salad every day for lunch and they claimed it was 'recycled' the next day if not eaten. In particular, the food provided for the lunch of manual labour workers should be sustaining. The current lunches of cold meat, salad and bread are not enough to sustain the men working seven hours per day.

¹⁹¹ At p. 50.

¹⁹² Letter to the Inspector from the Executive Director Public Health, 28 September 2004, 'Health Assessment – Broome Regional Prison'.

¹⁹³ Superintendent Broome, Briefing Notes May 2004, p. 1.

¹⁹⁴ Comments in response to Inspector's De-Brief, 7 May 2004.

- 4.38 It is of note in this context that the nurse at Wyndham Work Camp was undertaking a course on diabetes and works closely with prisoners to pass on information about good nutrition. Staff advised that many Aboriginal prisoners were eager to learn about good nutrition given the incidence of illness and early death in their communities.

*Nutritional education of prisoners should occur, as is being undertaken at Wyndham Work Camp, followed by consultation with prisoners with a view to developing menus, and in particular diabetic menus, which are appetising to prisoners and are sustaining for those undertaking manual labour in harsh tropical conditions.*¹⁹⁵

- 4.39 During its Inspection this Office noted that the dinnertime menu at Broome Prison appeared not to have much variety and prisoners indicated that traditional foods were not provided on a regular basis. Broome administration advised that Karnet Prison was no longer able to provide kangaroo regularly and there were duty of care considerations restricting the use of kangaroos which might otherwise be provided to the prison by prisoners' family and community members. At the work camps the situation appeared markedly better, with access to traditional foods such as kangaroo and fish at Bungarun Work Camp. According to staff members at Wyndham Work Camp, fish and goannas caught by prisoners are consumed at the camp and relatives sometimes drop off kangaroos. Both camps also grow their own vegetables when the hot season is over. The ongoing work camp practices appear to meet the requirements of objective 3(12) of the Aboriginal Strategic Plan and also to meet the Office of Aboriginal Health's objective of increasing the use of traditional bush foods.¹⁹⁶
- 4.40 There is reason to be sceptical to a degree of the benefits of Western food standards for Aboriginal Australians: the Australian Bureau of Statistics reports that over the period 1999 to 2001, Aboriginal and Torres Strait Islander peoples perished at three times the rates of non-Indigenous Australians. It was also recorded that the cause of death that most disproportionately impacts on both males and females is 'endocrine, nutritional and metabolic diseases', the group that contains diabetes.¹⁹⁷ As such there is much to be commended in providing Aboriginal prisoners with access to traditional foods. However there is also a need to ensure that prisoners' participation in the hunting and gathering of traditional foods, its preparation and consumption is on a purely voluntary basis and that all prisoners consuming such food are informed of its origins (that is, which food is not commercially supplied or prepared according to general prisons standards) so

¹⁹⁵ The Department agrees with this recommendation, stating that nutritional education will be provided to prisoners at Broome Regional Prison in early 2005. It assesses the risk of not implementing the recommendation as 'low'. The Department, however, also indicated that kangaroo was available twice a week at the time of the Inspection, although prisoners and staff at the prison disputed this. It also stated that an appropriate diabetic menu was available but that new menus are to be developed in collaboration with the medical team, the District Dietician and peer support prisoners.

¹⁹⁶ Office of Aboriginal Health (Department of Health WA), 'Aboriginal Food and Nutrition Policy for Western Australia' (2001), pp. 5, 6. The policy advocates the use of traditional food because bush foods are said to have low-energy density, low saturated fat and relatively high polyunsaturated fat content.

¹⁹⁷ Australian Bureau of Statistics, (4704.0) *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples* (2003).

that they are able to assess for themselves the skill of those involved in the hunting, gathering and preparation of traditional foods. This would mean, for example, that prisoners can elect to eat other food available from the prison rather than traditional foods provided and prepared by prisoners or their families and communities.

Prisons must ensure that prisoners have accessible information about the origins of any non-commercially provided and/or prepared traditional foods so that they are in a position to make an informed choice as to whether they wish to consume that food or not, and alternative meals must be available.¹⁹⁸

- 4.41 This Office believes that a new Food Bill is currently in draft form. The opportunity should be taken to formalise the arrangements which would ensure that prisoners can voluntarily participate in traditional food preparation practices and consume (non-commercially provided) traditional foods.

The Department should write to the Department of Health and seek to be involved as a stakeholder in the review of the draft Food Bill, to ensure that appropriate prison arrangements to ensure prisoner access to traditional foods are formally recognised.¹⁹⁹

- 4.42 The day before the Inspector's exit de-brief, Broome Prison's Superintendent announced that he would ensure that hunting, gathering and fishing involving male and female prisoners, and the traditional preparation of meals, as was already practiced in the work camps, would be undertaken by the prison on a regular basis. With proposed restrictions under Section 94, discussed further below, Broome prisoners had participated in only one activity of this nature between the Inspection and when members of this Office returned to the prison in August 2004. It remains to be seen whether the easing of Section 94 restrictions, also discussed below, will see this very positive initiative implemented.

The prison and the work camps should use Section 94 releases to ensure that prisoners can access traditional foods.²⁰⁰

HEALTH

- 4.43 In assessing the standard of healthcare provision at the Broome Prison site particular attention was given to the management of diseases common in the Aboriginal and Torres Strait Islander population. Chronic disease is highly prevalent in the Aboriginal community of the Kimberley. The Kimberley, with many remote communities and approximately one quarter of the State's Aboriginal population,²⁰¹ also carries a substantial burden of sexually transmitted infections. The prison population ranges from quite young to middle aged with a very large percentage of

¹⁹⁸ The Department agrees with this recommendation and assess the risk of not implementing it as 'low'. The Department has undertaken to inform prisoners of the origins of non-commercially provided or prepared food, and states that alternative meals are always available to these prisoners.

¹⁹⁹ The Department agrees with this recommendation and assesses the risk of not implementing it as 'low'.

²⁰⁰ The Department agrees with this recommendation and assesses the risk of not implementing it as 'low'.

²⁰¹ *Consulting Citizens: Engaging with Aboriginal Western Australians* (Perth: Department of Indigenous Affairs, undated), p. 10.

Aboriginal people, as indicated previously. There are very few prisoners over the age of 50 years.²⁰² At the time of the Inspection 28 per cent of prisoners were recorded as having a history of self-harm and 20 per cent had a diagnosed chronic health condition.

Equity and access

- 4.44 Since the last Inspection in June 2001 a new system had been implemented so that prisoner-patients place a specially issued identification card into the box outside the health centre if they need to access healthcare staff. The nurses clear this box twice a day and make appointments as necessary. The health facility also has been renovated since the last Inspection and is now well laid out with an interview room that allows privacy. The consulting room is private, generous in size and well stocked with medical equipment. The examination table can now be screened for privacy. The 2001 Report referred to the lack of defibrillation equipment and this shortfall has now been addressed and staff have received appropriate training in its use. The administrative area has secure storage for files and adequate work areas.
- 4.45 There is a good relationship with the local hospital and strong support for prisoners requiring specialist care. Dental services for short-stay prisoners, on the other hand, are limited by prison health service policy to only emergency care and as a result remedial problems are left unattended. A dietician provides a service to the prison site once every three months; this service is mainly educational and aimed at patients with diabetes.
- 4.46 Psychiatric services are of high quality although after-hours psychiatric care remains a problem. Prison health services have a memorandum of understanding with the North West Mental Health Team (NWMHT) to provide service on an 'as needs' basis. The process requires a mental health nurse practitioner to respond to the referral by conducting the initial assessment, and if necessary an appointment is made with the NWMHT psychiatrist. A copy of the assessment and management plan is sent to the prison, and these patients are followed up within three months for review by the psychiatrist. Referrals are usually of known clients of the NWMHT with longstanding disorders. If the NWMHT is aware that one of their patients is incarcerated they will liaise directly with the prison to maintain management and treatment. There is also a longstanding arrangement with a psychologist who generally attends the prison site on a weekly basis, and who has very strong connections with regional Aboriginal communities.
- 4.47 The mechanical restraint of secure prisoners accessing healthcare within the prison, and all prisoners accessing healthcare externally, has been discussed in detail above.

Standard of care

- 4.48 A medical officer attends the prison for two sessions a week. There is a male and a female medical officer available and this is positive for female patients who feel more comfortable accessing the female medical officer for their healthcare needs. The 2001 Report expressed concern about the lack of Aboriginal healthcare staff. This has been partially addressed by the employment of an

²⁰² See for example, the Broome Regional Prison Business Plan 2003/04, p. 45, which showed that as at 23 June 2003 the vast majority of prisoners fell within the 20 to 39 year old age group.

Aboriginal registered nurse. At present Aboriginal health services do not play a large part in the prison health service. Given the demographics of the prison, it is important to foster a closer relationship with appropriate Aboriginal services. Developing a partnership with the Aboriginal Health Worker Training Centre in Broome would also be beneficial and the first step in recruiting Aboriginal Health Workers to employment within the prison.

Quality of care

- 4.49 Concern was expressed about the lack of access to a computer on the medical officer's desk for electronic prescribing, management of recalls, generation of legible referral letters and medical records. This is an issue across the Prisoner Health Service, not only at Broome. Ensuring that immunisation courses had been completed when prisoners transferred between prisons was cited as a particular problem. Similarly, there is a risk that courses of treatment for syphilis could be overlooked because of poor communication from other prisons.
- 4.50 The current patient recall system in the prison system is paper-based and a robust computer-based recall and task-tracking system is a priority. There would be significant benefit to Aboriginal prisoners if the Project Ferret Population Health Management System, used by most of the Aboriginal community controlled health organisations (ACCHOs), was adopted by the Prisoner Health Service. The system provides individualised care plans for each patient and automates recall for immunisation and health screening. The aggregated patient ACCHO Ferret database represents something in the order of two-thirds of the Kimberley Aboriginal population (around 11,000 out of 16,000). The implementation of this system would greatly improve management of health conditions, access to accurate up-to-date information and ensure that follow up occurs in a timely manner. Overall, this will enhance the continuity of care for the Kimberley Aboriginal population and contribute towards better health outcomes.

*The lack of medical staff access to computers at the prisons should be addressed as a matter of urgency to bring the health service into line with other General Practices and to improve safety and quality. The Project Ferret Population Health Management System, a computer-based recall and task-tracking system, should also be implemented.*²⁰³

Receivals

- 4.51 As discussed previously, there is a continuous flow of prisoners through Broome to Roebourne Regional Prison or further 'down south' and generally these prisoners are only held overnight in Broome. The current situation is that prisoners from police lockups at Kununurra, Halls Creek and Fitzroy Crossing are collected by AIMS Corporation transport on a fortnightly cycle.²⁰⁴ Detaining prisoners in this way impacts upon the local police operations and there is also a lack of prisoner services and facilities, including healthcare, in the lockups. This Office was informed that

²⁰³ The Department disagrees with this recommendation stating that there are ample computers and printers available to staff in the Health Centre. It further advises that it will select a Health Information Management system that is suitable to the Department's needs.

²⁰⁴ Media reports state that the Police Minister admitted that delays in clearing the lock-ups may be up to seven weeks (Prior W, 'Prisoners in NW lockups for weeks', *The West Australian*, 12 July 2004).

a fair proportion of these prisoners are assessed as being unsuitable for placement at Broome Prison because of their security rating or because there is insufficient space at Broome. The pattern of prisoner movement is that they are received in the late afternoon of one day, accommodated overnight at the prison, and then commence an onward journey to prison destinations south at Roebourne, Greenough or even Perth. The existing arrangements are a problem as health service staff at Broome are unable to conduct the Nursing Admission Health Data Sheet (NAHDS) before prisoners continue their journey, which may last up to five days.²⁰⁵

- 4.52 The admission policy requires all prisoners to have this assessment completed within 24 hours of receipt. Allowing for a preliminary assessment at Broome would ensure that this population, with a significant burden of illness, would receive appropriate health care before transfer. At the same time, however, longer detention at Broome would exacerbate the already chronic overcrowding at the prison and moreover, given the status of many of these prisoners, is likely to involve detention in the substandard conditions of 'the cage'.
- 4.53 A number of proposals have been canvassed to address this problem, including one option whereby prisoners will in effect be 'in transit' at Broome Prison and be fully assessed for health and welfare needs on arrival at Roebourne. (It appears that significant numbers of Kimberley prisoners remain at Roebourne Regional Prison.²⁰⁶) Another option canvassed would have resulted in many of these prisoners being kept at Broome Prison for a week so that assessments could be done, but would also result in many prisoners being held in the inadequate accommodation in the security sections of the prison. It appears that a week's stay at Broome Prison is required for this option because health staff believe that the lack of prison officers and facilities at the prison effectively mean that health staff, who are currently rostered during standard work hours during the week, can only access secure prisoners between 9.00 am and 11.00 am on Mondays, Wednesdays and Fridays, and on weekends depending on the availability of health staff and prison officers.²⁰⁷ A third proposal relates to a revision of the transport arrangements that would clear the lock-ups more frequently but may result in the prisoners staying for varying lengths between two nights and one week at Broome Prison.

²⁰⁵ Letter from Workforce Planner to Director (Regional and Rural Prisons), 15 April 2004, p. 1.

²⁰⁶ In June 2003, 24 per cent of Roebourne's prison population were Kimberley medium- or maximum-security prisoners: Department of Justice, 'Statement of Philosophy and Planning Brief for Regional Prisons Facilities and Services' (December 2003), p. 20.

²⁰⁷ The problem is associated with the security issues referred to previously. Secure prisoners must be escorted by two officers from 'the cage' to the medical centre. According to health staff, the typical routine of prison officers is as follows: in the mornings prison officers are involved in unlock, breakfast, arranging court and transfer escorts. After 11.00 am prison officers are involved in the delivery of lunches to Section 94 prisoners as well as supervising lunches within the prison. Lunch is followed by escort and observation of secure prisoners during visits; whilst the afternoon sees prison officers involved in processing the return of Section 94 work and education prisoners, supervising afternoon recreation and dinner and ending their shift at 4pm. The availability of prison officers to assist in escorting secure prisoners for medical attention is therefore reduced. The doctor's parade is also held at the medical centre on Tuesday and Thursday mornings, so the facility is not available for access by secure prisoners at those times. Nonetheless, prison management have denied that there is a problem with staffing levels in this context.

4.54 There is a significant element of risk whilst prisoners are under the Prison Service's jurisdiction but deemed to be 'in transit'.²⁰⁸ The involvement of AIMS Corporation, an external service provider, further complicates matters.

Most preferable would be that Broome Prison had the capacity to (adequately) house all Kimberley prisoners, consistent with the Department's description of its role and function, and Broome was resourced to provide adequate healthcare and risk assessment of all its prisoners. If this is not possible in the immediate future, however, then some basic principles should inform the management of these prisoners:

- *The AIMS transport arrangements should be varied so that there is more local flexibility in the service provided so that lockups may be cleared as required;*
- *Broome Prison medical services and prison officers should be resourced so that prisoners who cannot be retained at that prison in the long-term can be subject to a preliminary medical and risk assessment, preferably so that such prisoners are detained at Broome Prison for no more than two nights;*
- *Roebourne Prison retain capacity to hold all prisoners newly received from the Kimberley who cannot be held at Broome Prison at least for the length of time required to conduct a full medical assessment, but preferably until Broome Prison has the capacity to take them or they are free to return to the Kimberley; and*
- *Roebourne Prison medical services be resourced so that there is the capacity to conduct complete medical assessments of all prisoners prior to any of them being transferred to other prisons such as Greenough or the metropolitan prisons.*²⁰⁹

Assessment of service provision

4.55 Apart from the issue of prisoners in transit identified above (and which in any event is currently outside of the medical services' jurisdiction), the service provided by the medical, nursing and allied health staff was generally of an extremely high quality. Nineteen sets of case notes were reviewed, including those of five female prisoners. In most cases the history and examination was of a very high standard. Screening for blood-borne communicable diseases was universal. All women had been offered pap smears. In appropriate cases, prisoners were tested for cholesterol levels and liver function. Most prisoners were weighed and had their blood pressure taken on admission but height and urinalysis were omitted in a number of cases. Test results had been signed before filing. In a couple of cases, abnormal findings had been overlooked.

4.56 Charting of random blood sugar tests for screening of diabetes was patchy although there has been a steady improvement recently. Prisoners with diabetes are reviewed by the health service at least every three months. As discussed under 'Food', however, there is some concern that prisoners suffering this condition are unable to access a proper diabetic diet.

²⁰⁸ Workforce Planner to Director (Regional and Rural Prisons), 15 April 2004, p. 1.

²⁰⁹ The Department disagrees with this recommendation. It states that ad hoc transport arrangements would be difficult to facilitate and also states that with few exceptions Roebourne has been able to medically assess all new prisoners. In spite of disagreeing with the recommendation, the Department also advises that it is reviewing health services practice in relation to the identification of urgent medical needs of newly received prisoners as well as that it is continuing with its recruitment campaign for medical staff which, at the time of responding, had been unsuccessful.

SERVICE DEFICIENCIES

- 4.57 In the last Inspection Report a number of service deficiencies were identified in Recommendation 8 and the Department agreed to address all of these. However, at the time of this Inspection, only some of these deficiencies were corrected and others remained unaddressed.²¹⁰ Those issues upon which acceptable progress had been made include the replacement of the telephone system, the creation of an additional PSO (part-time) position, and cell cleanliness. A very positive local initiative was the introduction of one free ten-minute telephone call per week for prisoners outside of the Broome telephone exchange region. It is noted, however, that this was only introduced two weeks prior to the Inspection.²¹¹ It is also noted that while the canteen service was not subject to the same complaints received in the previous Inspection, the items available for purchase appeared very limited in comparison to other prison canteens. However both prisoners and officers commented that most prisoners had insufficient funds to purchase items other than ‘the essentials’: tobacco, cigarettes, chips and cool drinks.
- 4.58 Another identified service deficiency related to the permission process for funeral attendances. At the time of writing, a new policy (drafted in September 2003) which resulted from the Department’s undertaking to clarify the procedure in 2002 had not been implemented. While this would justify an assessment that the Department had not made satisfactory progress in addressing this matter, it should also be acknowledged that the Department’s practice in relation to funerals appears to have improved since the last Inspection although its official policy remains altered. According to available Departmental statistics, the number of successfully completed funeral absences across the State had increased from 260 in 2001/02 to 351 in 2002/03,²¹² at the same time that total prison numbers declined.²¹³ As a result, although such a long delay in approving the new policy remains unfathomable,²¹⁴ the data indicate that some progress has been made in this area. However, prisoners continue to raise uncertainty and difficulty in attending funerals as an area of very significant concern, particularly given Aboriginal cultural obligations. Prison staff also expressed frustration that decisions are currently made by Head Office without the degree of local knowledge required.

*The draft funerals policy of 2003 (Review of Policy Directive No. 9) appears to be a considerable improvement upon current arrangements and should be implemented as a matter of priority.*²¹⁵

²¹⁰ Another area of deficiency identified in the previous Report, the provision of recreation at Broome, is discussed in detail in the following section.

²¹¹ Memorandum from APSM, ‘Officer Initiated Phone Calls’, 21 April 2004.

²¹² Department of Justice, Authorised Absence Statistics 99/00 to 02/03 (23 June 2004).

²¹³ Fernandez & Loh (2003), *op. cit.* pp. 141–142.

²¹⁴ The official reason given by the Department is that there were ‘delays in the consultation process and that one change requires Ministerial approval’, email, 16 August 2004.

²¹⁵ The Department partially agrees with this recommendation and assesses the risk of not implementing it as ‘low’. It further stated that ‘[c]onsultation to consider the implementation of recommendations is on-going’. This Office is disappointed that after a number of years, the Department’s view is that a satisfactory response to this issue is to advise of consultation to *consider* the implementation of a policy which it describes as being ‘designed to address the needs of the client group and conformity with best practice in a contemporary prison, with sensitivity to Aboriginal cultural issues and localised management’.

- 4.59 The broader evaluation and implementation of recommendations made in the Staples Report, referred to previously, and particularly those concerning the allocation of responsibilities to a Funeral Notification Officer, would also assist by ensuring the provision of information concerning funerals in a timely fashion so that arrangements can be made.

RECREATION

Inside the prison

- 4.60 Prison staff and prisoners confirmed that there is no structured, organised recreation at Broome Prison. Passive recreation is provided in the form of a well-utilised pool table and darts set. There are also a few pieces of gym equipment in the units, although these appeared to have been damaged and not repaired. Musical equipment was generally available for prisoners to use in the evenings, although at the time of the Inspection these were being withheld on the basis that an unknown prisoner had damaged the equipment and because prisoners had left equipment on the lawn areas overnight which meant that it was wet from the sprinklers in the morning.
- 4.61 Inside the men's security cage there is access to television, darts and a pool table. Just prior to the current Inspection table tennis tables were purchased for the men's security area and the 'bullpen'; but curiously, when asked where the necessary nets, bats and balls were located for use of this equipment, neither staff nor prisoners were able to answer, the response was 'Don't know if there is any!'
- 4.62 Recreation equipment generally was extremely limited or otherwise damaged, often resulting in prisoners being unable to use it for its intended purpose: the pool tables in the medium/maximum-security section of the prison and in the bullpen were badly damaged; the basketballs were old and in poor condition; and many of the strings on the guitars were broken. As indicated, male secure prisoners had no access to facilities outside of their cage and were unable to access the open area at the back of the cell block for recreation. Female secure prisoners had even less facilities unless other female prisoners were prepared to vacate the Female Unit, but even then recreational resources are inadequate.

Outside the prison

- 4.63 Some of the recreational activities which used to occur outside the prison have also ceased. For example, prisoners used to be taken swimming at the local swimming pool, but we were advised at the time of the Inspection that this has now stopped. Other prisoners advised that they used to go to the beach for a swim, but that this has not happened for a long time. During the Inspection the only recreation undertaken outside the prison was a trip to the local oval. Whilst a prison officer takes out on average of 20 prisoners per afternoon for this activity it is not a structured recreational event. It seems that if a prisoner wishes to go he or she can put their name down and they may kick a football around or just sit and yarn. A problem linked to this is that should others be using the oval at the time then the prisoners are taken to an alternative site or otherwise returned to the prison. The fact that only one prison officer supervises the daily 30 minute recreation is likely to impact on the types of activities that can be undertaken.

4.64 Women's access to gender appropriate recreational activities is extremely limited. For example, a staff member said that female prisoners liked to go swimming but, as observed above, this activity is no longer offered. Prisoners also indicated that they would like to engage in community sports with outside clubs and groups. Although, prison officers indicated that they were aware of this they gave a variety of reasons for being unable to meet the wishes of prisoners in this respect, including that staff did not have sufficient time to organise such events; that the cost involved was too high; that outside groups were reluctant to play against prisoners; and that the prison football team, in particular, was 'too good'. However, as noted above, the work camp prisoners of Wyndham are able to take part in community sports and this Office sees no reason why this should not extend to appropriate minimum security-rated prisoners at Broome Prison.

Section 94 recreational activities

- 4.65 After the Inspection access to external recreation was further reduced as a result of proposed new restrictions to access to Section 94 activities (the basis upon which prisoners are released for these and other activities into the community). A review was undertaken by the Department as a result of various media reports which highlighted 'prisoners undertaking activities seen as inappropriate'.²¹⁶ None of these activities had occurred at Broome Prison or its work camps. Given that Section 94 approved absences for 'sport' were expressly provided for under the *Prisons Act*²¹⁷ and given the high prison population and extremely limited facilities at Broome Prison, it is of particular concern that the Departmental review appeared to have within its contemplation the blanket 'cessation of recreational Section 94 activities'.²¹⁸
- 4.66 This is a major issue for Broome Prison where there is no sports oval internal to the facility, and where work camp facilities are rudimentary. Moreover, the rationale for disallowing prisoners to attend recreation activities outside the prison when they are not seen as a security risk if undertaking work outside the prison appears dubious at best, and is particularly oppressive in a prison such as Broome where the reasons for imprisonment of many of its detainees are questionable, the facilities are extremely poor and the extent of Section 94 work undertaken by them is second to none. Further undermining the cogency of this position is that during recreation activities prisoners are subject to direct supervision by prison officers while this does not apply to prisoners released for rehabilitation, educational or work activities.

²¹⁶ 'Report on the Review of Activities under Section 94 of the *Prisons Act 1981*', 29 April 2004, p. 1.

²¹⁷ Section 94(1)(d).

²¹⁸ 'Report on the Review of Activities under Section 94 of the *Prisons Act 1981*', 29 April 2004, p. 4. In reviewing the draft Broome Report the Department commented that it 'did not contemplate the cessation of recreational Section 94 activities'. However, at the reference cited above, the Department's report states: 'With regard to the impact on prisons of any cessation of recreational Section 94 activities... the authors established from responses provided by individual superintendents that there was insufficient infrastructure and opportunities to provide sufficient recreational facilities within existing facilities.' Importantly, Broome Prison and its work camps have very limited recreational infrastructure and are therefore reliant upon accessing community-based facilities.

4.67 Fortunately the Departmental review acknowledged that ‘there is insufficient infrastructure and opportunities to provide sufficient recreational activities within existing facilities’, and that in the absence of recreational release, the ‘basic’ conditions at work camps could act as a disincentive to participation. However, the more restrictive eligibility for participation in Section 94 releases and the three-month period during which only drafts, a media release and verbal directions were available to guide prison staff, had a significant impact on regional prisons in particular, and resulted in increasing numbers of prisoners being confined within the already overcrowded regional prisons. The increased nervousness surrounding what activities are deemed acceptable has also seen the cancellation of very positive recreation activities, such as the annual fishing trip with the seniors from the Bran Nue Dae Centre. The issue of Section 94 is discussed further below in relation to ‘Reparation’ and ‘Programs’.

The Department should:

- *Create and fill a Recreation Officer position for Broome Prison.*
- *Allocate an adequate budget for recreation at Broome Prison.*
- *Include in the JDF for the position specific duties to:*
 - *allocate time and resources to recreation for women prisoners;*
 - *monitor the recreational equipment at the prison and the work camps and ensure that it is maintained to an adequate standard;*
 - *provide structured recreational activities;*
 - *develop external links so that prisoners can partake in external competitions; and*
 - *develop an incentive scheme in consultation with prisoners to encourage active recreation.*
- *Ensure that, given its particular situation, Broome Prison is not subject to generic restrictions which are the result of concerns about Section 94 at other prisons and in different contexts²¹⁹*

REQUESTS AND COMPLAINTS

4.68 As indicated by the following, there are a multiplicity of options (formal and informal) within the prison system for prisoners to seek to have their requests and complaints addressed. The operation and effectiveness of a number of these options at Broome Prison are outlined below. Often however, and particularly given the literacy levels and cultural preferences of the largely Aboriginal prisoner population at Broome Prison, an informal verbal approach to a prison officer is likely to be the most appropriate or realistic option. How this option works at Broome Prison is discussed in more detail under Chapter 7, ‘Staff’.

²¹⁹ The Department partially agrees with this recommendation and assess the risk of not implementing it as ‘low’. It advises that the creation of a Recreational Officer position and the related issues will be considered in conjunction with the staffing review, subject to Government budgetary processes.

Grievances

4.69 Few (four) formal grievances have been lodged at Broome since the Department implemented the grievance system after 2000 and even fewer (two) have been lodged on TOMS in accordance with Departmental policy. The prisoner orientation video has a part that deals with 'Grievance Forms'; however, it does not explain exactly what a 'grievance' is. The video advises a prisoner with concerns about matters such as funeral attendance, harassment and bullying to speak to peer support officers or prisoners or to unit officers and finishes by saying: 'If you don't know about the grievance form, ask an officer'. Difficulties in communication between officers and prisoners are discussed further below in Chapter 7, under 'Staff/prisoner relations'.

Other documentation

4.70 The minutes of only one prisoner/staff meeting were located in the office folders at Broome Prison. The meeting raised several issues and a response from the Superintendent to each issue was recorded in writing. This meeting raised issues of prisoner concern, which included:

- canteen opening hours;
- shading in the visits area;
- extension of meal hours;
- ventilation in the female section;
- provision of toilet roll holders;
- power faults in the female section;
- gratuities for peer support prisoners;
- the reinstatement of the bingo night;
- provision of pin up boards;
- access to fax machines;
- provision of refrigerator for the Female Unit; and
- availability of tea and coffee for visitors.

4.71 When some of the issues that had been agreed to by the Superintendent were followed up during the current Inspection, some 15 months later, prisoners advised that not all had been implemented. Subsequently Broome Prison provided copies of minutes for other prisoner/staff meetings. The most recent was for 24 October 2003 which records the attendance of only one prisoner. The previous meeting, on 5 September 2003, noted that '[a]fter several requests for prisoners to attend, none availed themselves of the opportunity'.

4.72 There are no arrangements at the Kimberley work camps for structured staff/prisoner meetings. Although prisoners highly valued the opportunity to be at work camps and were extremely

positive about the camp officers, some also expressed frustration at the difficulties they faced in trying to address any of their issues. Prisoners indicated that they did not know how issues should be raised: for example, not wanting to use the term of ‘boss’, commonly used by Aboriginal prisoners to refer to prison officers, saying ‘We are all men – why can’t we call each other by our names?’ Prisoners’ sense of powerlessness to address an issue such as this one is extremely unfortunate given that relations between work camp officers and prisoners are generally of a more egalitarian character than the far more hierarchical relationships in conventional prisons.

Confidential mail

4.73 In Superintendents’ Circular No. 10/2003, issued on 5 June 2003 by the Executive Director, all superintendents were directed to:

- provide a separate confidential mail box clearly labelled ‘Confidential mail only – no general mail’, and placed away from unit or block control offices where those utilising the boxes would be under direct observation;
- ensure that the confidential mail boxes are cleared daily on weekdays generally by a member of the administration staff; and
- have confidential mail envelopes readily available to prisoners and placed adjacent to each mail box.

4.74 New blue boxes had been installed at Broome Prison in the weeks preceding the current Inspection. The boxes had been placed in locations that are outside unit offices in conflict with the Circular. There were no blue boxes near (or in) the library area. The Inspections Team noted that the yellow confidential envelopes would not fit through the slot in the top of the blue box. Therefore, even if prisoners had associated the yellow envelopes with the blue box and wanted to use it, it was physically impossible. The boxes were locked but not cleared daily. The confidential mail register included officers’ names so this task has not been assigned to administrative staff. The blue boxes that have been installed have a sign that says ‘Grievance Forms’. Prison administration explained that boxes had originally been installed for the collection of grievance forms, and only more recently had been replaced by ‘blue boxes’ with a view to complying with the Superintendent’s Circular on confidential mail.

4.75 The prisoners have not been told what the boxes are for but have assumed that they are for funeral applications. One officer reported that a prisoner wanted to put a letter in the box ‘to tell the Superintendent that they were grieving the loss of someone who died.’ One Aboriginal prisoner when asked about the blue box said, ‘Oh, that the sorrow box’. He then explained that when prisoners are grieving or want to put in a funeral application they use the box. Prison officers, when asked, indicated that they had little knowledge of the formal grievance processes.²²⁰

4.76 There are no blue boxes at the work camps. One of the difficulties in relation to this process at the work camps is that because of limited staff numbers there are no independent staff to collect the mail.

²²⁰ In responding to the draft Broome Report, the Department commented that it provides all staff with training on Prisoner Grievance processes.

Moreover, it is likely that if a complaint concerned the conduct of an officer at a work camp, the prisoner would be moved back to the Broome Prison site while the investigation was conducted. For many of the prisoners at the work camps this would be interpreted as a punishment in itself.

Ombudsman's records

4.77 According to the Ombudsman's records, from June 2000 to March 2004, 15 written allegations and two telephone calls were received by the Ombudsman about matters relating to Broome Prison, the majority prior to May 2001. Four of these allegations were from the same prisoner. The last recorded office contact received from a prisoner at Broome Prison (prior to this Inspection) was 8 October 2003. Between March 2003 and October 2003, allegations included concerns about food/diet and facilities/conditions, officer conduct (rudeness) and placement (inter-prison) issues.

Telephone access to complaints bodies

4.78 Prisoners appeared to have a low level awareness of the Ombudsman or her role (one prisoner of the five asked). They did not know that they could call the Ombudsman or the Office of Health Review by using the prison-yard telephones. They did not know that the call was free. During the Inspection the role of the Ombudsman was explained to a group of prisoners and they were shown how to use the telephone system. A call from one of these prisoners was received by the Ombudsman's Office within the next three weeks.

Peer Support Prisoners

4.79 It appeared that peer support prisoners undertake significant functions in Broome Prison, for example, orientation as referred to previously. On a positive note too, male peer support prisoners advised that attempts were made to ensure that each community was represented by peer support, with 'boys from each area'. Given the small number of women this arrangement was not duplicated in the female unit, although female peer support prisoners participated. Unfortunately, there is no formal system of peer support at the work camps.

4.80 The minutes of only one peer support meeting were available. Comments from some more experienced prisoners, who had been involved with peer support in other prisons, indicated that the lack of documented peer support requests and management responses was indicative of the general view that peer support was not supported by prison management at Broome Prison. This appeared to have resulted in young first-time prisoners being coopted to peer support, with little or no experience.

Peer support meetings should be convened on a regular basis at Broome Prison and documented, as should management responses to peer support requests. The use of peer support prisoners and meetings also should be trialled at the work camps.²²¹

²²¹ The Department agrees with this recommendation, stating that an assessment will be done of appropriate processes of peer support and that peer support meetings will be minuted. The Department assessed the risk of not implementing this recommendation as 'low'.

4.81 A particular issue for the peer support prisoners was their lack of training when they were required, by default, to deal with very serious matters such as highly depressed or angry prisoners. During the weekends and evenings, the most stressful times because of the lack of activity, the PSO is not on duty (this position works standard hours). And in spite of the support available at the Broome Prison site through the Aboriginal Visitors' Scheme, a heavy burden can fall to peer support prisoners to try to assist other prisoners during these times. There are also reduced prison officer numbers at these high stress times: in Broome there are just three officers on duty from 7.00 pm until the morning shift starts the next day. Given the number of late arrivals at the Broome Prison site, discussed previously, this is of particular concern.

The Department should make sure that there are adequate staff available to meet the welfare needs of prisoners outside of standard working hours, in particular consideration should be given to employing additional PSOs during these times.²²²

The Department should also provide basic training to peer support prisoners.²²³

Aboriginal Visitors' Scheme

4.82 Visitors from the Aboriginal Visitors' Scheme (AVS) attend the prison²²⁴ on each weekday evening between 7.00 pm and 9.00 pm – a time that is particularly convenient to those prisoners who are away from the prison during the day on Section 94 release. Prisoners appeared to be receptive to AVS being available at these times, and AVS also appeared to be very well utilised by prisoners and well-connected with relevant service providers in the region. Using a standard form to record prisoner issues, AVS debrief with a senior prison officer prior to leaving the prison each evening and a copy of the completed form is faxed to AVS Head Office staff the following day. This process is part of a positive initiative to ensure consistent record-keeping by AVS visitors and also to ensure that prisoner issues identified by AVS visitors are appropriately addressed by prisons; although, it is noted that the existing AVS form ('AVS Record of Interview/Contact') is limited and may be unnecessarily restrictive in respect of the information which is recorded and sent to Head Office.

While AVS already provides a very important service to Broome prisoners the service might be improved by the review of the 'AVS Record of Interview/Contact' form, so that there is scope to record broader prisoner concerns about the operations of the prison.²²⁵

²²² The Department partially agrees with this recommendation and assess the risk of not implementing it as 'moderate'. Amongst other things, the Department advises that it has instituted revised working hours for the PSO as well as undertaking for a new Programs Officer to evaluate the need for additional out-of-hours PSO services in the prison.

²²³ The Department agrees with this recommendation and states that it has been implemented.

²²⁴ The scheme does not operate at either of the Kimberley work camps.

²²⁵ The Department agrees with this recommendation and assess the risk of not implementing it as 'low'. The Department states that AVS is doing 'sensational work in Broome', and it advises that improvements will be incorporated into the next reprint of the form.

Independent Prison Visitors

4.83 This scheme, which is now administered by this Office, had not operated at Broome Prison for a number of years. In August 2004, however, three Independent Prison Visitors ('IPVs') were appointed for Broome Prison and each will be attending the prison on at least a quarterly basis. There are no IPVs operating at prison work camps.

Assessment of complaints and requests processes

4.84 Although prisoners made many complaints to Inspections staff, they were reluctant to formally complain about their concerns. The impression given was that the 'welfare' needs of prisoners are not being met, in particular help to resolve their immediate problems. Broome prisoners appear to want to sit and 'yarn' about their concerns rather than to use a formal complaint resolution process. If, however, a prisoner did wish to complain using the complaint system available at the time of the Inspection, it could be difficult because of:

- the minimal oral information available to prisoners about the process;
- the literacy issues of a large number of the prisoners;
- the apparent lack of staff training in complaint handling;
- the inability of a prisoner to physically access the grievance forms;
- the lack of a suitable mail box with adequate labelling for confidential mail; and
- the lack of regular, dedicated, prisoner assistance with welfare issues.

4.85 These factors are exacerbated by what appears to be either an underlying or presumed prison culture of discouraging prisoner complaints or questions (see Chapter 7 'Staff/prisoner relations'). When prisoners were asked whether they had made requests for assistance or complaints, we were frequently told that the response of prison officers was 'Go away', 'It's not my job', 'Bugger off' and worse. Prisoners also questioned 'What's the point?' and some highlighted a fear of being 'sent south' as punishment. Significantly this latter practice was also acknowledged by one respondent to the Broome Prison staff survey (see Chapter 7) and the threat or fear of being 'shanghaied' to higher security or less desirable prisons appears to be a common factor inhibiting prisoner requests and complaints throughout the entire prison system.

4.86 For many Broome prisoners, who are willing to suffer poor physical conditions so that they can stay in the Kimberley, the possibility of being transferred elsewhere is a particularly potent threat. In work camps, where there is virtually none of the formal means of addressing prisoner concerns or complaints and where there is the added incentive of being closer to many of the more remote communities and enjoying a less disciplined regime, the tendency to remain silent is even more powerful. The end result is the erosion of prisoners' ability to seek assistance, make complaints or to obtain independent external assessment of their complaint should they be dissatisfied with the first result.

- 4.87 Given Broome prisoners' assumptions about the blue boxes and the ineffectiveness of the present grievance process for Aboriginal prisoners (particularly those with the poor literacy levels) consideration should be given to assessing whether a more culturally appropriate complaint system should be put in place in all predominantly Aboriginal prisons. One model, which may be a good starting point for discussion, is the Bunbury Regional Prison's 'I want parade'.²²⁶ Each morning, prisoners can approach a senior officer with requests and, if granted, a form is completed. It appears that the bulk of Bunbury prisoners' concerns are addressed in this way.

*The Department should develop a complaints process in consultation with relevant Departmental Aboriginal staff and in consultation with Aboriginal prisoners, which is suited to the cultural needs of Aboriginal prisoners. Prison staff should also be consulted about their views on what would be an effective process. The process must give prisoners confidence that they will not be subject to reprisals and must provide sufficient documentation to enable it to be monitored by external agencies to ensure the process's integrity. The process should be capable of operating at work camps as well as prisons and be available to non-Aboriginal prisoners should they elect to utilise it.*²²⁷

²²⁶ Report No. 16, *Announced Inspection of Bunbury Regional Prison – December 2002* (Office of the Inspector of Custodial Services, Perth, 2003), pp. 45–46.

²²⁷ The Department agrees with this recommendation and assesses the risk of not implementing it as 'low'. It states that a review of the cultural needs of Aboriginal prisoners in the grievance process had been conducted and that a video using Aboriginal actors will be produced which focuses on the needs of Aboriginal prisoners using the grievance process. While this Office regards the Department's initiative as positive, the employment of actors to play prisoners, rather than the utilisation of Aboriginal prisoners (with their consent), appears to be an unfortunate lost opportunity for prisoners.

Chapter 5

REPARATION

5.1 The Department describes the cornerstone of reparation in the following terms:

Prisoners are to continue to positively contribute to the community through work and other activities.²²⁸

WORK

Inside the prison

5.2 Every prisoner (who is not undertaking work outside the prison) is allocated a work location within the prison. A particular issue at Broome Prison site, however, is the lack of constructive work available for prisoners who are confined to the site. Due to its size, the amount of employment within the prison is insufficient and large numbers of prisoners have nothing to do for the majority of the day. The work offered inside the prison is mainly cleaning and maintenance and for prisoners in the secure area, as commented previously, there is little opportunity for them to undertake work and therefore to access more than base-grade gratuities.

Section 94 work activities

5.3 Section 94 of the *Prisons Act* has been discussed briefly above. As indicated, it is the legislative basis upon which prisoners may be authorised to be absent from prison for purposes such as education, recreation and, significantly in this context, work. As has also been referred to, Broome Prison's correctional purpose specifically refers to the promotion of Section 94 programs and the prison and its work camps contribute more through work undertaken as part of these programs than any other participating prison in the State. Section 94 work release significantly contributes to the successful reintegration of prisoners into the community at the same time as enabling a visibility of prisoners within the community which counters the tendency to demonise them, as commented in the previous Report. Indeed the extensive use of Section 94 was one of the most positive aspects of the prison highlighted in this Office's previous Inspection Report.

5.4 Section 94 work locations at the time of the current Inspection included the Broome Courthouse, the Police Station, the Turf Club, local churches and St Vincent De Paul. Although women are able to access the same work options as the men, the majority of the work contracts are outdoor manual work which the women are disinterested in doing. At the time of the Inspection, women only worked at St Vincent De Paul, for a couple of hours per week. There are a number of reasons why women tend not to get involved in Section 94 work and commendable efforts have been made to increase their participation, for example, by allowing women prisoners to wear their own clothing when undertaking work outside the prison.

5.5 All of the prisoners consulted said that Section 94 work was enjoyable and better than being in the prison. At the time of the Inspection, there appeared to be little to no supervision of prisoners by prison officers during the day. The prisoners referred to this as 'trust' and, proportional to the numbers participating in the programs at Broome Prison, there have been few escapes from work activities.

²²⁸ *Ibid.*, p. 3.

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- 5.6 The recent Departmental review of Section 94, referred to previously, reported that Broome Prison site had an average of approximately 45 prisoners undertaking work four days a week and another twenty undertaking Section 94 work three days a week, in addition to the participation of another 34 work camp prisoners.²²⁹ At the time of the Inspection, however, the Prison Occurrence Book indicated that numbers participating in Section 94 work activities was significantly lower (between 10 and 16) and prisoners and prison officers also confirmed this.

Accreditation

- 5.7 A range of explanations were given for the decline in Section 94 work participants at the time of the Inspection, including that the amount of paperwork required to be completed by the relevant uniformed staff in order to obtain certification for prisoners' Section 94 skills was excessive and impeding Section 94 programs. In its previous Report, this Office had recommended that prison-based activities should be linked to TAFE accredited training wherever possible.²³⁰
- 5.8 When asked to provide copies of all skills accreditation paperwork completed by uniformed staff, the documentation provided consisted of prisoner 'Safety, Training and Employment Records'. The amount of paperwork did not appear excessive, and it is consistent with the views expressed by local and Head Office educational staff that they undertake the majority of the paperwork for skills accreditation. It is of course true that any paperwork will detract from officers' time 'in the field', however, it is also important that prisoners in both the prison and work camp contexts were very strongly in favour of receiving accreditation for their labour. In light of the long history and colonialist connotations of prisoner labour in the Kimberley region in particular (Photograph B), it is essential to clearly distinguish the current prisoner work options by ensuring that these are of value to prisoners.²³¹
- 5.9 In this context, it should be noted that there is some divergence of opinion within the prison over the value of 'Aboriginal Short Courses'. Wyndham Work Camp was examining the possibility of further accessing 'Aboriginal Short Courses' to facilitate accreditation for prisoners' labour but other prison staff were concerned that such courses were not accredited.²³² However, Wyndham's preference for this option appears reasonable in that these courses are able to be completed within a relatively short period of time and constitute recognised 'prior learning' should more long-term courses be pursued by prisoners following their release.

²²⁹ 'Report on the Review of Activities under section 94 of the Prisons Act 1981', 29 April 2004, pp. 8–10. Prisoners at Wyndham advised that they worked seven days a week.

²³⁰ In responding to the draft Report, the Department advised that the Educational and Vocational Training Unit of the Department also supports the accreditation of Section 94 activities.

²³¹ In responding to the draft Report the Department indicated that it agreed with these comments, stating that paperwork to verify skills was streamlined and that skilling prisoners in areas required to build the capacity of their communities was being further developed.

²³² In its response to the draft Report, the Department commented that both 'Aboriginal Short Courses' and nationally accredited VET courses have their place in the program offered in the Kimberley, and that the work camp will offer a selection in both training areas in 2005.

- 5.10 The more recent changes to Section 94 arising from the Departmental review, which are detailed below, have overtaken the significance of the decline in the number of Section 94 participants which was evident at the time of the Inspection. However, it remains worthwhile to record that this Office would consider it be extremely retrogressive if Broome Prison did not continue to be committed to the full utilisation of Section 94 work programs opportunities as it has done in the past.

Changes to Section 94

- 5.11 More recent changes to the assessment of prisoner eligibility and activities for Section 94 absences have seen this very positive aspect of Broome Prison and its work camps put at risk. As indicated, a review of Section 94 was conducted in response to media reports concerning ‘an incident involving prisoners undertaking activities seen as inappropriate’. The report included a preamble stating that after reviewing the schedule of approved activities:

[i]t would appear ... that the activity undertaken [at a particular prison] was not an approved activity. It is understood by the authors that the Director General has implemented an investigation into the matter to determine whether disciplinary proceedings should result.²³³

- 5.12 The review went on to recommend that prison instructions be amended to address the ‘inadequate’ criteria for eligibility of prisoners for participation in Section 94 programs, that approved activities be re-assessed against more stringent criteria and that discretion in approved activities be reduced. Draft revised procedures issued in May/June 2004 specified criteria requiring that prisoners who were respondents to a restraining order were not permitted to participate if the activity ‘may lead to a breach of the conditions of the order’. Prisoners also had to undergo a preliminary qualifying period of four weeks in a minimum security setting, and six supervised Section 94 activities over two weeks, prior to attending unsupervised Section 94 activities, although this could be varied ‘with the express written approval of the Designated Superintendent’. Activities were ‘not to be of a type to cause undue controversy’. Moreover, provisions which had allowed considerable flexibility are disallowed, such as designated ‘sports’ activities for Eastern Goldfields Regional Prison which can occur at ‘Kalgoorlie/Boulder, Coolgardie and surrounding areas...’ It seemed likely that the latter restriction would impact severely upon Broome Prison’s Section 94 Activities Programs which had included activities such as assisting police with tracking in ‘various areas as designated’; and ‘charitable/voluntary work’ miscellaneous duties at ‘Bungarun Work Camp, Derby Town Site and sites within 150 kms of Derby’; and educational, cultural and artistic events on a ‘one off basis’ at ‘various locations’.²³⁴
- 5.13 The lack of clear guidance for decision-makers was compounded by the inconsistency between verbal directions, a media statement (which stated that ‘[s]ome minimum security prisoners will be banned from taking part in recreational activities under tough new guidelines being implemented by the Department...’²³⁵ and that ‘recommendations included a ban on all

²³³ The report was published on the Department’s website in August 2004.

²³⁴ Department of Justice, Prisons Division, ‘Activity Programs – Section 94 Prisons Act, Broome Regional Prison’, 1 January 2004 to 30 June 2004.

²³⁵ Minister for Justice, Media Statement, ‘Tough new guidelines on minimum-security activities’, 24 July 2004.

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prisoners subject to violence restraining orders’) and the draft revised procedures. This resulted in a substantial and detrimental impact, particularly on the Aboriginal prisons which most utilised these programs: one regional prison (Eastern Goldfields) halving the number of eligible prisoners and jeopardising its work contracts; another (Broome) having one-third of its prisoners being ruled ineligible for recreation external to the prison.

- 5.14 On 20 August 2004, approved versions became available of the new Section 94 policies and a TOMS checklist for assessment of prisoners. The policies reflected the draft policies released some three months previously. The checklist requires officers to record what they regard as relevant considerations but, unlike MAPs (the Management and Assessment Placement checklists which provide an initial assessment of prisoners’ security ratings), does not result in a score. Reports from some of the regional prisons indicate that the availability of a formally approved process, some three months after the drafts were distributed, has alleviated some of the uncertainties surrounding Section 94 and that the impact of the revised policies is now not expected to be as great as originally anticipated. However, this does not negate the three months of what now appears to have been the needless hardship to which prisoners have been subjected.
- 5.15 Other positives identified by prison staff are that the process is more standardised and closely monitored so that activities that have not been properly approved are unlikely to occur in the future. It is very positive to note, also, that the need for some flexibility in activity locations if these programs are to be effective has been recognised in the recently approved Broome Prison list of Section 94 activities.²³⁶ Fortunately too, the very positive initiative of releasing prisoners from Wyndham Court to the work camp, discussed further below, can continue to occur. Some prisons also were happy with the level of discretion available as it gives them scope to allow prisoners to participate in Section 94 activities if they believe they do not pose any risk despite the existence of factors that may indicate otherwise. However, it should be noted that if individual officers are not prepared to assume the risk of exercising discretion and simply comply with the rules, minimum security prisoners will be confined to inadequate prison facilities for a month.
- 5.16 Other prisons also state that the level of ambiguity in the policies concerning issues like activities causing ‘undue controversy’ or prisoners whose release ‘may lead to a breach of the conditions of the [violence restraining] order’, is likely to result in a very conservative approach, with any uncertainty resulting in a decision disallowing participation or the activity. Although this may be the intent of the alterations, it is also the case that the three cornerstones other than custody and containment are supposed to be of equal significance in the Department’s approach to custodial management.
- 5.17 As indicated at the outset of this Report, the response to the complex issues arising from prisoner management is too often reactive and lacking in consideration of the long-term consequences. The reaction to recent media coverage of Section 94 issues is another example of this kind of response. The Department espouses a custodial cornerstone of providing prisoners with the

²³⁶ Department of Justice Prisons Division, ‘Activity Programs – Section 94 Prisons Act, Broome Regional Prison’, 1 July 2004 to 31 December 2004

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opportunity to positively contribute to the community through their work. It also espouses that a particular correctional purpose of Broome Prison is to encourage effective interaction of prisoners with the local community through Section 94 programs. Both are being jeopardised by the current imbalance towards (presumed) community safety that characterises recent (proposed) alterations to the Section 94 regime.

The Department should ensure that the very poor processes employed in the introduction of changes to the Section 94 regime are not repeated. It also should monitor the now approved changes to the Section 94 regime to ensure that these do not unreasonably shift the onus for meeting custodial cornerstones other than security onto individual employees.²³⁷

WORK CAMPS

- 5.18 Section 94 releases are fundamental to the operations of work camps; nearly all prisoner activity outside the camp precinct can only occur if approved under Section 94. As indicated, the work camps of the Kimberley have been highly successful, generating work of considerable worth to their local communities, providing prisoners with highly valued opportunities to enjoy a less restrictive regime, to undertake meaningful work and, at least in some instances, to be located much closer to their families and communities. Local communities appeared to also have very positive relations with the work camps, and given that the camps did not supplant existing or potential paid employment, were very appreciative of the work contributed to their communities which would otherwise go undone. The work camp facilities in Wyndham and Bungarun are extremely basic, however, and the workload appears onerous with prisoners at Wyndham, for example, working seven days a week. At the very least there needs to be a balance for prisoners, such as access to external recreational facilities, as was recognised in the Department's report on the review of Section 94.
- 5.19 While it is unclear what the long-term effect of the changes to the administration of Section 94 will have on work camps, this Office has already been told of prisoners' distress at being withdrawn from the Kimberley camps and returned to the Broome Prison site because of escape histories from many years ago and irrespective of their conduct since. It is difficult to view such a restriction on work camp participation as legitimate. Escape histories are only considered relevant to prisoner security ratings if these occurred within the past five years, and in any event the Department's own research into prisoner escapes showed there was 'no difference [in terms of likelihood to escape] between escapees who had prior escapes, from police and or prison, and those who had not'.²³⁸ It is also of note that none of the issues recently subject to media attention have concerned work camps.

²³⁷ The Department disagrees with this recommendation. It agrees, however, that the process should not impact on the cornerstone of reparation, but does not refer to either of the other cornerstones of care and wellbeing, and rehabilitation.

²³⁸ Department of Justice, 'Analysis of Escapes from Legal Custody January 1997–December 1998' (1999), p. 3.

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- 5.20 This Office has long advocated the expansion of work camps and prison outstations both as a means of providing prisoners with constructive and meaningful activity and also as providing reparation to the community. It would be most unfortunate if these very positive initiatives were put at risk by a rush to quell public misgivings which may be addressed by better appraising people of the risks associated with prisoner release under Section 94. For example, in spite of the work camps operating for some years and the highest participation in Section 94 work activities in the State, there have been relatively very few absconds from such activities in more than a decade – and no additional criminal activity has occurred as a result of such absconds.
- 5.21 Wyndham Work Camp currently has the additional facility of being authorised to accept prisoners directly from the Wyndham lock-up; and the health needs of prisoners, and particularly court receivals, is managed by a local nurse and through arrangements with the local hospital. The direct receipt of prisoners from the courts is a very positive initiative given that it prevents the need to transport prisoners more than a thousand of kilometres to Broome Prison. For this, the Department is to be congratulated. It is of note, however, that such an initiative runs counter to the trend of changes to Section 94, particularly with reference to many of the required qualifications for approval to participate. Currently Wyndham has only been able to continue with this initiative by receiving a special exemption from some aspects of policy, although it appears to continue to be subject to the new requirement that ‘[a] remand-only status prisoner must be accompanied by a Prison Officer while absent from a prison on a Section 94 activity’.²³⁹ With small numbers of work camp officers, this may further reduce the potential for minimum security remand prisoners from the court to be accommodated at the work camp. None of this augers well for the further development of work camps as direct receipt facilities.

²³⁹ DG Rule 17, 4.7.

Chapter 6

REHABILITATION AND REINTEGRATION

- 6.1 The Department describes the cornerstone of rehabilitation and reintegration in the following terms:

Prisoners are to be encouraged to engage in programs, education and activities that seek to reduce the rate of reoffending and increase their potential for reintegration into the community.²⁴⁰

DRUGS AND ALCOHOL

- 6.2 Many of the prisoners at Broome Prison, male and female, have a significant alcohol problem that has contributed to their offending and imprisonment as recognised by the Department in its 'Role and Function' profile for Broome Prison. As indicated in Chapter 2, commonly Kimberley prisoners' most serious offences are those of violence against the person and traffic offences – each often related to alcohol use. A cycle of intoxication and domestic violence leads to imprisonment and contributes to recidivism (Photographs N & O). In recent years, the use of cannabis (referred to in the prison as 'ganja') has also become widespread, even in remote Aboriginal communities. Use of illicit drugs other than cannabis is rare, although community consultation conducted by this Office during the current Inspection indicated that intravenous drug use in the region, both in the towns and communities, may be increasing. Interestingly, the Broome Prison approach to drugs and alcohol reflects something of these trends and concerns.
- 6.3 Because Broome Prison is a minimum-security facility, controlling drugs and alcohol will always be more of a challenge than in more secure prisons. The prison has an unsecured perimeter fence and is located in the middle of town. It also has a liberal visits policy; the visits area is easily accessed from the street and is not closely monitored. Whilst these aspects of Broome Prison are positive in the context of meeting the needs of prisoners and facilitating re-entry, they also make bringing contraband into the prison quite easy.
- 6.4 The situation found at Broome is one where cannabis may to a certain extent be reluctantly tolerated²⁴¹ while the prison adopts a zero tolerance policy to alcohol and other drug use. These attitudes reflect the variable behaviour management problems associated with the use of these drugs within the prison environment. Staff and prisoners both confirmed low-level use of alcohol, but openly reported widespread use of cannabis. The high levels of cannabis use within the prison have not contributed to a high incidence of psychotic episodes exacerbated by use; the Nurse Manager could only recall one incident which occurred nine months previously. Information gathered at the Health Centre supports the view that high levels of cannabis use have not translated into high levels of harm amongst prisoners.

²⁴⁰ *Ibid.*, p. 3.

²⁴¹ In responding to the draft Report, the Department commented that it disagreed with this statement. It cited data on urinalysis tests, prison charges, canine section attendances at Broome Regional Prison, the testing of all prisoners at Bungarun Work Camp and its compliance with IAS random tests 'for the Inspector's information'. A similar situation and Departmental denial arose as a result of the Karnet Inspection (see Report No. 26, 2005). As discussed in the Overview of that Report, the Office of the Inspector is confident of its ground.

- 6.5 While some staff were comfortable with this approach to cannabis use in the prison provided it ‘was not [used] in our face’, others found the situation intolerable. Some staff also mentioned that it was difficult to support strict controls and consequences of cannabis use given the new liberalised general laws on cannabis. This Office was also told by staff that the prison had an informal policy of keeping ‘hard drugs’ and the dealers of ‘hard drugs’ (regardless of their security rating) out of the prison, adopting a protective role of the Aboriginal people imprisoned there. The belief that these prisoners did not use hard drugs is consistent with a search of internal prison charges and Substance Use Test Results, which showed only one charge for opiate use, which was subsequently withdrawn when it was found to be a prescribed opiate, codeine.²⁴² It is also supported by the very low incidence of Hepatitis C amongst Aboriginal prisoners at Broome, given estimates that 90 per cent of all Hepatitis C is transmitted through needle sharing.
- 6.6 Although prison staff are aware of the ramifications of current arrangements, there are no plans for increased security. It is the view of the prison that increased monitoring of visits or the introduction of appointed visits would be detrimental to the social benefits of the current policy. The current arrangements are culturally appropriate (for example, by not insisting on pre-booked visits) and facilitate a family atmosphere within the prison. Subject to the recommendation made in the section on ‘Visits’,²⁴³ it is difficult to advocate for enhanced security that may impact on the benefits of the existing policy. Perhaps the most appropriate strategy for reducing cannabis use in Broome Prison would be to focus on the opportunities for constructive activity by prisoners; as commented earlier, many currently have little to do. Nonetheless, the widespread use of cannabis within the prison also has pressing implications for occupational health and safety, particularly in the kitchen and when machinery is being used.

It is recommended that the prison review occupational health and safety issues relating to cannabis use.²⁴⁴

- 6.7 It does not appear from Departmental records that Broome Prison wholly complies with the random urine tests, which are part of a statewide regime to ensure that five per cent of the total prisoner population is screened biannually in regional prisons and quarterly in metropolitan prisons. In May 2004, three of the five tests had been conducted and in August 2003 three of the four tests. There was no record of the reasons for why this was the case, although Broome Prison administration and the Information Analysis Unit indicated that testing could not take place if work camp prisoners were randomly selected (there were no facilities for the conducting of such tests in those sites) or if prisoners are newly admitted or refuse to participate. In any event, the rate of compliance was not considered to be unusual or unsatisfactory compared to other prisons.

²⁴² TOMS data – Charge History, Broome Regional Prison, 1/1/2003 to 4/5/200; Substance Use Test Results, Broome Regional Prison, 1/1/2003 to 4/5/2004.

²⁴³ See above, paragraph 4.24.

²⁴⁴ The Department agreed with this recommendation, assessing the risk of not implementing it as ‘low’. It advises that an OH&S consultant is examining issues of Worksafe standards and their relevance to prisoner employment.

OFFENDING BEHAVIOUR PROGRAMS

- 6.8 Case management—the process by which individual officers are responsible for assisting prisoners assigned to them to complete the requirements of their sentence plans—does not work well at Broome Prison.²⁴⁵ There are some minor components of the case management role and the ‘Assessment and Integrated Prisoner Management Regime’ (AIPR), the name given to the Department’s management tools for rehabilitating and preparing prisoners for release that are being done, however, on a very ad hoc basis. The true function of case management as it is known is not used at Broome Prison. Staff say openly that it does not work for the population that is being managed at the prison: ‘Remain minimum, remain Broome, what else is there?’ Nonetheless, management have taken the initiative to employ outside contractors to provide offender behaviour programs to any interested male prisoners serving a sentence long enough to complete the course, although this is not a requirement or obligation of the prison or the Department. Notwithstanding some lack of clarity about which staff are responsible for coordinating these programs and how prisoners become aware of their availability, this initiative is a very positive one for the population being managed at Broome Prison as it relates to the causes of offending behaviour for which men are often incarcerated. For this reason, Broome Prison management and staff are congratulated on this initiative.
- 6.9 The Men’s Outreach Service has run an Indigenous Men Managing Anger and Substance Use (IMMASU) program quarterly over the last 18 months. An Inspection Team member attended one session of the program, reporting that it appeared that prisoners found the program useful and were able to apply the learning to their life situation. This was confirmed in subsequent discussions with prisoners. Part of the program is for men to depict the consequences of alcohol and violent behaviour through art (Photographs N, O & P). The Men’s Outreach Service, which recently won the Community Re-entry contract for the Kimberley region (discussed further below), also provides counselling services for male prisoners with anger management and drug problems.
- 6.10 Milliya Rumurra is a well-established Broome non-government agency providing outpatient and residential treatment programs for Aboriginal people with alcohol and drug problems and prisoners from Broome Prison are able to participate on an outpatient basis in a 12-week program. Unlike the IMMASU, the program has the significant benefit of being available to both men and women. A number of the women in prison at the time of the Inspection had attended the program and found it helpful. However, it is not provided on a regular basis for prisoners and the remuneration for the service appears low.
- 6.11 One matter raised by prisoners was the non-availability of programs at the work camps. This resulted in prisoners having to make the difficult choice of forgoing the program or the opportunity to participate at the work camps, sometimes located many thousands of kilometres closer to their families and communities. However, the most significant concern raised by prisoners, which was also reflected in community consultations undertaken as part of the Inspection, was that prisoners return home to unchanged life circumstances and soon relapse into alcohol use and violence. Prisoners felt that for real change to occur it was particularly important

²⁴⁵ In responding to the draft Report, the Department commented that ‘[c]ase management has not been attempted at Broome Prison’ other than the completion of MAPS. It also advised that assessment and case management are currently under review.

REHABILITATION AND REINTEGRATION

that partners be able to attend programs to address their own alcohol use and violent behaviour.

- 6.12 Given the lack of facilities at the Broome Prison site, it is clear that programs can only operate at Broome through Section 94 releases. If prisoners' access to those programs are being jeopardised by the new restrictions on access to authorised absences, prisoners and particularly those who may be thought to be most in need of assistance in managing alcohol use and anger, such as those subject to restraining orders, will not be able to participate.
- 6.13 As indicated previously, the Department has undertaken to appoint a Programs Officer at Broome Prison.

It is recommended that a Programs Officer be appointed as a matter of priority to:

- *address the availability of suitable programs for women prisoners;*
- *investigate the possibilities for program provision at work camps;*
- *develop innovative means, in consultation with offenders' families and communities, for ensuring a broader family and community involvement in program initiatives; and*
- *monitor the effect of the new Section 94 restrictions on prisoner access to programs.*²⁴⁶

EDUCATION

- 6.14 Education at Broome Prison is in many ways an outstanding success, particularly in light of the very limited prison facilities. Other than the specific female education programs described below, at the time of the Inspection there were seven prisoners enrolled in TAFE, 12 enrolled in music, and between four and six enrolled in Occupational Health and Safety (this is compulsory for all new prisoners). The music class has produced a CD of music composed and performed by prisoners. The number of prisoners enrolled in reading/writing and maths fluctuates although there were 12 at the time of the Inspection, with all prisoners being given a basic literacy and numeracy test on admission to the prison. Although the current format of accredited literacy and numeracy education was only recently introduced at Broome Prison, these have been taught for many years as part of skills training and have always been a high priority of the education unit at the prison.
- 6.15 It is also the case, however, that participation in education and training is low across the prison system, with some 40 per cent of eligible prisoners taking part in 2002/03.²⁴⁷ In Broome the rate is even lower.²⁴⁸ With a general lack of constructive activity for many prisoners, and their generally poor educational standards, additional physical and staffing resources should be provided to Broome Prison to secure higher prisoner participation rates in education and training.²⁴⁹

²⁴⁶ The Department agrees with this recommendation and assesses the risk of not implementing it as 'moderate'. The Department states that the advertisement and interviews for the Programs Officer position have been completed and that the role of that position 'will encompass all aspects of this recommendation', subject to government budgetary processes.

²⁴⁷ Department of Justice, 'Draft Prisons Division Business Plan 2004–2008', p. 18.

²⁴⁸ PPMS data 'Rehabilitation 4.4 Education Participation' 2003/07–2004/03.

²⁴⁹ In commenting on the draft Report, the Department advised that it is expecting the percentage of prisoners enrolled in education and training to increase considerably 'with the accreditation of training undertaken with all Section 94 activities'.

Women

- 6.16 There has been a marked improvement in the participation of female prisoners in education since the last Inspection, much attributable to the efforts of the Broome Women's Advisory Group, comprising female prison staff and community representatives. At the time of the current Inspection all five female prisoners were enrolled in effective communication (NOW Program) and three females in jewellery-making (Photograph Q). The jewellery-making program was being run as part of the general curriculum options, as developed and implemented by the Education Unit of the Department of Justice. The Education Officer had negotiated with St Vincent De Paul (which employs some of the female prisoners to undertake Section 94 work) to sell the beaded jewellery in their store and the course is accredited. Other courses run in the past under this program include cooking, sewing and screen-printing. The running of these programs is dependent on the availability of tutors in these areas. Some of the female prisoners also attended PCYC for the 'Healthy Lifestyle' course. The course covers subjects such as diet, food and exercise. Different groups of women attend this course such as women from the women's refuge and women from drug and alcohol services. This enables the female prisoners to interact with women from the wider community.
- 6.17 The reluctance of female prisoners to take part in education opportunities has been an on-going problem at Broome. Limited facilities have been installed in the demountable in the women's accommodation area since the last Inspection. Women have taken an interest in being involved in hospitality training if the facilities permitted this and, since the Inspection, the Education Officer has been granted \$5,000 for the purchase of cooking facilities in the women's demountable room. This is a positive step in encouraging the women to develop self-care skills.

Art

- 6.18 An art tutor is employed to guide those interested in art and assist prisoners to use information technology equipment to manipulate their work. There are currently a number of male prisoners who are producing their own paintings within the prison. The art tutor also assists the men to take digital photographs of their work and download their work onto a computer program. This then allows the men to have their paintings made into greeting cards and small prints which they plan on selling at the local markets (Photograph R). The men are also producing stories (written in their reading/writing class) to accompany their artwork. The use of the computer software is part of Certificate 3 in 'Basic Technology' and is accredited by TAFE. Prisoners purchase their own paint, brushes and canvas from the prison education centre. The art course is accredited through TAFE.
- 6.19 The location for art currently available behind the education centre is of a very poor standard and would certainly be oppressive with the extremes of weather experienced in Broome (Photograph S).²⁵⁰ This has led to a number of prisoners producing artwork in their cells. It would be far preferable for better facilities to be provided, with shading and access to running water, so that an attractive alternative to the already overcrowded cells is available.

²⁵⁰ In responding to the draft Report, the Department advised that it agreed with these comments.

Rural skills training – TAFE

- 6.20 There are currently seven male prisoners enrolled in Certificate 1 in ‘Rural Skills’ through TAFE. This is a nationally accredited TAFE course, running for 287 hours over 12 weeks. Women prisoners are offered the course, but few choose to undertake it. The students have cleared land and are growing a range of vegetables, fruits and other plants (including corn, sunflowers, chilli, beans, watermelon, herbs, rockmelon, bananas and flowers). The students are also involved in grafting fruit trees and the production and sale of ‘gubinge’ which is being exported to the USA. There is a literacy component in the course and an Aboriginal Tutorial Assistance Scheme (‘ATAS’) tutor is engaged to assist the students in this area.
- 6.21 One day per week the students travel to Bidadanga (160 km from Broome) to work in the local community. The work is project-based and often decided by the elders of the area. For example, work may include laying reticulation or planting trees. This community work appears very positive as it ties in with the needs of the community and the work relates to community-based enterprise projects. Prisoners also undertake work at a range of other communities as part of their TAFE training. As the primary victims of Aboriginal crime, the capacity of skills training such as this to directly contribute to Aboriginal communities is particularly appropriate.
- 6.22 On release from prison, students are encouraged to continue the course. There is currently one student who is no longer in custody who attends on a daily basis. The prisoner-students at TAFE were a very proud group of men who seemed to have high self-esteem in relation to their work. This project is highly commended in that it provides useful skills for Aboriginal prisoners to bring back to their communities, is accredited work and education, provides reparation to Aboriginal communities and also assists in re-entry. It would be of grave concern if the viability of a project such as this one were put at risk through changes to Section 94 which underpins the possibility of such a project occurring within the prison system.

Rural skills training as it is offered through Broome Prison and TAFE provide a model of what can be achieved through the prison system, and should be adapted for other regional prisons’ education/work projects.²⁵¹

Other educational activities under Section 94

- 6.23 The education centre accesses the Broome Town Library twice weekly and takes prisoners to visit through Section 94. The education centre previously had also arranged for prisoners to attend interviews and access services outside the prison to assist with re-entry prior to their release. Agencies attended by prisoners, or alternatively coming into the prison, included the Department of Housing (to be placed on a housing waiting list), Centrelink, Community Justice Services (to arrange parole) and Legal Aid. Unfortunately this very positive initiative appears to have ceased when announcements were made about a new Re-entry Officer with Community Justice Services in Broome.²⁵²

²⁵¹ The Department ‘agrees in principle’ with this recommendation, assessing the risk of not implementing it as ‘low’. It advises that ‘the Broome model is to be drawn up as a case study to assist other regional prisons’.

²⁵² In responding to the draft Report, the Department advised that it ‘would be considered a duplication of service for education staff to continue to coordinate this’ community liaison. The Department said that ‘[u]nfortunately, there was a period of time when the agency was not staffed adequately to provide this service’ but that this had now been resolved.

Staffing

6.24 The education centre has tutors in the following subjects: music; reading/writing and effective communication; maths; and OH&S. Professional development is available through Head Office (see below) and through TAFE for the Senior Education Officer and tutors. The prison also has eight hours per week of tutoring provided through the ATAS. Visits from Head Office occur annually and Head Office provides support to Broome Prison education centre including professional development for staff/tutors and some equipment. Staff of the Broome Prison education centre also attend an annual conference in Perth on education issues. Each term there is a one hour teleconference between Head Office and the remote Senior Education Officers which provides a forum for exchange of ideas and general support.

A number of ongoing deficiencies were identified as a result of the Inspection which affect the otherwise exemplary education services of Broome Prison:

- *Additional resources should be provided to assist the education centre to encourage a higher prisoner participation rate in education and training;*
- *There is a need for larger teaching facilities. At present, programs including reading/writing, music, maths and OH&S are taught in one small demountable room. This limited space does not provide room for male and female prisoners to be separated for these classes, which is very often required;*
- *No education as such is provided to prisoners in the medium/maximum-security sections of the prison. The education centre provides the security sections of the prison with local newspapers, library books and crossword puzzles. As indicated previously secure prisoners' opportunity to undertake any meaningful activity at the Broome facility is grossly inadequate; and*
- *Education staff identified visits and work as often taking priority over education and are also concerned that since prisoners had been given access to their cells 24 hours per day (from some time in 2001), there has been a decrease in the numbers of prisoners involved in education.²⁵³*

COMMUNITY RE-ENTRY STRATEGY

6.25 The Department describes the community re-entry strategy as an initiative designed to reduce reoffending and create safer communities by enhancing the services provided to offenders on their release from prison.²⁵⁴ It is intended to address that cycle of reoffending; in Western Australia the rate at which convicted offenders return to prison is almost 60 per cent over five years.²⁵⁵ Limited funding has been made available upon a formal tender process to non-government agencies to deliver these services to prisoners throughout the State.

²⁵³ The Department partially agrees with this recommendation, assessing the risk of not implementing it as 'moderate'. It advises that additional funds are available to Broome Prison to increase accredited training and that a proposal has been submitted to the Capital Works Committee to increase delivery space for education programs.

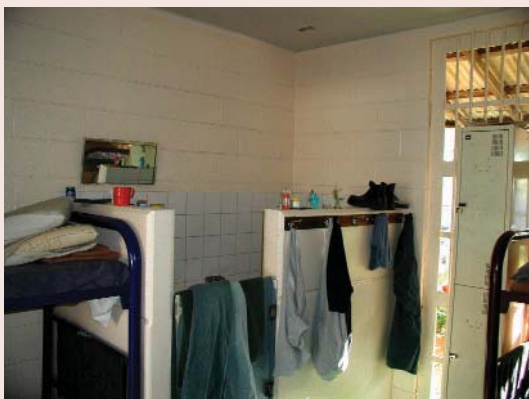
²⁵⁴ Department of Justice 'Community Re-entry Program – Community Re-Entry Coordination Service Contracts Q & A'.

²⁵⁵ Data provided by Department of Justice and based on exits in 1998/99 (including fine defaulters).

- 6.26 The preferred provider for the Kimberley region is the Men's Outreach Service Incorporated. Only prisoners who are released without Community Justice Services (CJS) supervision are eligible for these services, with a CJS Re-entry Officer responsible for prisoners with supervised release. However, as CJS is represented on the committee for Men's Outreach it is expected that the two agencies will work closely together. Men's Outreach advised that it has entered into a memorandum of understanding with the local women's refuge, Marnja Jarndu, to provide services to women.
- 6.27 Men's Outreach has devised an innovative structure for the provision of services to offenders. It proposes to work closely with local communities through the appointment and training of individuals from up to eight local communities in the Kimberley region who will undertake liaison roles between the communities, the offenders and the Outreach Service. The Service will link re-entry to the programs and counselling it already conducts for Broome prisoners, and it believes that an added benefit will be the relationships between Service staff members and prisoners which have already been established prior to offenders' release from prison. This was seen as significant not only because prisoners will know people to go to upon their release, but also because it is hoped that these relationships will encourage released prisoners to participate in the Service's voluntary programs.
- 6.28 One of the very positive potentials of the Service's proposal is that it may provide an opportunity for prison based programs to be run in conjunction with other service providers' programs. This could mean that programs are available for offenders within the prison, while their partners access programs in their communities, and offenders and partners attend programs together upon the offender's release. In this way the Service also hoped to use the opportunity to extend its outreach into communities so that these would be accessed *prior* to individuals becoming involved with the criminal justice system.
- 6.29 Other than the links to its programs, the other key aspect of the Men's Outreach proposal is to assist newly released prisoners return to their communities. Regional prison staff, including those at Broome, identify the time of a prisoner's release from custody as high risk for reoffending. The problem frequently cited is that prisoners from remote communities are released into the townsite with no immediately available transport and nothing to do. Discussions with the Men's Outreach Service, however, also indicated that staff were well aware that efforts to return prisoners to their communities needed to be undertaken in close consultation with the offender's community and the offender, to ensure that it was voluntary.

- 6.30 Given the shortages of accommodation in the Kimberley region, it is of note that the Service deliberately chose not to engage in the provision of transitional housing as is being undertaken by re-entry service providers in other regions. This Office was advised that the Service's approach will ultimately be on a 'case-by-case' basis, and its concern was that the housing needs were so great that this aspect would consume all of the Service's resources, rendering it nothing more than a housing agency. While this appears a very reasonable position, it was of some concern that a supporter of the Community Re-entry Strategy was quoted in this context as stating that people in communities want to come to towns rather than staying with their families and homes and that if the Service were to provide outreach houses in Broome, the offenders 'would be here all the time'. Given the limited funding available, the Service will need to remain vigilant to ensure that its innovative and highly commendable proposal is translated into a reality rather than simply becoming an agency for ensuring the removal of Aboriginal offenders from the Broome townsite.

PHOTOGRAPHS OF BROOME PRISON



(C) Shared-cell ablutions:
paragraph 2:20



(D) Outdoor dining facilities:
paragraph 2:20



(E) Inside 'the bullpen':
paragraphs 2:21, 4.21, 4.22 & 4.29



(F) The cage' (Male Secure Unit):
paragraph 3:10

PHOTOGRAPHS OF BROOME PRISON



(G) Entrance to 'the cage':
paragraph 3.11



(H) The women's 'cage'
(Female Secure Unit):
Paragraph 3:12



(I) The courtyard in the Female Unit:
Paragraph 3:12

PHOTOGRAPHS OF BROOME PRISON



(J) Left. Prisoner transport 'pod':
paragraph 3.16



(K) Right Prisoner transport segregation 'pod':
paragraph 3:16



(L) Cell over-crowding:
paragraph 4

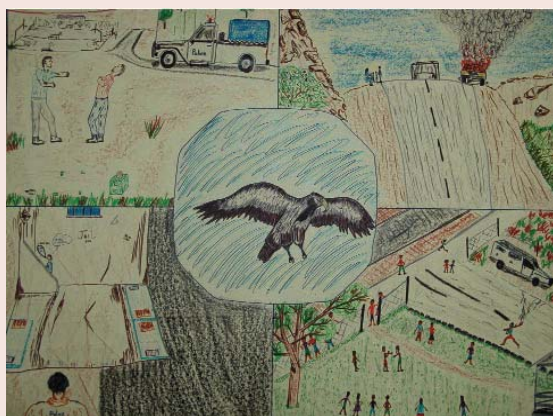
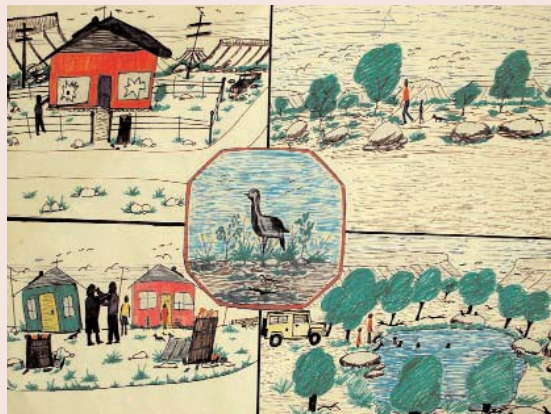


(M) The 'bullpen' (as also used for
visits): paragraph 4.21

PHOTOGRAPHS OF BROOME PRISON



(N & O) Artwork from an offending behaviour program: paragraphs 6.2 & 6.8



(P) Artwork from an offending behaviour program: paragraphs 6.2 & 6.8



(Q) Women's bead work: paragraph 6.16



(R) Prisoner artwork: paragraph 6.18



(S) Prison art facilities: paragraph 6.19

Chapter 7

RESOURCES AND PLANNING

STAFF

- 7.1 As is the usual practice of this Office, a staff survey was conducted prior to the Inspection. Departing from past practice, however, surveys were sent to both uniformed²⁵⁶ and non-uniformed staff in an attempt to gain a broader perspective on conditions at the prison. Surveys were mailed to 50 staff members whose addresses were listed on the prison's administration list and to one other staff member who requested a copy. Unfortunately the survey format still reflected its origins as a tool which was developed to garner the views of uniformed staff at a prison (as opposed to non-uniformed staff and to staff who are located at work camps) and this may have been a factor in the overall relatively low rate of return, at only 34 per cent (17).²⁵⁷
- 7.2 Although all of the completed surveys provided very useful insights into the functioning of Broome Prison, the rate of return may be interpreted as diminishing the validity of the survey sample. However, it appears likely that of the total of 17 surveys returned before the due date, non-uniformed staff had completed three and one more was from a work camp officer. If the remaining 13 completed surveys are considered as a proportion of the 23 uniformed staff who work at the Broome Prison site and who were mailed the survey, the return rate, at 57 per cent, is approximate to or better than other prison survey results.²⁵⁸
- 7.3 Staff were asked to indicate what in-service training they had received in the last five years. Of concern were the reported low levels of training in operation of breathing apparatus and emergency procedures, OH&S, assessment procedures, suicide prevention, cognitive/behavioural skills and Individual Management Plans. On a more positive note, given the majority Aboriginal prison population at Broome, respondents reported overall high levels of training in cultural awareness. That training was also the subject of very positive comments from staff during the Inspection. It is of note that this goes some way to addressing Recommendation 1 in the previous Report, and moreover, as this Report indicates, it appears that at least in some key areas Broome Prison staff are in practice highly responsive to the needs of Aboriginal prisoners. First aid/CPR and TOMS training also rated relatively highly. Similar to many of the previous surveys, respondents also indicated high levels of chemical agent and restraints training (which one respondent referred to as 'killing classes' prior to striking it out).
- 7.4 Staff also were asked to indicate whether they felt they had sufficient information and skills to do their jobs well. The results indicate that in some areas (notably the management of female, Aboriginal and foreign national prisoners, and security) staff generally felt that they had sufficient information and skills. Longer-serving staff members' comments indicate reliance upon experience and common sense in doing their jobs, one stating that, 'It hasn't let me down so far'. Other staff members indicated that they wanted more, and on-going, training and highlighted a lack of funding and time allocated for training in regional areas. Another commented that, 'Sadly,

²⁵⁶ 'Uniformed staff' is used to refer to senior, prison and industrial officers in this Report.

²⁵⁷ One other survey was received after the 7 April 2004 deadline, on 23 April. In considering the draft Report, the Department commented at this point that 'Given the poor return the points in the report based on staff surveys may be regarded as lacking in substance'. The information provided in paragraph 7.2, which specifically addresses this issue, was not subject to comment by the Department.

²⁵⁸ Representing the views of 42 per cent (13/31) of the total number of Broome Prison site uniformed staff, those results also provide a reasonable statistical sample of that group's views.

the management of prisoners with mental health issues is becoming a common task at Broome without specialised training' and another requested, 'Training in relation to alcohol abuse and how best to encourage prisoners away from alcohol'. The concerns about the capacity to address mental health and substance abuse issues is consistent with the very low level of confidence of staff in their level of psychological and mental health training and information, and also is consistent with broader trends in the prison system.²⁵⁹

Staff/prisoner relations

- 7.5 Most staff rated the interaction between staff and prisoners as 'Satisfactory' or better (76%), with 65 per cent of staff rating the interaction as 'Good' or 'Very Good'. Two respondents indicated that the positive interaction was a result of previous staff knowledge of many of the prisoners – reportedly owing to high recidivism rates in the region. Comments about the supposed high recidivism rates were fairly prominent in the survey results and in discussions with Inspection Team members, and are of particular interest because they are not supported by the statistical data. This is discussed in more detail below. On a sliding scale of zero ('Always Safe') to ten ('Never Safe'), staff generally also assessed Broome Prison to be much closer to being 'Always Safe', with an average of 3.8. Notably the same staff who made these overall positive evaluations of prisoner/staff interaction and the safety of the workplace also report significant levels of abuse of staff by prisoners as well as acknowledging fairly frequent abuse of prisoners by staff. Interestingly one staff member commented, 'Most offenders give us as much respect as we give them' and another stated, 'you get what you give'. Other staff interpreted prisoner abuse by staff as staff retaliating when provoked. It is also of note that the level of abuse between prisoners and staff appears to be higher than indicated in the 2001 survey.
- 7.6 Although overall there was a fairly positive assessment of prisoner/staff relations (with individual officers being identified as outstanding by prisoners and officers alike) comments were also made about a general inactivity amongst prison officers and a tendency by some to refuse to assist prisoners who sought their assistance or to 'avoid prisoners altogether by staying in their office'. Survey comments and discussions with officers indicated that increased data collection and computer based functions as well as higher security demands were affecting their capacity to relate to prisoners, particularly in the context of low staffing levels at Broome Prison. Factors which also need to be considered in this context are the relatively high turnover of prisoners in Broome, with an average stay of three months,²⁶⁰ and the low literacy levels. These factors would contribute to a need for officers to repeatedly explain the same things to prisoners.
- 7.7 It is of note too that some staff commented about 'stand-over tactics' by officers, threats to send prisoners to Roebourne Regional Prison, and a small group of officers who are apparently not doing their job. These place a more sinister interpretation on the lack of prisoner assistance.

²⁵⁹ Report No. 22, *The Diminishing Quality of Prison Life: Deaths at Hakea Prisons 2001–2003* (Office of the Inspector of Custodial Services, Perth, March 2004).

²⁶⁰ Department of Justice statistics for exits from Broome Prison 1 June 2003 to 31 May 2004, provided 15 June 2004.

Prisoners confirmed the problem to the extent that they said that they would wait sometimes for days for sympathetic officers to come back on roster to assist them with their requests, and that if an officer responded negatively or abusively when asked for assistance, they would 'never' ask that officer for assistance again. Clearly the overall positive assessment of staff/prisoner relations by staff was not altogether consistent with the prisoners' views as expressed to Inspection Team members. While there did not appear to be any critical issues of concern about staff, prisoners' attitudes could perhaps be characterised as more of one of stoicism rather than satisfaction. As indicated previously, Kimberley prisoners appear prepared to put up with a great deal in order to remain in the Kimberley.

- 7.8 It is likely that uniformed staff views of their relationship with prisoners are influenced by the difficulties that prisoners face in raising their issues and concerns, described in detail in the section in Chapter 4 'Requests and complaints'. Officers who are aware of the difficulties for Aboriginal prisoners to access formal complaint processes were confident that informal means of identifying any issues would ensure that problems were resolved. It appears that this assumption may well be true of serious issues, but perhaps not of the day-to-day relatively minor frustrations for prisoners not being able to deal with their issues. It appears that the inadequacy of the multiplicity of systems to address prisoner issues and complaints described previously may be resulting in officers' developing an unwarranted complacency about how adequately they are fulfilling their duties.
- 7.9 One suggestion made by those at the prison was that there be regular meetings of senior staff and all prisoners so that information could be provided verbally and prisoners would have an opportunity to ask questions. This format perhaps would be more appropriate to Aboriginal cultural practice (which is not based on 'delegates' or 'representatives' as Western societies are) and also would address literacy issues. While such a suggestion may not be feasible at larger prisons, it appears that it may be something which is achievable at a prison such as Broome and management and staff could give this some consideration.
- 7.10 It is difficult to understand the significance of this issue without having observed the operations of a prison. Actions and activities that adults in everyday life undertake as a matter of course are not possible for prisoners in a prison. Prison officers are constantly required to assist prisoners do the simplest things such as access money, make phone calls, see visitors, attend classes, and get a new change of clothes. The creation of relationships of such dependency and responsibility is fraught with tensions for prisoners, who are constantly seeking assistance, and prison officers who are constantly being requested to assist. Whatever the causes of (some) officers' lack of appropriate response to prisoner requests, there is sufficient evidence from survey responses, staff and prisoner discussions and various Inspection Team members' observations, to conclude that at the least some officers view prisoner 'welfare' as either not a part of their job or as a secondary and dispensable component.

- 7.11 The melding of security and welfare roles, known as Unit Management, brings with it a certain tension in any event, and the generic duties of the current prison officer Job Description Form (‘JDF’) includes both to maintain the custody of an offender (listed first) and to monitor and respond ‘to the needs and concerns of offenders, including health, safety and welfare’ (listed third). Different officers appear to give different priorities to these two functions and those who regard their role as primarily related to the custodial function appear to think it is the PSO who should address prisoner welfare needs. The PSO’s JDF states, in part, that the PSO is responsible to ‘provide support for Peer Support team members and individual prisoners’. It appears that a lack of clarity in the JDFs provides the basis for some officers to view the PSO as primarily responsible for prisoner welfare. Interestingly staff raised similar issues about how the lack of clarity in rostered roles meant that the responsibility for undertaking work, particularly less desirable tasks such as overseeing garbage collection, was open to contest.

A clearer delineation of officers’ allocated responsibilities under the roster, and particularly between officers and the PSO, would go some way to ensuring that prisoners received assistance as required.²⁶¹

Access to services

- 7.12 Staff were asked if they believed prisoners had adequate access to a range of activities and services and generally staff considered that they did. Similarly, staff generally viewed the policy and procedures relating to a wide-range of areas as effective, although there were some adverse comments about the failure to take into account regional or Aboriginal issues, the difficulties of implementing new policies in an outdated prison building, and in a context where prisoners come from communities scattered throughout a vast region.
- 7.13 The perception of respondents about the accessibility and effectiveness of prisoner services, expressed by one staff member as, ‘This prison is designed for prisoner benefits’, can be contrasted with some of the comments about the issues impacting on prisoners, particularly in relation to the higher security prisoners:

The draconian practice of restraining prisoners whilst moving around the prison.

The security section reminds me of an outdated cage at the zoo. Last week [there were] 26 inmates segregated there.

- 7.14 However, almost all respondents (82%) regarded Broome Prison as lacking any effective release preparation for prisoners. Individual Management Plans (IMPs), case management, programs and education were not generally regarded as effective and the two highest assessments were for work (50%) and Section 94 activities (64%).

²⁶¹ The Department agrees with this recommendation, assessing the risk of not implementing it as ‘low’. It advises, amongst other things, that it will be reinforced that ‘a prison officer has a key responsibility in the provision for addressing the welfare needs of prisoners.’

- 7.15 The perception expressed in a number of survey responses that prisoners at Broome have an exceptionally high recidivist rate appears to be impacting on at least some staff members' attitudes towards the value of preparing prisoners for re-entry and one respondent commented:

The mind set amongst staff is re-entry (programs) and education are a waste of time. The feeling is prisoners will go back to doing what they know i.e. drinking.

- 7.16 As indicated, this rather pessimistic view of prisoners having a high recidivism rate is not supported statistically. Initial statistics showing a relatively low recidivism rate for Broome were questioned by Broome staff and community agencies on the basis that these did not include fine defaulters who constituted a large proportion of Broome prisoners. To the extent that Broome's fine default prisoner population constitutes a quarter of those across the State, these views were accurate; however interestingly, the Broome prisoner recidivism rate was even lower if fine defaulters were included. Over a two-year period from 2001/02 Broome Prison, with a prisoner return rate of 37 per cent, was one of the lowest in the State and five per cent below the average.²⁶² Over the five-year period from 1998/9, the Broome rate of recidivism at 58 per cent was the same as the State average.
- 7.17 Whatever the reason for the relatively low rate of recidivism by Broome prisoners over the two-year period, it is clear that the pessimism of some Broome staff about the nature of their work is unfounded. Interestingly it also means that some staff views that prison life is so good for prisoners that they want to come back is also not supported.

Staff/management relations

- 7.18 The picture of staff and management interaction emerging from the survey is a much clearer, and more starkly negative, one. All of the respondents answering this question in the survey assessed this relationship as 'Poor'. The negative responses are consistent with attitudes expressed elsewhere in the survey. When asked about where they received most support and guidance, most respondents did not rate management, Head Office or in-service courses.
- 7.19 The final two survey questions asked staff to identify the three best and worst things about working at Broome Prison. The majority of staff did highlight some positives one identifying the best thing as, 'Seeing a prisoner you've managed and helped not returning to prison.' Others nominated the easygoing lifestyle, atmosphere and prisoners; job satisfaction in helping prisoners; the satisfaction that prisoners derive from the work they do; as well as recognition from the community.
- 7.20 Consistently with the attitudes expressed throughout the survey, however, almost two-thirds of comments by staff members about the worst aspects of working at Broome Prison make specific and negative reference to existing management, both local and Head Office, and frequently refer to a lack of communication or consultation and bullying. Bullying within the work-place should not be tolerated and it is now identified as a workplace hazard the risk of exposure to which

²⁶² The rate was 41 per cent for prisoners exiting in 2001 if fine defaulters were excluded and the State average was 43 per cent.

needs to be reduced under the terms of Occupational Safety and Health legislation.²⁶³ In the context of a prison, particularly one in which prisoners are often racially characterised as ‘docile’ by staff, the risk that staff who feel aggrieved and bullied will take out their frustrations on prisoners who are very dependant upon them, is likely to be high.

*The Department should ensure that practical steps are implemented to ensure that bullying behaviour by staff at all levels towards other staff members is not tolerated, and in particular that a culture of bullying does not become entrenched in Broome Prison to the detriment of prisoners.*²⁶⁴

- 7.21 For some staff members the dissatisfaction with management so much impacted on their view of working at Broome Prison that three respondents identified the best thing as ‘Going home’. In response to the same question another staff member commented, ‘There are none’. Although there was ample adverse comment about management in the 2001 survey results, there was nothing like this level of dissatisfaction. Meetings conducted at the prison confirmed survey comments from non-uniformed staff that the conflict between uniformed staff and local senior management (referred to as ‘the veranda club’) impacts on all staff. This extends to some of the staff running the work camps at Bungarun and Wyndham. The issue of poor staff/management relations, which first was identified by this Office in the 2001 Inspection, has now permeated through the prison to the extent that prisoners are aware of the tensions and obviously all staff are either involved or affected to some extent. The Department’s previous strategy for addressing the problem was to re-establish regular meetings at various levels and to conduct group sessions with uniformed staff aimed at developing better communication strategies.²⁶⁵ Some officers indicated that the meetings were ‘a waste of time’ and that the Department’s approach had aggravated the situation because officers did not consider that the communication problem lay with them and resented being labelled as the problem.
- 7.22 The Department’s new strategy revolves around managing ‘a small group of staff [who] continue to demonstrate dissatisfaction with the prison and the department’.²⁶⁶ Heavy reliance appears to be placed on the proposed new performance management tool to address the problem together with the recruitment of new, predominantly female staff (some of whom are Aboriginal) as a means of instilling a cultural change.²⁶⁷ As at 14 July 2004, there was one trainee and six probationary officers at Broome Prison, comprising more than one-fifth of its total uniformed

²⁶³ Commission for Occupational Safety and Health, *Dealing with Workplace Bullying: A Guide for Employers* (November 2003), p. 9.

²⁶⁴ The Department agrees with this recommendation, assessing the risk of not implementing it as ‘low’. Amongst other things, it advises that the Superintendent is arranging for an OH&S consultant to deliver workshops on workplace bullying in December 2004. It is of note that the Department’s comments refer only to Broome Prison and not Head Office.

²⁶⁵ Superintendent Broome, Briefing Notes, May 2004, p.3. Minutes of various meetings (Senior Staff, General Staff and Unit) from January 2003 to May 2004, indicate that these have become increasingly sporadic and that fewer items, if any, are raised.

²⁶⁶ Superintendent Broome, Briefing Notes, May 2004, p.3.

²⁶⁷ Superintendent Broome, Briefing Notes, May 2004, p.3; Superintendent Broome, Pre-Inspection Briefing, 3 May 2004; and Superintendent Broome, Comments in response to Inspector’s De-Brief, 7 May 2004.

staff numbers,²⁶⁸ so it appears that the strategy is being implemented. Nonetheless, the strategy is risky as it again assumes that the problems at the prison are the fault of a small group of uniformed staff. This may or may not be the case but, as indicated, the same understanding of the problem after the last Inspection appears to have only aggravated the situation if a comparison of the surveys in 2001 and 2004 are any indication.

- 7.23 Moreover, if the desired ‘cultural change’ is in fact associated with the tensions surrounding security at Broome Prison, as documented elsewhere in this Report, there is a risk that much expertise on the appropriate management of Aboriginal prisoners may be lost to the prison. This interpretation of the divisions at Broome Prison is consistent with at least some staff comments to the effect that divisions in the prison arose because, ‘Some think they’re in Freo’, that they were required to be ‘unnecessarily harsh’ on the secure prisoners, and that the origins of the dispute lay in a security review of the prison in 1999 which saw the more stringent implementation of escorts and restraints within the prison, as discussed previously. As indicated throughout this Report, there appears to be some merit to officers’ views that if they ‘played by the book’ the way management expected ‘the place would not work’. However, as officers also identified, this is ‘a terrible situation’ – neither staff nor management should be put in the position of having to operate outside of approved procedures in order to make sure that the prison functions.

Recruitment and human resources

- 7.24 In the Inspection Reports for the Eastern Goldfields and Roebourne Regional Prisons there are extensive comments about the lack of commitment by the Department to recruiting and most importantly retaining staff in the regional locations. To its credit the Department has recently engaged in an extensive recruitment drive in the media for prison officers, particularly for regional prisons. While the new probationary and trainee officers at Broome referred to above attest to the success of the recruitment drive, with current attrition rates the Department does not have enough uniformed staff to meet existing FTE and appears unlikely to be in a position to do so for some time.²⁶⁹
- 7.25 The Eastern Goldfields Inspection Report²⁷⁰ also noted a further issue affecting the success of recruitment drives – the majority of staff at that prison did not want to be there and had their names on the transfer list (Roebourne had a similar story). The Report recommended that regional incentives be introduced to address the matter of attracting and retaining staff in regional prisons. The Department initially agreed with this recommendation but only addressed it in a piecemeal way and the matter now seems to have fallen into disregard with no realistic incentive being provided to staff. The reality in regions such as the Goldfields, Pilbara and Kimberley is that semi-skilled workers can earn far better money, particularly on resource projects, than they can work in a prison.

²⁶⁸ Email from Project Manager Custodial Inspections; Workforce Planner ‘Uniformed staffing Requirements as at 30 June 2004’.

²⁶⁹ Memorandum from Workforce Planner to Executive Director Prisons, ‘Staffing for 30 June 2004 and Projected Shortfalls till June 2005’, 5 July 2004.

²⁷⁰ Report No. 4, *Report of an Unannounced Inspection of the Eastern Goldfields Regional Prison* (Office of the Inspector of Custodial Services, Perth, 2001) recommendation 4.

- 7.26 At Broome, Eastern Goldfields and Roebourne this Office has heard numerous complaints about the recruitment system. Attention has been drawn to the fact that those who are perceived locally to be very good candidates do not fill the criteria determined by the Department as being appropriate for a prison officer and that some candidates are no longer available by the time the recruitment process is finalised. The end result is too often that the prison cannot attract recruits who want to be there and those who do go, usually from the southern regions, do so under duress and request to transfer out very soon after arriving.
- 7.27 The Department's recruitment process is notoriously a lengthy one, and anecdotally this Office has been informed that there is a nine-month target for filling a vacancy within the Department. For prison officers in particular the process is a long and convoluted one. Each applicant must pass sequentially through a seven-stage selection process and 'only those applicants who pass through each stage will be deemed suitable for placement in the appointment school'.²⁷¹ This process gives undue weighting to the second stage, psychological profiling, in respect of which an applicant may not even proceed to an interview with a Departmental representative if they do not pass. Psychological tests are indicators based on the norms of identified populations. Profiling is an inexact science and should in most instances be used in conjunction with other tools such as face-to-face interviews.

*The recruitment process itself and its value in identifying appropriate uniformed staff appears questionable and the Department has not evaluated its efficacy or success. It should do so.*²⁷²

PLANNING

- 7.28 In 1992 the WA Government supported the RCIADIC recommendation 165 on the screening/removal of hanging points from prisoners' accommodation.²⁷³ Subsequently the *Government of Western Australia 2000 Implementation Report – Royal Commission into Aboriginal Deaths in Custody* states that there was 'ongoing implementation' of the recommendation and that:

Prisoner Services plan to assess existing prisoner accommodation in respect to scrutinising the equipment and facilities provided at institutions to determine the priorities and costs associated with addressing any issues that may be identified.²⁷⁴

²⁷¹ Untitled correspondence 18 May 2004 from the Department of Justice on the subject of the prison officer recruitment process.

²⁷² The Department partially agrees with this recommendation, assessing the risk of not implementing it as 'moderate'. It advises that the Prison Officer recruitment process was reviewed in 2001 and 2004 and that the Department is currently researching the psychometric testing to ensure that the tests being used are meeting the recruitment needs of the Department.

²⁷³ *Aboriginal Deaths in Custody: Response by Governments to the Royal Commission* (Canberra: Australian Government Publishing Service, c1992), Vol. 2, pp. 625, 628.

²⁷⁴ *Government of Western Australia 2000 Implementation Report – Royal Commission into Aboriginal Deaths in Custody* (June 2001), pp. 97–98.

- 7.29 The Ombudsman's 2000 report on prisoner deaths stated that hanging was the most common method of prisoner suicide and that hanging was the primary cause of prisoner suicide in WA with 40 such deaths occurring between 1991 and 1998. The Ombudsman commented that he believed that the then Ministry of Justice had 'no ongoing strategies for the removal of hanging points', and recommended that the Ministry 'progressively remove frequently used hanging points in all prisons'.²⁷⁵
- 7.30 In March 2003 the Deputy State Coroner commented, in relation to an inquest into a hanging death in 2001, that she was surprised about the existence of obvious hanging points in what was a relatively new cell (not at Broome Prison). According to the Coroner's 2002/03 *Annual Report*, published in November 2003, the Department's response was 'that the first phase of a project to audit standard cell accommodation is in progress and that two other phases are planned which will ultimately lead to a prioritised list of required modifications with an assessment of the cost of modifications'. The Department's response was described as disappointing:
- almost 12 years after the Royal Commission into Aboriginal Deaths in Custody recommendations were delivered and after other states, such as Victoria have addressed the relevant recommendations in detail.²⁷⁶
- 7.31 When this Office made recommendations about the removal of cell hanging points in its recent report on deaths in custody the Department stated on 5 February 2004 that it had:
- developed a functional brief for standard cell accommodation and is about to commence a priority project to examine and recommend appropriate cell modifications. The audit and refurbishment of existing cells will be conducted on a risk management basis...
- 7.32 In September 2004, the Department advised that a standard functional brief for new prisoner accommodation (including a safe-cell design) had been completed in October 2003. An audit was then undertaken of hanging/ligature points within prisoner cells and this was completed in August 2004. At the time of writing, other than to count them, nothing has been done to actually remove or shield hanging points in prison cells and since the Royal Commission's recommendations were published some 50 prisoners in the Department's custody had died as a result of hanging.
- 7.33 Whilst it is understood and appreciated that the cost of retro-fitting literally several thousand cells would be enormous and whilst a prioritisation approach towards progressive implementation is understandable, it really is long overdue for some positive progress to be made on this matter. The timing of many of the Department's implementations of the recommendations made in this Office's previous Broome Report, with so much occurring just prior to or at the time of the subsequent Inspection more than two years later, adds to a poor impression of the Department's capacity to implement change.

²⁷⁵ WA Parliamentary Commissioner for Administrative Investigations, 'Report on an Inquiry into Deaths in Prison in Western Australia' (2000), pp. 164, 177, 194–196, 184, 212.

²⁷⁶ Office of the State Coroner, *Annual Report 2002/2003*, p. 60.

Principles and practice

7.34 The Department repeatedly espouses a commitment to keeping Aboriginal prisoners in their homeland and in contact with their family and community, as primary considerations with reference to both prisoners' care and wellbeing and their potential for successful re-entry. As previously referred to, the aim of keeping Kimberley prisoners in the Kimberley is also identified as the primary correctional purpose of Broome Prison. And yet as at 31 July 2004, 40 per cent of prisoners (80/202) from the Kimberley were located in prisons elsewhere.²⁷⁷ The limited size of Broome Prison and its work camps, the large volume of prisoners, the skewed classification system and the extreme conditions in which secure prisoners are detained all contribute to the current problem.²⁷⁸ The cost of this inability to imprison Aboriginal prisoners in their own lands can be measured in the distress of prisoners at their dislocation, the potential for 'acting up' and self-harm, and the impact such events have on prison staff, as well as the disruption and hardship to their families and broader community.

7.35 The Department also states that its primary guiding principle is that:

People are sent to prison as punishment, not for punishment: the punishment ... is the loss of liberty arising from being in custody.²⁷⁹

It claims that:

Underpinning the philosophy are the principles which will ensure the provisions of appropriate accommodation and services for the management and treatment of prisoners, their families and communities. The four key principles are:

- Dignity, respect and empowerment.
- Justice, fairness and equity.
- Spirituality and healing.
- Community and family involvement.²⁸⁰

7.36 However, in practice 40 per cent of Kimberley prisoners are transported many hundreds or even thousands of kilometres from their families, homelands and communities in oppressive conditions. Those who remain are either in the generally sub-standard and overcrowded conditions of the minimum-security units or are held in cages. As indicated at the outset of this Report, three years ago the then Minister identified Broome Prison as the worst gaol in the State. The following year the Department arranged for extensive consultation to be undertaken on its behalf in the Kimberley region. That consultation highlighted the strong support in the region for retaining all security classifications of prisoner locally, particularly juveniles. It also repeatedly endorsed utilising a variety of options for offenders other than prison, as well as recommending increased use of work camps and outstations. The Kimberley Community Justice Planning

²⁷⁷ Prisons Division 'Building and Infrastructure Program 2004/05–2007/08', p. 17.

²⁷⁸ In considering the draft Report, the Department commented that many of these contributing factors are outside the control of the Department as had been noted in this Report.

²⁷⁹ Department of Justice, *WA Prison System: Role and Function Profile* (May 2003), p. 4.

²⁸⁰ Letter from the Executive Director Prisons to the Inspector, 19 July 2004.

Action List clearly states that ‘Communities are *more supportive of work camps and other initiatives rather than the development of a new prison*’.²⁸¹

7.37 In response, the Department has short-listed five potential Broome sites for the construction of a medium-security prison facility by 2010, with a capacity to hold up to 240 prisoners. Why Broome, why 240 prisoners, and in particular why prisoners who require a medium-security facility?²⁸² As indicated, in spite of the talk of reducing Aboriginal imprisonment rates, the projected prison population is calculated on the basis of ‘current custodial factors and security assessment procedures’.²⁸³ That is, it is based upon the Kimberley continuing to have high numbers of fine default prisoners, one in three prisoners being released without being sentenced to a custodial term, and upon a skewed security classification system.

7.38 The Department has advised that

The Statement of Philosophy for Regional Prisons ... will form the basis of a planning model for the upgrade of new prison accommodation and services in regional Western Australia ... and our key strategies to achieve reform most notably, reducing Aboriginal involvement in the criminal justice system, will guide this planning process.²⁸⁴

And although the Statement of Philosophy for Regional Prisons states that ‘this project needs to consider ... the Government’s reducing imprisonment program’ its projections do not appear to assume that there will be any drastic change to the currently indefensible imprisonment rates for Aboriginal people, constituting some 38 per cent of the male prison population; 47 per cent of the female population; and 65 per cent of those incarcerated for non-payment of fines.²⁸⁵

*In developing a custodial management strategy for the Kimberley data should be collated and assessed to demonstrate the reasons why, in particular, Aboriginal people are being imprisoned in the Kimberley. The strategy should encompass far more than simply proposing more and bigger prisons. In particular the strategy should include specific practical proposals to reduce the incarceration of Aboriginal people, rather than simply reiterate this as a general strategy.*²⁸⁶

²⁸¹ Department of Justice, Kimberley Community Justice Planning Action List – March 2004, item 14. (Emphasis added.)

²⁸² In considering the draft Report, the Department commented that this question did not appear to take into account previous discussions indicating that Broome is presumably a suitable site for a new facility with community support; the severe overcrowding of the existing facility, and the transfer of Kimberley secure prisoners long distances away from their families and communities. The Department also adds that this Report is not ‘the appropriate vehicle for comments on future strategic planning’. This Office notes that other locations in the Kimberley (Derby and Wyndham specifically) also appeared to have good relations with existing prison facilities (work camps) and the proposed size of the new facility, at more than twice the existing number of medium security Kimberley prisoners, is not explained. The Department’s views on this Office’s capacity to address planning issues in its Inspection Reports are addressed in Report No 24, *op. cit.*, p. vii.

²⁸³ Department of Justice, *Statement of Philosophy and Planning Brief for Regional Prisons Facilities and Services* (December 2003), p. 18.

²⁸⁴ Letter to the Inspector from the Executive Director Prisons Division, 19 July 2004.

²⁸⁵ Department of Justice, Weekly Offender Statistics, 2 September 2004; and Department of Justice data ‘Fine Default Only Sentences Commenced by Placement at Prison at the time of Fine Default Commencement, 1/1/03 to 31/1/2/03’.

²⁸⁶ The Department agrees ‘in principle’ with this recommendation and assesses the risk of not implementing it as ‘moderate’. It refers to current work being undertaken on the Kimberley Custodial Plan as agreed between this Office and the Department.

- 7.39 Why is the deadline 2010 for this new facility? According to the Department, the projected Kimberley prison population will require new facilities ‘by 2010’,²⁸⁷ but it appears to this Office that the impoverished conditions of Broome Prison discussed in this Report suggest that more immediate action is required. In its draft ‘Prisons Resource Plan 2004–2008’, the Department acknowledges that Broome Prison’s bed capacity can accommodate only 53 per cent of prisoners from the Kimberley whilst the Eastern Goldfields Regional Prison can accommodate only 46 per cent of prisoners from that region. It also states that ‘[t]he major problems [creating a lack of accommodation at regional prisons] lie with the inability of Broome and Eastern Goldfields prisons to service their regions’.²⁸⁸ The solution would ‘require substantial capital investment at the Broome and Eastern Goldfields prisons’. It recently appears that some commitment has been made to re-developing the Eastern Goldfields Prison on its existing and the adjoining site, with \$5 million allocated to this commitment over the next three years. This amount would, of course, only be a start; but at least it is a real start.
- 7.40 The Department has had difficulty in coming forward with an adequate plan for a Kimberley custodial management strategy. Forward estimates of funding that had been provisionally allocated for a new prison as at 2001 lapsed because the proposed strategy had not been adequately thought through, and the then Minister withdrew his support. Unfortunately, not much progress has been made since that time.²⁸⁹ It is still far from clear, for example, that Broome—in the far West Kimberley—would be the optimum site; at most only about 30 per cent of Kimberley prisoners come from Broome and surrounding areas. Nor has the question of what types of custodial facility would best suit this Aboriginal population been fully explored – work camps, healing lodges, community institutions, and the like.
- 7.41 To this point the Department has adhered to its earlier view that a site near Broome should be selected for the ‘base’ prison. It has short-listed five sites and states that there will be consultation as to which is preferable, but also claims to need 100 hectares while two of the purportedly short-listed sites are 20 hectares and the other is 50 hectares. Of the other two remaining 100 hectare sites, one is on land:

earmarked for urban development due to the extreme shortage of residential land in Broome ... [a prison] on this site may be considered a non-complementary land use. It is located near the current rubbish tip and may be an environmental issue.²⁹⁰

This seems to push one back towards the originally favoured solution – even though that site is itself subject to native title claims.

²⁸⁷ Department of Justice, *Statement of Philosophy and Planning Brief for Regional Prisons Facilities and Services* (December 2003), p. 18.

²⁸⁸ Department of Justice, ‘Draft Prisons Resource Plan 2004–2008’, p. 7.

²⁸⁹ In considering the draft Report, the Department commented that planning for the Kimberley is underway and that this ‘will require a certain amount of time’ to be done properly.

²⁹⁰ Executive Director Prisons, ‘Attachment – Development Potential of Short-listed Sites for New Regional Prison, Broome’, 16 April 2004.

7.42 It would seem that there is a great deal more work to be done, work that can only be successful if genuinely consultative. That is not to underestimate the difficulties and complexities confronting the Department. Moreover, it is acknowledged that a strategy for custodial management in the Kimberley must include criminal justice issues well beyond those which directly concern the Prisons Division, such as the function and role of justices of the peace, the number and location of magistrates, the availability of government subsidised legal services and professional staff and, in particular, the reasons for incarceration such as fine default and remand. In identifying practical solutions to these complex issues there is, however, a wealth of local knowledge of prisoners, prison staff and community agencies that should be utilised appropriately. People with a great deal of local knowledge and experience are able to assist in both identifying problems and proposing solutions such as the need for greater offender, family and community access to programs; the need for mentors in communities for newly released offenders; and innovative means for addressing fine default issues. Certainly these sources have proved invaluable to this Office.²⁹¹ As referred to previously, however, there is also an arbitrariness to regional boundaries, particularly in the context of regional custodial management where a key objective is to accommodate Aboriginal prisoners within their homelands to facilitate contacts with family and community, maximise support and maintain culture, and this also needs to be taken into account.²⁹²

Complementing the recommendation in the recent Report on the re-inspection of Roebourne Regional Prison,²⁹³ the Department should devise a comprehensive and integrated long-term strategy for custodial management across the northern regions of the Kimberley and Pilbara, developed through consultation with Aboriginal peak groups, the northern communities, Broome and Roebourne Prison management, uniformed and non-uniformed staff, the Prison Officers' Union, prisoners, external service providers and other government agencies within the northern regions.²⁹⁴

²⁹¹ In responding to the draft Report, the Department commented 'It is to be noted that people who "proved invaluable to [the Inspector's] Office" may be able to offer local insights but might not necessarily possess the knowledge relating to custody and containment issues in the 21st Century'.

²⁹² Prisons Division 'Strategic Plan for Aboriginal Services 2002 – 2005', p. 1; Department of Justice, *Statement of Philosophy and Planning Brief for Regional Prisons Facilities and Services* (December 2003), p. 9.

²⁹³ Report No. 24, *op. cit.*

²⁹⁴ The Department agrees with this recommendation and states that this will occur through the Regional Prisons Planning Project. It assesses the risk of not implementing this recommendation as 'moderate'.

Chapter 8

CONCLUSIONS AND RECOMMENDATIONS

- 8.1 At present Broome Prison and its work camps function on the basis of the goodwill of prisoners who will put up with very poor conditions to stay in the region, and the goodwill of prison staff who, at their own professional risk, often override administrative directions to enable prisoners to remain in the area. These arrangements, although effective, come at too high a price for both prisoners and prison staff. While it is not a solution to simply dictate that overcrowding should not occur it is also not a solution to continue to detain Broome prisoners in grossly sub-standard conditions and to leave prison staff to take responsibility for ameliorating the often inappropriate generic management tools which have been developed in radically different contexts.
- 8.2 It is a matter of absolute priority that adequate and culturally appropriate facilities and procedures be developed in the Kimberley to accommodate Kimberley prisoners in their region, while also meeting basic custodial standards. It is also essential that the Department make practical efforts, and accept responsibility for, the systemic implementation of custodial cornerstones other than that of 'custody and containment'. Finally, the Department's 'dominant issue' of the massive overrepresentation of Aboriginal people in prison in WA, the 'peculiar local pattern' which has characterised this State for so long, remains to be addressed.
1. The Department should take a more active role in educating the public on prisons and prisoner related issues so that it has the capacity to address issues of public concern in a more measured way and after consideration has been given to the practical repercussions of policy and other proposed changes: see paragraphs 1.1 to 1.3.
 2. The Department should seek to replicate those aspects of Broome Prison which contribute to its strong community affiliation in other prisons throughout the State: see paragraphs 1.5 to 1.11.
 3. Urgent research and legislative response is required to address current imprisonment practices resulting in some half of the prison receives in this State involving prisoners who will exit custody without receiving a custodial sentence or who are imprisoned on default of fine: see paragraphs 2.12 to 2.14.
 4. The long tradition of mechanically restraining Aboriginal prisoners in this State should be an impetus to remedy the unnecessary use of restraints as a matter of priority, rather than become a basis for the continuing toleration of these practices into the 21st century: see paragraphs 3.3 to 3.8.
 5. The Department should immediately review the situation of secure prisoners held in the cages of Broome Prison to ensure that they have access to appropriate education, recreation and work: see paragraphs 3.9 to 3.14.
 6. At the very least the Department should take immediate steps to ensure that all AIMS vehicles used for prisoner transport have the bare metal interiors coated with spray on foam rubber in accordance with this Office's Report of 2001: see paragraphs 3.15 to 3.17.
 7. The Department should urgently review and clarify its policies on allowing the mechanical restraint of minimum-security prisoners on transports to ensure that these policies are not unreasonably harsh and that the Department assumes responsibility for all four of the

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cornerstones of custodial management which it espouses. This review should be reflected in terms of its contract with AIMS: see paragraphs 3.18 to 3.23.

8. It is recommended that the Department recognise the difference between escapes by secure prisoners and those by minimum-security prisoners in its own performance targets: see paragraphs 3.24 to 3.30.
9. The Department should introduce a form of supervised leave for prisoners needing to address urgent family business: see paragraphs 3.29 to 3.31.
10. The Department urgently needs to develop a coherent classification system which realistically estimates the security risk posed by Aboriginal prisoners, and in particular has the capacity to take into account relevant factors relating to remand prisoners and which also addresses those biases in the existing system which tend to over-classify Aboriginal prisoners: see paragraphs 3.32 to 3.36.
11. Before recruiting additional justices of the peace the Department should examine the remanding and sentencing practices of justices of the peace, particularly in regional areas, with a view to determining whether these are consistent with current government policy objectives of having imprisonment as a last resort, reducing Aboriginal imprisonment and disallowing short-term incarceration: see paragraphs 4.5 to 4.6.
12. Until adequate regional facilities are available for regional prisoners, at the very least the Department should ensure that there is a system in place whereby prisoners who are (involuntarily) imprisoned elsewhere are monitored and their particular needs are being met, for example through access to regular visits, video link facilities and appropriate interpreter services or community contacts: see paragraph 4.8.
13. The Staples Report should be considered by the Department and all prisons in Western Australia, including Broome, and its recommendations adapted and implemented for Aboriginal prisoners who are incarcerated long distances from their communities: see paragraph 4.9.
14. The Department should urgently act to address the current staffing levels at Broome Regional Prison, which operates with the lowest uniformed staff to prisoner ratio in the State, with particular consideration given to its status as one of the highest receipt prisons in the State, to ensure that the reasonable needs of prisoners and staff are being met: see paragraphs 4.10 to 4.13.
15. The Department needs to ensure that interpreter services are available and utilised by prison staff in appropriate situations. In circumstances where prisoner interpreters are utilised, the Department should ensure that they are appropriately remunerated, and if ongoing, examine the feasibility of obtaining accreditation: see paragraphs 4.14 to 4.17.
16. If the prison is unable to ensure more active supervision of minimum-security visits at Broome Prison through roaming patrols within its current staffing level, it should re-evaluate the current staff-intensive procedures for secure visits to ensure that an appropriate balance between the overall positive character of the visits regime at Broome Prison and meeting its obligations to visitors attending the prison's precinct: see paragraph 4.24.

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17. Where cell-sharing is not at the election of prisoners, prisoners' preferences should be accommodated as far as possible and the Department should introduce a Shared Cell Risk Assessment procedure: see paragraph 4.30.
18. Nutritional education of prisoners should occur, as is being undertaken at Wyndham Work Camp, followed by consultation with prisoners with a view to developing menus, and in particular diabetic menus, which are appetising to prisoners and are sustaining for those undertaking manual labour in harsh tropical conditions: see paragraphs 4.36 to 4.38.
19. Prisons must ensure that prisoners have accessible information about the origins of any non-commercially provided and/or prepared traditional foods so that they are in a position to make an informed choice as to whether they wish to consume that food or not, and alternative meals must be available: see paragraphs 4.39 to 4.40.
20. The Department should write to the Department of Health and seek to be involved as a stakeholder in the review of the draft Food Bill, to ensure that appropriate prison arrangements to ensure prisoner access to traditional foods are formally recognised: see paragraph 4.41.
21. The prison and the work camps should use Section 94 releases to ensure that prisoners can access traditional food: see paragraph 4.42.
22. The lack of medical staff access to computers at the prisons should be addressed as a matter of urgency to bring the health service into line with other General Practices and to improve safety and quality. The Project Ferret Population Health Management System, a computer-based recall and task-tracking system, should also be implemented: see paragraphs 4.49 to 4.50.
23. Most preferable would be that Broome Prison had the capacity to (adequately) house all Kimberley prisoners, consistent with the Department's description of its role and function, and Broome was resourced to provide adequate healthcare and risk assessment of all its prisoners. If this is not possible in the immediate future, however, then some basic principles should inform the management of these prisoners:
 - The AIMS transport arrangements should be varied so that there is more local flexibility in the service provided so that lockups may be cleared as required;
 - Broome Prison medical services and prison officers should be resourced so that prisoners who cannot be retained at that prison in the long-term can be subject to a preliminary medical and risk assessment, preferably so that such prisoners are detained at Broome Prison for no more than two nights;
 - Roebourne Prison retain capacity to hold all prisoners newly received from the Kimberley who cannot be held at Broome Prison at least for the length of time required to conduct a full medical assessment, but preferably until Broome Prison has the capacity to take them or they are free to return to the Kimberley; and
 - Roebourne Prison medical services be resourced so that there is the capacity to conduct complete medical assessments of all prisoners prior to any of them being transferred to other prisons such as Greenough or the metropolitan prisons: see paragraphs 4.51 to 4.54.

CONCLUSIONS AND RECOMMENDATIONS

24. The draft funerals policy of 2003 (Review of Policy Directive No. 9) appears to be a considerable improvement upon current arrangements and should be implemented as a matter of priority: see paragraph 4.58.
25. The Department should:
 - Create and fill a Recreation Officer position for Broome Prison.
 - Allocate an adequate budget for recreation at Broome Prison.
 - Include in the JDF for the position specific duties to:
 - allocate time and resources to recreation for women prisoners;
 - monitor the recreational equipment at the prison and the work camps and ensure that it is maintained at an adequate standard;
 - provide structured recreational activities;
 - develop external links so that prisoners can partake in external competitions; and
 - develop an incentive scheme in consultation with prisoners to encourage active recreation.
 - Ensure that, given its particular situation, Broome Prison is not subject to generic restrictions which are the result of concerns about section 94 at other prisons and in different contexts: see paragraphs 4.60 to 4.67.
26. Peer support meetings should be convened on a regular basis at Broome Prison and documented, as should management responses to peer support requests. The use of peer support prisoners and meetings also should be trialled at the work camps: see paragraphs 4.79 to 4.80.
27. The Department should make sure that there are adequate staff available to meet the welfare needs of prisoners outside of standard working hours, in particular consideration should be given to employing additional PSOs during these times: see paragraph 4.81.
28. The Department should also provide basic training to peer support prisoners: see paragraph 4.81.
29. While AVS already provides a very important service to Broome prisoners the service might be improved by the review of the 'AVS Record of Interview/Contact' form, so that there is scope to record broader prisoner concerns about the operations of the prison: see paragraph 4.82.
30. The Department should develop a complaints process in conjunction with relevant Departmental Aboriginal staff and in consultation with Aboriginal prisoners, which is suited to the cultural needs of Aboriginal prisoners. Prison staff should also be consulted about their views on what would be an effective process. The process must give prisoners confidence that they will not be subject to reprisals and must provide sufficient documentation to enable it to be monitored by external agencies to ensure the process's integrity. The process should be capable of operating at work camps as well as prisons and be available to non-Aboriginal prisoners should they elect to utilise it: see paragraphs 4.84 to 4.87.

CONCLUSIONS AND RECOMMENDATIONS

31. The Department should ensure that the very poor processes employed in the introduction of changes to the Section 94 regime are not repeated. It also should monitor the now approved changes to the Section 94 regime to ensure that these do not unreasonably shift the onus for meeting custodial cornerstones other than security onto individual employees: see paragraphs 5.11 to 5.17.
32. It is recommended that the prison review occupational health and safety issues relating to cannabis use: see paragraph 6.6.
33. It is recommended that a Programs Officer be appointed as a matter of priority to:
 - address the availability of suitable programs for women prisoners;
 - investigate the possibilities for program provision at work camps;
 - develop innovative means, in consultation with offenders' families and communities, for ensuring a broader family and community involvement in program initiatives; and
 - monitor the effect of the new Section 94 restrictions on prisoner access to programs: see paragraphs 6.8 to 6.13.
34. Rural skills training as it is offered through Broome Prison and TAFE provide a model of what can be achieved through the prison system, and should be adapted for other regional prisons' education/work projects: see paragraphs 6.20 to 6.22.
35. A number of ongoing deficiencies were identified as a result of the Inspection which affect the otherwise exemplary education services of Broome Prison:
 - Additional resources should be provided to assist the education centre to encourage a higher prisoner participation rate in education and training;
 - There is a need for larger teaching facilities. At present, programs including reading/writing, music, maths and OH&S are taught in one small demountable room. This limited space does not provide room for male and female prisoners to be separated for these classes, which is very often required;
 - No education as such is provided to prisoners in the medium/maximum-security sections of the prison. The education centre provides the security sections of the prison with local newspapers, library books and crossword puzzles. As indicated previously secure prisoners' opportunity to undertake any meaningful activity at the Broome Prison facility is grossly inadequate; and
 - Education staff identified visits and work as often taking priority over education and are also concerned that since prisoners had been given access to their cells 24 hours per day (from sometime in 2001), there has been a decrease in the numbers of prisoners involved in education: see paragraphs 6.14 to 6.24.

CONCLUSIONS AND RECOMMENDATIONS

36. A clearer delineation of officers' allocated responsibilities under the roster, and particularly between officers and the PSO, would go some way to ensuring that prisoners received assistance as required: see paragraph 7.11.
37. The Department should ensure that practical steps are implemented to ensure that bullying behaviour by staff at all levels towards other staff members is not tolerated, and in particular that a culture of bullying does not become entrenched in Broome Prison to the detriment of prisoners: see paragraph 7.20.
38. The recruitment process itself and its value in identifying appropriate uniformed staff appears questionable and the Department has not evaluated its efficacy or success. It should do so: see paragraphs 7.24 to 7.27.
39. In developing a custodial management strategy for the Kimberley data should be collated and assessed to demonstrate the reasons why, in particular, Aboriginal people are being imprisoned in the Kimberley. The strategy should encompass far more than simply proposing more and bigger prisons. In particular the strategy should include specific practical proposals to reduce the incarceration of Aboriginal people, rather than simply reiterate this as a general strategy: see paragraph 7.38.
40. Complementing the recommendation in the recent Report on the re-inspection of Roebourne Regional Prison,²⁹⁵ the Department should devise a comprehensive and integrated long-term strategy for custodial management across the northern regions of the Kimberley and Pilbara, developed through consultation with Aboriginal peak groups, the northern communities, Broome and Roebourne Prison management, uniformed and non-uniformed staff, the Prison Officers' Union, prisoners, external service providers and other government agencies within the northern regions: see paragraph 7.42.

²⁹⁵ Report No. 24, *op. cit.*

Appendix 1

DEPARTMENT OF JUSTICE RESPONSES TO THE 2004 RECOMMENDATIONS

Recommendations	DOJ Response
<p>1 The Department should take a more active role in educating the public on prisons and prisoner related issues so that it has the capacity to address issues of public concern in a more measured way and after consideration has been given to the practical repercussions of policy and other proposed changes.</p>	<p>The intent of this recommendation requires clarification. In 2002/03, as part of the Kimberley Regional Justice Project, the Department undertook a comprehensive research and consultation project in the Kimberley – the biggest of its type in the State. The project involved interviews with more than 720 people in 26 remote communities and in Kimberley towns. Community workshops were then held with interested groups of women, men and young people in Kununurra, Halls Creek, Balgo, Fitzroy Crossing, Derby and Broome to discuss issues from the research. The researchers also talked to non-Aboriginal people in Broome and other towns and also to police, prisoners, Government and business people in the Kimberley. A broad range of justice-related issues, including prisons and imprisonment, were explored as part of this project and are now being incorporated into further planning for developments and initiatives in the Kimberley. Under the Aboriginal Justice Agreement, regional and local plans are being developed in negotiation with key Aboriginal representatives and communities. Importantly, this ongoing process, which is expected to be completed in May 2005, proactively provides information on justice issues as well as engaging people in the planning process. The Department also conducted information sessions and undertook community consultation in a number of Kimberley towns and communities prior to establishing its work camps in Derby (in 2001) and Wyndham (in 2002). Community consultative committees, established in each of the work camp locations, continue to provide invaluable links with the local communities in relation to work and training opportunities for work camp prisoners.</p>

DEPARTMENT OF JUSTICE RESPONSES TO THE 2004 RECOMMENDATIONS

Recommendations	DOJ Response
2 The Department should seek to replicate those aspects of Broome Prison which contribute to its strong community affiliation in other prisons throughout the State.	<p>Agree. A number of strategies to further enhance community affiliations are currently being considered including the establishment of Community Advisory Groups at each prison. A funded Speakers Programme is also in place. This has been included in the Public Prisons Business Plan.</p>
3 Urgent research and legislative response is required to address current imprisonment practices resulting in some half of the prison receivals in this State involving prisoners who will exit custody without receiving a custodial sentence or who are imprisoned on default of fine.	<p>Disagree. The processes that underlie prisoners being remanded in custody and prisoners who are imprisoned on default of fine are distinct and should be discussed separately.</p> <p><i>Prisoners who exit prison without receiving a custodial sentence</i></p> <p>The factors underlying why prisoners exit custody without receiving a custodial sentence are complex and the majority are not within the mandate of the prison. Decisions relating to remand in custody are a judicial decision and these decisions are independent of prison services.</p> <p>During the 2002/2003 financial year, there were 6168 prison receivals of which (2188) 36% were sentenced receivals and (3980) 64% unsentenced receivals. These 3980 unsentenced receivals were comprised of 3964 remand prisoners, 15 extradition prisoners and one deportation. Of the 3964 remand prisoners 2584 (65%) exited custody without receiving a custodial sentence. This figure is 42% of total prison receivals, under half of the total receivals population.</p> <p>These 3964 remand prisoners had a variety of bail statuses, 68% were not initially granted bail at court, 29% were initially granted bail and no outcome was recorded for 3%. Prisons do not have responsibility for granting of bail, the</p>

Recommendations	DOJ Response
	<p>determination of whether or not an individual is granted bail is a judicial decision and is based on a number of factors, these relate to community safety, the risk of reoffending, the risk of absconding, the seriousness of the offence and the risk that the defendant will interfere with the course of justice.</p> <p>Any discussion on the number of individuals remanded to custody must be examined in the context of the number of court appearances. Although the population of individuals who exit custody without receiving a sentence initially appears a substantial group, they are only 3% of the courts population (lower courts, first appearances). The number of individuals initially granted bail but remanded in custody is only 1% of the courts population (lower courts, first appearances).</p> <p>A number of reasons exist as why defendants who are granted bail are remanded in custody. A review of the remand population conducted in 2003 found that the majority were unable to meet bail conditions including the identification of an acceptable surety at or immediately following their court appearance. The reasons for not making bail at the initial court appearance are varied and include,</p> <ul style="list-style-type: none"> • The defendant assuming that he/she would make bail and thus not making any arrangements prior to court; • Previous sureties no longer supporting the defendant; • Being unable to contact a surety; • Previous sureties not longer being acceptable to the court; and • Bail conditions being more stringent than the defendant expected.

Recommendations

DOJ Response

In addition other research has found that some defendants choose not accept bail and prefer to be remanded in custody as a means of reducing their possible sentence. There are also a number of defendants who do not make bail at their initial court appearance but subsequently do so.

It is clear that although a number of defendants are unable to meet their bail conditions immediately following court, they do so in a relatively short space of time. Prisoners who exit custody without receiving a custodial sentence do not generally spend long periods of time in custody. An analysis of number of days spent in custody found a median split of eight days; that is, 50% had spent eight days or less in custody. The time in custody was shorter when investigating only those individuals who were granted bail. For this group the median split was five days indicating that 50% of had spent five days or less in custody. It is interesting to note that 13% had spent only one day in custody and 21% spent two days.

Those prisoners who exit custody without receiving a custodial sentence have a variety of exit statuses. These include a variety of bail options, non custodial sentences, being found not-guilty in court, the court releasing the defendant with no further punishment, and extradition and deportation. The majority are released under bail conditions (64%), a further 19% receive a non-custodial sentence and 15% are released from court (this includes not guilty verdicts, no further sentences and matters that are dismissed).

Overall, it appears that issue of prisoners who are remanded in custody and subsequently exit prison without a custodial sentence is not as significant as claimed.

Recommendations	DOJ Response
	<ul style="list-style-type: none"> • The number of individuals is small (3%) in comparison to the total population under consideration for bail, remand and sentencing. • The majority spend very little time in custody and for these individuals this time appears to be spent organising bail and surety. • The issue does not appear to be a legislative problem and research has already been conducted into the factors underlying bail and remand.
	<p><i>Fine Default Prisoners</i></p>
	<p>Disagree. During 2002/2003 a total of 1745 prisoners had a fine default sentence. Of these 990 (57%) also had a non fine default sentence, and 755 (43%) had a fine default sentence only.</p>
	<p>In response to these figures</p>
	<ul style="list-style-type: none"> • The fines system was reviewed in 2002 and recommendations were made to improve the enforcement system, these included reducing the use of imprisonment for default of fines. Cabinet approved the legislative amendment in April 2004 and drafting instructions have been sent to Parliamentary Counsel. However, the bill has not yet received a drafting priority. • An amendment to the Sentence Administration Act 2003 has been introduced to Parliament that will allow fine default to be served before a custodial sentence. This will allow access to Chief Executive Officer Parole for eligible prisoners.

Recommendations	DOJ Response
	<ul style="list-style-type: none"> The implementation of an integrated CJS/Sheriff position, in the Eastern Goldfields has seen a general decrease in the cases of fines issued, the cases registered with FER and a decrease in the numbers of orders to report in the Goldfields generally. Similar officers are proposed for the Kimberley and Pilbara to undertake similar responsibilities including information provision, collecting payment, arranging for payment by instalments, serving notices to report for work and development orders and executing warrants of execution against goods. <p>There is some acknowledgement that some investigation is required to consider the place of fines on the sentencing hierarchy. Fining is often considered the lowest sentence available to the judiciary. The extremely low incomes of many offenders and prisoners conspire to make fines no longer the ‘sentence of least harm’. Changes to the sentencing hierarchy and more innovative sentencing options may need to be investigated.</p>
<p>4 The long tradition of mechanically restraining Aboriginal prisoners in this State should be an impetus to remedy the unnecessary use of restraints as a matter of priority, rather than become a basis for the continuing toleration of these practices into the 21st century.</p>	<p>Disagree. The Department does not use any of the historic methods of restraints pictured in the report. There is no separate policy for the use of mechanical restraints for Aboriginal prisoners. The decision to restrain is based upon community safety.</p> <p>Changes have been made to policy since the inspection in May 2004, allowing for the removal of restraints to medium- and maximum-security prisoners attending the health centre.</p>

DEPARTMENT OF JUSTICE RESPONSES TO THE 2004 RECOMMENDATIONS

Recommendations	DOJ Response
5 The Department should immediately review the situation of secure prisoners held in the cages of Broome Prison to ensure that they have access to appropriate education, recreation and work.	Disagree. There is limited capacity to provide more structured recreation and work within the existing facility. The Department will re-examine the provision of education to prisoners in the security section.
6 At the very least the Department should take immediate steps to ensure that all AIMS vehicles used for prisoner transport have the bare metal interiors coated with spray on foam rubber in accordance with this Office's Report of 2001.	Disagree. Disagree. Previous consideration has been given to this matter and further options are still being reviewed. The main issues identified that need to be addressed include the method of application and resilience, risk of vandal damage and flammability and corresponding fumes. Other options that are to be considered include the provision of "mats" that can be allocated to individuals for cushioning. Even though many of the same considerations will still need to be examined, damaged mats can simply be replaced. This provides a greater scope of materials that can be considered. The Department and AIMS will continue working on this matter in a bid to find a suitable solution to this issue.
7 The Department should urgently review and clarify its policies on allowing the mechanical restraint of minimum-security prisoners on transports to ensure that these policies are not unreasonably harsh and that the Department assumes responsibility for all four of the cornerstones of custodial management which it espouses. This review should be reflected in terms of its contract with AIMS.	Disagree. The policies relating to the use of mechanical restraints are now operating successfully throughout the State. The initial introduction experienced some difficulties due to individual prisons not understanding the new restraints regime. It is acknowledged that the new process operates on the side of caution. That is, unless the prison specifies the restraint regime to be utilised, then the maximum level is applied, double handcuffing. Hence, any minimum-security prisoner that has restraints applied to them, do so under the direction of the prison or the prison has not specified a restraints regime.

Recommendations	DOJ Response
	<p>The Department is also undergoing a review of contractual requirements with the aim of developing a number of variations to the existing contract. One of these is the provision of services to those prisoners considered to be of minimum risk. As part of these proposed variations, minimum risk prisoners escaping legal custody would be considered as an abscond rather than an escape. The implications are that this would facilitate a more refined set of procedures that could reflect the prisoner's risk rating</p>
<p>8 It is recommended that the Department recognise the difference between escapes by secure prisoners and those by minimum-security prisoners in its own performance targets.</p>	<p>Partially agree. Escape rate targets need to be zero.</p> <p>For management purposes and performance reporting purposes, the Prison Performance Measurement System (PPMS) reports the number of escapes, absconds and unlawful releases as Unlawful Absences. Changes were made to the Total Offender Management System (TOMS) in 2001 to enable capture of unlawful absence data by the following dimensions:</p> <ul style="list-style-type: none"> • Prisoner security rating • Facility security rating • Location from which prisoner went absent • The custodian of the prisoner at the time of absence • The facility accountable for the prisoner <p>Currently, unlawful absence data is reported to the Council of Australian Governments (COAG), for publication in the Report on Government Services, as the number and proportion of escapes by open, closed or other perimeter facilities. Internally, the DoJ has reported unlawful absence as the Escape Rate, by Security Rating of Prisoner. Commencing with the 2003/04 financial year the terminology used has been changed to Escape/Abscond Rate, by Security Rating [of prisoner], under output 7.2.</p>

Recommendations	DOJ Response
<p>9 The Department should introduce a form of supervised leave for prisoners needing to address urgent family business.</p>	<p>Agree subject to Government policy decision. The Department has been considering changes to the scope and management of temporary absences from prisons as part of the development of re-entry programs and Boronia Pre-release Centre. The Minister approved the development of a submission seeking Cabinet approval to draft amendments to the Prisons Act 1981 in October 2003. The submission is being finalised and it is intended to seek Cabinet approval to draft amendments before the end of 2004. These will include provision for minimum-security prisoners to have an authorised absence to attend to important family matters.</p>
<p>10 The Department urgently needs to develop a coherent classification system which realistically estimates the security risk posed by Aboriginal prisoners, and in particular has the capacity to take into account relevant factors relating to remand prisoners and which also addresses those biases in the existing system which tend to over-classify Aboriginal prisoners</p>	<p>Disagre. The Department disagrees with the statement that there is a need to develop a coherent classification system. The current classification system implemented by the Department is an effective and coherent measure of the risk to the community should the prisoner escape and is based on four underlying principles, these being:</p> <ul style="list-style-type: none"> • Risk Principle: Higher risk offenders are more likely to reoffend and thus should benefit more significantly from more intensive interventions than low risk offenders. • Need principle: Reduction in recidivism is more likely to occur by addressing criminogenic needs for management and intervention. • Responsivity principle: Intervention and management strategies need to be directed to the offender’s cognitive capacities.

Recommendations	DOJ Response
	<ul style="list-style-type: none"> • Professional discretion principle: Appropriate use of professional judgement (override objective results) will enhance the structured assessment. <p>The assessment and classification system is not a subjective process. It is based on an objective scoring instrument that incorporates a range of static and dynamic factors considered to be influential in offending and reoffending and also incorporates the capacity to override these scores in order to consider an offenders unique characteristics. This override capacity is consistent with the research literature as Andrews and Bonta (1994) state that all assessment and classification instruments require a discretionary component in order to facilitate the consideration of non-standard factors.</p> <p>Whether or not the Department’s classification processes systemically under- or over-classify Aboriginal prisoners is a contentious issue. One of the fundamental principles underlying the classification system used by the Department of Justice is safety and security and in particular community safety. The Department’s classification instruments have been designed to attribute a security rating which is proportionate to the risk to the community should the prisoner escape. As such factors included in the classification determination for both the Management and Review Checklist and the Classification Review Checklist include:</p> <ul style="list-style-type: none"> • Seriousness of current offence; • Serious offence history; • History of escapes/attempted escapes; • History of offences committed at large; • Any further charges pending; and • Length of effective sentence.

Recommendations	DOJ Response
	<p>In addition to these factors the Management and Review Checklist includes:</p> <ul style="list-style-type: none"> • Substance use related to current offences; and • Stability factors in employment, accommodation and recidivism indicators. <p>And the Classification Review Checklist includes:</p> <ul style="list-style-type: none"> • Disciplinary convictions – current sentence; • Family relationships; and • Industrial/education and program performance. <p>The classification of Aboriginal prisoners is related to the seriousness of their current offences, their offence history, the substance use related to the current offence and further pending charges. The systemic over representation of Aboriginal violent offenders in the criminal justice system is the primary factor underlying any perceived systemic over-classification of Aboriginal offenders is related to.</p> <p>The overrepresentation of Aboriginals in violent offences is apparent in all areas of the justice system. In the Kimberley region offences against the person comprise 15% of all offences compared with the state average of 8%, and the rate of personal crime is 32.1 per 1000 compared to the state total of 12.6 per 1000. This over representation of violent crimes is found throughout the courts, community based services and prisons.</p> <p>The overrepresentation of Aboriginals in personal and violent crime statistics results in an overrepresentation of Aboriginal people as victims of crime. Based data collected from the</p>

Recommendations	DOJ Response
	<p>Crime Research Centre at the University of Western Australia, the rate of victimisation for Aboriginal people was 55.2 offences per 1,000 people, compared to the rate of 11.5 offences per 1,000 for non-Aboriginal people. Aboriginal people were about five times more likely than non-Indigenous people to be victims of violence, specifically they were almost nine times more likely to become victims of homicide and 6.5 times more likely to become victims of assault than non-Aboriginal people. The Crime Research Centre reported that Aboriginal women were 12 times more likely to become victims of assault than non-Aboriginal women.</p> <p>At the census date of 30th September 2004 investigation of the sentence classifications of sentenced prisoners from the Kimberley indicated that, 100% of maximum-security prisoners, 61% of medium-security prisoners, and 41% of minimum-security prisoners had a crime against a person as their most serious offence. Differences were also observed in the type of offences committed by medium- and minimum-security prisoners, with medium-security prisoners committing a range of more serious offences including sexual assaults (20%), assault causing grievous bodily harm (26%) and homicide (8%).</p> <p>There is some acknowledgement that classification systems are based more on the criminal definition of the offence rather than the details of the offence. Personal crimes are considered higher risk than property crimes and as Aboriginal prisoners have often committed a large number of personal crimes, this may result in a one size fits all categorisation. The circumstances of the offence may need as much consideration as the offence category. In light of this there is currently a project investigating the</p>

DEPARTMENT OF JUSTICE RESPONSES TO THE 2004 RECOMMENDATIONS

Recommendations	DOJ Response
	<p>use of previous sentences as indications of the seriousness of prior offending and not simply an assessment of offence type. This new assessment process will initially be piloted in the Eastern Goldfields Prison.</p> <p>The Department perceives the issue of community safety to be paramount in the assessment and classification of prisoners and argues that all communities in Western Australia should be equally safe and secure.</p>
<p>11 Before recruiting additional justices of the peace the Department should examine the remanding and sentencing practices of justices of the peace, particularly in regional areas, with a view to determining whether these are consistent with current government policy objectives of having imprisonment as a last resort, reducing Aboriginal imprisonment and disallowing short-term incarceration.</p>	<p>Noted. This is a matter for court administration and sentencing authorities, and does not relate to prison administration.</p>
<p>12 Until adequate regional facilities are available for regional prisoners, at the very least the Department should ensure that there is a system in place whereby prisoners who are (involuntarily) imprisoned elsewhere are monitored and their particular needs are being met, for example through access to regular visits, video link facilities and appropriate interpreter services or community contacts.</p>	<p>Partially agree. The Department provides the services of inter-prison transfers for family visits, visits by video conferencing and where necessary, interpreter services.</p>
<p>13 The Staples Report should be considered by the Department and all prisons in Western Australia, including Broome, and its recommendations adapted and implemented for Aboriginal prisoners who are incarcerated long distances from their communities.</p>	<p>Agree. The Department is currently considering the report that has been distributed to a number of prisons for information and comment. Arrangements will be put in place to develop a strategy of applying the recommendations where relevant.</p>

DEPARTMENT OF JUSTICE RESPONSES TO THE 2004 RECOMMENDATIONS

Recommendations	DOJ Response
<p>14 The Department should urgently act to address the current staffing levels at Broome Regional Prison, which operates with the lowest uniformed staff to prisoner ratio in the State, with particular consideration given to its status as one of the highest receivable prisons in the State, to ensure that the reasonable needs of prisoners and staff are being met.</p>	<p>Agree. Following a review of staffing in March 2004, two additional positions were approved to support reception and prisoner assessment. A further review of staffing is due to commence for all prisons.</p>
<p>15 The Department needs to ensure that interpreter services are available and utilised by prison staff in appropriate situations. In circumstances where prisoner interpreters are utilised, the Department should ensure that they are appropriately remunerated, and if ongoing, examine the feasibility of obtaining accreditation.</p>	<p>Partially agree. Peer Support prisoners provide this service at Broome and are paid the highest level of gratuity. The Department recognises there are limitations to the use of external interpreter services for all Kimberley dialects due to the large number of different dialects.</p>
<p>16 If the prison is unable to ensure more active supervision of minimum-security visits at Broome Prison through roaming patrols within its current staffing level, it should re-evaluate the current staff-intensive procedures for secure visits to ensure an appropriate balance between the overall positive character of the visits regime at Broome Prison and meeting its obligations to visitors attending the prison's precinct.</p>	<p>Partially agree. Visit supervision procedures have been reviewed. Visits are under the scrutiny of a number of prison officers and are also able to be observed by administration staff.</p>
<p>17 Where cell sharing is not at the election of prisoners, prisoners' preferences should be accommodated as far as possible and the Department should introduce a Shared Cell Risk Assessment procedure.</p>	<p>Disagree. The current practice of cell allocation is able to accommodate preference in most instances.</p> <p>The assessment of prisoner risk to other persons and from others is made at the time of receipt and taken into account on initial cell allocation.</p>

Recommendations	DOJ Response
<p>18 Nutritional education of prisoners should occur, as is being undertaken at Wyndham Work Camp, followed by consultation with prisoners with a view to developing menus, and in particular diabetic menus, which are appetising to prisoners and are sustaining for those undertaking manual labour in harsh tropical conditions.</p>	<p>Agree. Nutritional education will be provided to prisoners at Broome Regional Prison in early 2005.</p> <p>At the time of the Inspection, kangaroo was available to prisoners twice a week and an appropriate diabetic menu was also available. All food is prepared in accordance with hygiene standards and no food left over by prisoners is 'recycled' as asserted in the report. In accordance with continuous improvement, new menus are to be developed in consultation with the medical team and District Dietician with a focus on improving the diabetic menu and in accordance with the Australian Dietary Guidelines and Healthy Eating. Peer support prisoners will also be consulted in this process.</p>
<p>19 Prisons must ensure that prisoners have accessible information about the origins of any non-commercially provided and/or prepared traditional foods so that they are in a position to make an informed choice as to whether they wish to consume that food or not, and alternative meals must be available.</p>	<p>Agree. The prison will inform work camp and Section 94 release prisoners regarding the origins of non-commercially provided or prepared food. Alternative meals are always available to these prisoners.</p>
<p>20 The Department should write to the Department of Health and seek to be involved as a stakeholder in the review of the draft Food Bill, to ensure that appropriate prison arrangements to ensure prisoner access to traditional foods are formally recognised.</p>	<p>Agree. The Department will seek to have input into the proposed legislation being prepared by the Health Department in relation to this issue.</p>
<p>21 The prison and the work camps should use Section 94 releases to ensure that prisoners can access traditional food.</p>	<p>Agree. The prison will continue to use Section 94 releases to provide prisoners with access to hunting, gathering and preparation of traditional foods.</p>

Recommendations	DOJ Response
<p>22 The lack of medical staff access to computers at the prisons should be addressed as a matter of urgency to bring the health service into line with other General Practices and to improve safety and quality. The Project Ferret Population Health Management System, a computer-based recall and task-tracking system, should also be implemented.</p>	<p>Disagree. Currently there are ample computers and printers available to staff in the health centre.</p> <p>An electronic Health Information Management system that is suitable to the Department's needs will be selected.</p>
<p>23 Most preferable would be that Broome Prison had the capacity to (adequately) house all Kimberley prisoners, consistent with the Department's description of its role and function, and Broome was resourced to provide adequate healthcare and risk assessment of all its prisoners. If this is not possible in the immediate future, however, then some basic principles should inform the management of these prisoners:</p> <p>The AIMS transport arrangements should be varied so that there is more local flexibility in the service provided so that lockups may be cleared as required;</p> <p>Broome Prison medical services and prison officers should be resourced so that prisoners who cannot be retained at that prison in the long-term can be subject to a preliminary medical and risk assessment, preferably so that such prisoners are detained at Broome Prison for no more than two nights;</p> <p>Roebourne Prison retain capacity to hold all prisoners newly received from the Kimberley who cannot be held at Broome Prison at least for the length of time required to conduct a full medical assessment, but preferably until Broome Prison has the capacity to take them or they are free to return to the Kimberley.</p>	<p>Disagree.</p> <ul style="list-style-type: none"> • Transport services are provided against an agreed schedule of movements to clear the WAPS lockups in the Kimberley. These movements form part of the total service and must integrate into the local and statewide operation. Ad hoc arrangements would be difficult to facilitate due to the distances that would need to be travelled, availability of suitable secure transport vehicles and staff to perform this function. • Current review of health services practice being undertaken to determine feasibility of early identification patients requiring urgent preliminary medical assessment. This includes the introduction of the MRO 10 and MRO 12 pilot project in mid November 2004; this is the newly developed screening tool for the identification of urgent medical needs of newly received patients. • With few exceptions, Roebourne has been able to retain new prisoners to enable a full medical assessment to occur. • Current recruitment campaigns have been unsuccessful. This process continues.

Recommendations	DOJ Response
<p>Roebourne Prison medical services be resourced so that there is the capacity to conduct complete medical assessments of all prisoners prior to any of them being transferred to other prisons such as Greenough or the metropolitan prisons.</p>	
<p>24 The draft funerals policy of 2003 (Review of Policy Directive No. 9) appears to be a considerable improvement upon current arrangements and should be implemented as a matter of priority.</p>	<p>Partially agree. A review of PD 9 was completed by the A/Manager Aboriginal Services, resulting in 17 recommendations designed to address the needs of the client group and conformity with best practice in a contemporary prison setting, with emphasis on sensitivity to Aboriginal cultural issues and localised management. Consultation to consider the implementation of recommendations is ongoing.</p>
<p>25 The Department should:</p> <ul style="list-style-type: none"> • Create and fill a recreation officer position for Broome Prison. • Allocate an adequate budget for recreation at Broome Prison. • Include in the JDF for the position specific duties to: <ul style="list-style-type: none"> - allocate time and resources to recreation for women prisoners; - monitor the recreational equipment at the prison and the work camps and ensure that it is maintained at an adequate standard; - provide structured recreational activities; 	<p>Partially agree. The creation of a Recreation Officer will be considered as part of the agreed staffing review. The additional issues raised in relation to recreation will be considered in conjunction with the staffing review. In addition, this is subject to Government budgetary processes.</p>

Recommendations	DOJ Response
<ul style="list-style-type: none"> - develop external links so that prisoners can partake in external competitions; and - develop an incentive scheme in consultation with prisoners to encourage active recreation. • Ensure that, given its particular situation, Broome Prison is not subject to generic restrictions which are the result of concerns about Section 94 at other prisons and in different contexts. 	
<p>26 Peer support meeting should be convened on a regular basis at Broome Prison and documented, as should management responses to peer support requests. The use of peer support prisoners and meetings also should be trialled at the work camps</p>	<p>Agree. The Prison Support Officer and Superintendent will travel to both work camps and examine, in consultation with prisoners, an appropriate process of peer support at these locations.</p> <p>Peer Support Meetings will be minuted. However the prison is cognisant of the need to maintain confidentiality between Peer Support Prisoners and the prisoners they counsel.</p>
<p>27 The Department should make sure that there are adequate staff available to meet the welfare needs of prisoners outside of standard working hours, in particular consideration should be given to employing additional PSOs during these times.</p>	<p>Partially agree. All prison officers are responsible as part of their role to assist prisoners with their welfare needs. This has been in place since 1987 at the inception of unit management.</p> <p>The prison has instituted revised work hours for the PSO who has been requested to work from 10.00 am to 6.00 pm two days per week. A Programmes Officer is to be appointed in the near future and will be asked to provide an objective evaluation of the need for any additional out of hours PSO services.</p> <p>Any increase in services will be subject to Government budgetary processes.</p>

DEPARTMENT OF JUSTICE RESPONSES TO THE 2004 RECOMMENDATIONS

Recommendations	DOJ Response
28 The Department should also provide basic training to peer support prisoners.	Agree. The Department is in the process of providing Gatekeeper training to all PSO and PS Prisoners on suicide awareness and prevention.
29 While AVS already provides a very important service to Broome prisoners the service might be improved by the review of the 'AVS Record of Interview/Contact' form, so that there is scope to record broader prisoner concerns about the operations of the prison.	Agree. The Department agrees that the AVS is doing sensational work in Broome. The record of interview/contact report has been reviewed and improvements incorporated in the next reprint.
30 The Department should develop a complaints process in conjunction with relevant Departmental Aboriginal staff and in consultation with Aboriginal prisoners, which is suited to the cultural needs of Aboriginal prisoners. Prison staff should also be consulted about their views on what would be an effective process. The process must give prisoners confidence that they will not be subject to reprisals and must provide sufficient documentation to enable it to be monitored by external agencies to ensure the process's integrity. The process should be capable of operating at work camps as well as prisons and be available to non-Aboriginal prisoners should they elect to utilise it.	Agree. A review of cultural needs of Aboriginal prisoners in the grievance process has been conducted. This review has identified communication difficulties for Aboriginal people. A video using Aboriginal actors will be produced which focuses on the needs of Aboriginal prisoners in relation to the grievance process. Funding for the initiative has been approved and production will commence shortly. The video will be distributed to all prisons.
31 The Department should ensure that the very poor processes employed in the introduction of changes to the Section 94 regime are not repeated. It also should monitor the now approved changes to the Section 94 regime to ensure that these do not unreasonably shift the onus for meeting custodial cornerstones other than security onto individual employees.	Disagree. The Department disagrees that the processes were very poor. However, it acknowledges that the processes should not impact on the cornerstone of reparation to the community.

Recommendations	DOJ Response
<p>32 It is recommended that the prison review occupational health and safety issues relating to cannabis use.</p>	<p>Agree. An Occupational Health and Safety Consultant is examining issues of Worksafe standards and their relevance to prisoner employment.</p>
<p>33 It is recommended that a Programs Officer be appointed as a matter of priority to:</p> <ul style="list-style-type: none"> • address the availability of suitable programs for women prisoners; • investigate the possibilities for program provision at work camps; • develop innovative means, in consultation with offenders’ families and communities, for ensuring a broader family and community involvement in program initiatives; and • monitor the effect of the new Section 94 restrictions on prisoner access to programs. 	<p>Agree. The advertisement and interviews for a Programs Officer Broome have been completed and the selection processes almost finalised. The role of the new Programs Officer will encompass all aspects of this recommendation.</p> <p>Women’s Custodial Services Directorate has an overarching strategic responsibility for women in both metropolitan and regional prisons. Representatives from each prison that holds women attend a bi-monthly meeting where issues relevant to women in custody are discussed. Program provision, both offending behaviour and developmental, for part of these discussions. It is our position that programs for women should include those that address their offending behaviour as well as those that attend to issues of low self-esteem, life skills and non-accredited self-development.</p> <p>An appointment is about to be made to a position of Manager Offender Services, Women’s Custodial Services. This role will have statewide responsibility for programs and services to women in custody.</p> <p>Broome Prison has established a Women’s Reference Group. This group has played a vital role in developing prison-based activities for women as well as facilitating continued connection to community.</p>

Recommendations	DOJ Response
	<p>The likelihood of selecting an appropriate number of suitable prisoners for a specific program from the small pool of prisoners at each site (15–17) is remote; the work camp prisoners primarily have short sentences which preclude most programs; the climatic conditions and work schedules of the prisoners are unsuitable for the running of programs and the motivation and ability to attend and concentrate after a day’s work is likely to be low.</p> <p>Implementation of some of these strategies will be subject to Government budgetary processes.</p>
<p>34 Rural skills training as it is offered through Broome Prison and TAFE provide a model of what can be achieved through the prison system, and should be adapted for other regional prisons’ education/work projects.</p>	<p>Agree in principle. The Broome model is to be drawn up as a case study to assist other regional prisons in the development of their education/work projects. Implementation will be subject to Government budgetary processes.</p>
<p>35 A number of ongoing deficiencies were identified as a result of the Inspection which affect the otherwise exemplary education services of Broome Prison:</p> <ul style="list-style-type: none"> • Additional resources should be provided to assist the education centre encourage a higher prisoner participation rate in education and training; • There is a need for larger teaching facilities. At present, programs including reading/writing, music, maths and OH&S are taught in one small demountable room. This limited space does not provide room for male and female prisoners to be separated for these classes, which is very often required; 	<p>Partially Agree.</p> <ul style="list-style-type: none"> • Additional funds are available to Broome Regional Prison to increase accredited training offered prisoners undertaking Section 94 work activities. • The BRP has submitted a proposal to the Capital Works Committee to increase delivery space for education programs.

Recommendations	DOJ Response
<ul style="list-style-type: none"> • No education as such is provided to prisoners in the medium/maximum security sections of the prison. The education centre provides the security sections of the prison with local newspapers, library books and crossword puzzles. As indicated previously secure prisoners' opportunity to undertake any meaningful activity at the Broome Prison facility is grossly inadequate; • Education staff identified visits and work as often taking priority over education and are also concerned that since prisoners had been given access to their cells 24 hours per day (from sometime in 2001), there has been a decrease in the numbers of prisoners involved in education. 	<ul style="list-style-type: none"> • Education opportunities are restricted to those that can be conducted in the cell. Improving the facilities to address this issue is subject to the Government budgetary process. • Work, visits and education are important components that require a balance. Prisoners are encouraged to participate in education.
<p>36 A clearer delineation of officers' allocated responsibilities under the roster, and particularly between officers and the PSO, would go some way to ensuring that prisoners received assistance as required.</p>	<p>Agree. The Superintendent will review JDFs / Duty Statements to ensure sufficient clarity on whose primary role prisoner welfare is. The Superintendent has provided a Memorandum to all staff outlining the primary roles of the Prisoner Support Officer and Women's Support Officer in which it is reinforced that a prison officer has a key responsibility in the provision for addressing the welfare needs of prisoners.</p>
<p>37 The Department should ensure that practical steps are implemented to ensure that bullying behaviour by staff at all levels towards other staff members is not tolerated, and in particular that a culture of bullying does not become entrenched in Broome Prison to the detriment of prisoners.</p>	<p>Agree. The Department's Code of Conduct, the Public Sector Standards Code of Ethics and the Worksafe Guide to Dealing with Bullies in the Workplace are made available to the staff and the prison management encourage staff to report any bullying incidences. The Superintendent is also arranging for the Department of Justice Occupational Health and Safety Consultant – Prisons to deliver workshops on workplace bullying in December 2004, which all staff will attend.</p>

Recommendations	DOJ Response
<p>38 The recruitment process itself and its value in identifying appropriate uniformed staff appears questionable and the Department has not evaluated its efficacy or success. It should do so.</p>	<p>Partially agree. The prison officer recruitment process was reviewed in 1999 and again in 2004 to assess suitability for the selection of prison officers. Currently we are researching the psychometric testing to ensure that the tests being used are meeting the recruitment needs of the organisation. All selection tools test job related requirements for the position of prison officer.</p>
<p>39 In developing a custodial management strategy for the Kimberley data should be collated and assessed to demonstrate the reasons why, in particular, Aboriginal people are being imprisoned in the Kimberley. The strategy should encompass far more than simply proposing more and bigger prisons. In particular the strategy should include specific practical proposals to reduce the incarceration of Aboriginal people, rather than simply reiterate this as a general strategy.</p>	<p>Agree in principle. A cohort analysis and audit/analysis of current services is being undertaken as part of Stage 1 of the agreed Kimberley Custodial Plan. The outcome of the analysis of the data will be an Options Paper that will include a review of innovative approaches to the management of Indigenous people in custody (both within Australia and internationally) and identify possible relevance and application to the Kimberley region and its population.</p>
<p>40 Complementing the recommendation in the recent Report on the re-inspection of Roebourne Regional Prison, the Department should devise a comprehensive and integrated long-term strategy for custodial management across the northern regions of the Kimberley and Pilbara, developed through consultation with Aboriginal peak groups, the northern communities, Broome and Roebourne Prison management, uniformed and non-uniformed staff, the Prison Officers' Union, prisoners, external service providers and other government agencies within the northern regions.</p>	<p>Agree. This will occur through the Regional Prisons Planning Project. In addition, it is anticipated that following the agree development of the Kimberley Custodial Plan, a similar custodial plan will be developed for the Pilbara.</p>

Appendix 2

SCORE CARD

Report of an Announced Inspection of Broome Regional Prison - June 2001	Assessment of the Department of Justice implementation
<p>1. The Department's draft 'Aboriginal Services Strategic Plan 2001' should be updated, strengthened and implemented to take account of the challenges and achievements identified in this Report including:</p> <ul style="list-style-type: none"> • The essential importance for Aboriginal prisoners to be able to maintain community links; • The need to ensure that security measures adopted for maximum security regimes are not unduly restrictive for those prisoners covered by them nor spill over into the applicable regimes for the rest of the prison; • The need to ensure that prison services are culturally appropriate; and • The desirability of improving staff training so as to equip them better for the issues that arise in managing Aboriginal prisoners fairly and constructively and, in particular, to provide cross-cultural awareness training. <p>These matters are particularly important for the 'Aboriginal prisons' in Western Australia (Broome, Eastern Goldfields, Roebourne and Greenough) but have applicability throughout the prison system as a whole.</p>	<p>Acceptable</p>
<p>2. The Department should develop and implement a plan for the local recruitment of Aboriginal staff at Broome Prison, including women, and at all other Aboriginal prisons in the State.</p>	<p>Acceptable</p>
<p>3. Noting that the Department has committed itself to the creation of a position having special responsibility for the conditions and services of women prisoners, the highest priority should be given to developing and implementing strategies to improve the situation of women prisoners at Broome, taking account of the detailed matters identified in this Report.</p>	<p>Acceptable</p>

SCORE CARD

Report of an Announced Inspection of Broome Regional Prison - June 2001	Assessment of the Department of Justice implementation
<p>4. The prison should immediately discontinue the practice of shackling or handcuffing maximum-security prisoners during medical appointments at the clinic, except in situations that in the view of the responsible security officer specifically pose an immediate danger to others or a high risk of escape. This assessment must be discussed with the health professional involved. Records should be kept indicating when medical consultations are conducted in this way. Both the security officer and the relevant health professional should sign off on all such records indicating the basis for the decision and, in the case of the health professional, whether he or she agreed with the decision.</p>	<p>Acceptable</p>
<p>5. A system must be put in place to ensure that hygiene throughout the prison, and particularly in the kitchen, is brought up to acceptable standards and is maintained at those levels.</p>	<p>Less than Acceptable</p>
<p>6. Special diets, particularly those that are medically recommended, must be fully catered for. Efforts must be made to provide traditional food on a more frequent and regular basis.</p>	<p>Less than Acceptable</p>
<p>7. Prison-based work activities should be linked to TAFE-accredited training wherever possible.</p>	<p>Acceptable</p>
<p>8. The detailed matters of service deficiency identified in this Report should be addressed.</p> <p>These include:</p> <ul style="list-style-type: none"> • The The Arunta system; • The Canteen issues; • The The peer support system; • The Development of recreational opportunities; • The Clarification of the permission process for attending funerals; • The Cleanliness of cells; • The Improvement of the library by inclusion of more and relevant material • The Improvement of various services at the Bungarun work camp. 	<p>Overall acceptable (with less than acceptable progress concerning recreational opportunities and funeral permission process)</p>

SCORE CARD

Report of an Announced Inspection of Broome Regional Prison - June 2001	Assessment of the Department of Justice implementation
<p>9. The Department should abandon its present provisional preference for a new all-purpose prison to be built away from the Broome town site. It should now commence detailed investigations as to how best to utilise the existing site and any available contiguous real estate, noting that the present site enhances the crucial factor of Broome Prison, despite its problems, having strong community links. Other possibilities should be explored for maximum-security and medium-security prisoners, both those who constitute the present population profile and those convicted Kimberley-based prisoners who, on account of their security rating or other correctional factors, are at present sent away to serve the bulk of their sentences in a southern prison.</p>	<p>Acceptable</p>

Appendix 3

THE GOVERNANCE FRAMEWORK FOR THE 2004 RECOMMENDATIONS

Recommendation Number	Type of Recommendation	Solutions			Acceptance			Risk Rating	Comment
		Short term < 1yr	Medium term < 3yrs	Long term > 3yrs	Agreed	Disagreed	Partial		
1	Administration and accountability of DOJ			•				Low	Refer to footnote 8.
2	Correctional value for money			•	•			Low	
3	Administration and accountability of DOJ		•			•			Refer to footnote 54 and 55.
4	Custody and security	•				•			Refer to footnote 108.
5	Care and wellbeing		•			•			Refer to footnote 116.
6	Care and wellbeing	•				•			Refer to footnote 124.
7	Custody and security	•				•			Refer to footnote 134.
8	Custody and security	•					•	Low	Refer to footnote 144.
9	Care and wellbeing		•		•			Low	
10	Custody and security	•				•			Refer to footnote 152.
11	Racism, Aboriginality and Equity			•					Refer to footnote 167.
12	Care and wellbeing	•					•	Low	Refer to footnote 169.
13	Racism, Aboriginality and Equity	•			•			Low	Refer to footnote 171.
14	Staffing issues		•		•			No risk as it has been implemented	Refer to footnote 171.
15	Care and wellbeing	•					•	Low	Refer to footnote 182.
16	Care and wellbeing	•					•	Moderate	
17	Care and wellbeing	•				•			Refer to footnote 189.
18	Health	•			•			Low	Refer to footnote 195.
19	Racism, Aboriginality and Equity	•			•			Low	
20	Health		•		•			Low	
21	Racism, Aboriginality and Equity	•			•				
22	Health		•			•			
23	Health		•			•			Refer to footnote 209.
24	Racism, Aboriginality and Equity	•					•	Low	Refer to footnote 215.
25	Care and wellbeing	•					•	Low	

THE GOVERNANCE FRAMEWORK FOR THE 2004 RECOMMENDATIONS

Recommendation Number	Type of Recommendation	Solutions			Acceptance			Risk Rating	Comment
		Short term < 1yr	Medium term < 3yrs	Long term > 3yrs	Agreed	Disagreed	Partial		
26.	Care and wellbeing	•			•			Low	
27.	Staffing issues		•				•	Moderate	
28.	Care and wellbeing	•			•			Implemented, no further risk.	
29.	Racism, Aboriginality and Equity	•			•			Low	
30.	Care and wellbeing	•			•			Low	
31.	Administration and accountability of DOJ	•				•			
32.	Care and wellbeing	•			•			Low	
33.	Rehabilitation	•			•			Moderate	
34.	Rehabilitation		•		•			Low	
35.	Rehabilitation		•				•	Moderate	
36.	Care and wellbeing	•			•			Low	
37.	Custody and security	•			•			Low	Refer to footnote 264
38.	Staffing issues	•					•	Moderate	
39.	Administration and accountability of DOJ			•	•			Moderate	
40.	Administration and accountability of DOJ		•		•			Moderate	

Appendix 4

INSPECTION TEAM

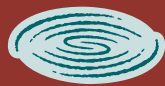
Mr Bob Stacey	Acting Inspector
Mr Peter Upton-Davis	Manager of Inspections and Research
Ms Leonie Sinclair	Inspections & Research Officer
Ms Suzie Ward	Inspections & Research Officer
Dr Jeannine Purdy	Inspections & Research Officer
Mr Joseph Wallam	Community Liaison Officer
Ms Diane Broadby	Manager Community Relations
Ms Sherry Armstrong	Expert Adviser (Ombudsman's Office)
Ms Dace Tomsons	Expert Adviser (Drug & Alcohol Office)
Ms Jocelyn Jones	Expert Adviser (Health Department)
Dr Peter Barrett	Expert Adviser (Health Department)

Following the on-site phase of the Inspection Professor Richard Harding, the Inspector, spent a week at Broome Prison and surrounding areas of the West Kimberley assessing the prison itself and consulting widely with relevant persons in the region.

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