

Investigation into the rehabilitation and reintegration
of prisoners in Victoria

September 2015

**Ordered to be published
Victorian government printer
Session 2014-15
P.P. No. 94**

Letter to the Legislative Council and the Legislative Assembly

To

The Honourable the President of the Legislative Council

and

The Honourable the Speaker of the Legislative Assembly

Pursuant to sections 25 and 25AA of the *Ombudsman Act 1973*, I present to Parliament my report into an *Investigation into the rehabilitation and reintegration of prisoners in Victoria*.



Deborah Glass OBE
Ombudsman

16 September 2015

Contents

Foreword	2
Executive summary	4
Investigation scope and methodology	10
The prisons landscape	12
Pressures on the justice system	17
Impact on the justice system	24
Other consequences	29
Links between disadvantage and offending	32
Over-representation	34
Prison services and support	36
Assessment and case management	36
Offending behaviour programs	48
Alcohol and other drug programs	56
Mental health treatment and support	60
Education, skills and training	63
Prisoner groups with particular needs	73
Aboriginal and Torres Strait Islander prisoners	74
Cognitive disability	87
Women	94
Young adult prisoners	97
Transition, pre- and post-release support	102
Role of family support in the transition process	121
Support provided by Corrections Victoria	124
Alternative approaches	129
Links between prison and reoffending	129
Current efforts to reduce recidivism	131
Experience in other jurisdictions	136
Implications for Victoria	142
Conclusions	145
Diversion programs	146
Sentencing, parole and bail	147
Improving prisons	147
Support for prisoner groups with particular needs	150
Pre- and post-release support	152
Recommendations	153
Acronyms	158

Foreword

*The first prison I ever saw had inscribed on it
CEASE TO DO EVIL: LEARN TO DO WELL;
but as the inscription was on the outside,
the prisoners could not read it.*

George Bernard Shaw

This year, for the first time, the cost of our prison system will exceed \$1 billion. This reflects the massive growth in the prison population in the past five years. As prisons have become more crowded, the response has been to build more of them.

While conditions inside prisons deteriorate under pressure, the rate of return is increasing. Given the cost of the burgeoning population behind bars, there is a justifiable view that prison is, as former British Home Secretary Sir Douglas Hurd put it, 'an expensive way of giving the public a break from offenders, before they return to commit more crimes'.

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

Debate about the effectiveness of prisons in reducing crime and contributing to community safety has raged since the days when prisons were seen as a more civilised alternative to hangings or transportation to the colonies. And prisons have long been a concern of the Victorian Ombudsman. Sir John Dillon, the first Ombudsman, said in his first annual report, 40 years ago: 'I was surprised at the large number of complaints which I received from prisoners'.

It is no longer surprising. If the role of the Ombudsman is to address the imbalance of power between the individual and the state, that imbalance is at its most stark when people are deprived of their freedom by the state.

Add to this the Charter of Human Rights and Responsibilities Act, which gives my office a specific function to investigate human rights breaches. One of those rights is to humane treatment when deprived of liberty.

In this investigation I was not seeking to, and indeed could not, investigate the wider criminal justice system, but it is simply not possible to look at the effectiveness of rehabilitation and reintegration of prisoners in Victoria without considering the social context.

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

The reasons for the increase in numbers and cost are many, including increased rates of reoffending and legislative changes affecting parole, sentencing and bail. The focus of my investigation was the consequence of that increase on the prospects for rehabilitation. The evidence is plain that heightened pressure on the system has resulted in reduced access to programs and services – unsurprisingly, accompanied by a rise in reoffending.

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

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

There is good practice, both within and outside our prisons, but it's a patchwork of measures in a mix of locations. Why are they not more available across Victoria?

The effects of increasing pressure within the system are particularly apparent in some social groups. Although both women and Aboriginal and Torres Strait Islander prisoners represent a comparatively small percentage of the prison population, their numbers are growing at a greater rate. Few women in custody are serious violent offenders, most have caring responsibilities, many are the victims of violent relationships and offend under the influence of drugs or to support drug use. Specific services within prisons are limited, so the solutions must lie in alternatives to incarceration and greater support, including transitional support and housing.

Similarly, for Aboriginal and Torres Strait Islander prisoners, targeted programs and services are limited and constantly under pressure. Given the weight of evidence of the level of disadvantage and their over-representation in custody, there is a compelling case for more action. As Aboriginal and Torres Strait Islander Social Justice Commissioner Mick Gooda has pointed out, it is shameful that we do better at keeping Aboriginal people in prisons than we do in schools.

Recidivism rates are highest among young people aged 18 to 24, with over half returning to prison within two years, thus setting up a cycle of offending that may well remain unbroken through a lifetime. Despite a demonstrable effect on recidivism rates, Victoria has only one dedicated youth unit, housing 35 of the 751 young offenders in adult prisons. Interventions targeted towards young offenders – through diversion or within the prison system – provide a significant opportunity to break the cycle before it becomes entrenched.

Corrections Victoria has recently embarked on a substantial program of reform to address shortcomings in its assessment and case management of prisoners, and to validate the efficacy of programs. It is working with other agencies to provide better post-release support.

Many of these developments began during this investigation; while I encourage and support those initiatives, it is too soon to evaluate their effectiveness.

There are valuable lessons to be learned from the experience of other jurisdictions in Australia and overseas. Even parts of the United States, which incarcerates more people than anywhere else, have adopted a 'justice reinvestment' approach, diverting funds from prisons to initiatives designed to reduce offending. A New Zealand initiative is on target to reduce reoffending by 25 per cent, already resulting in thousands of fewer victims. Extrapolating this experience to Victoria would mean not only fewer victims, but potential savings of hundreds of millions of dollars a year from the corrections budget.

While this investigation focussed on Corrections Victoria, it is patently clear that long-term solutions do not lie within the walls of our prisons or with a single government department. The successful innovations elsewhere have come as a result of a concerted whole-of-government response. The state needs a comprehensive approach – across the justice system, education, health and housing – to focus on the causes of crime rather than its consequences. Offenders need to be dealt with in ways that make it less likely they will reoffend – through alternatives to imprisonment where appropriate, or through a prison system with a greater focus on rehabilitation. The community too, must play its part in supporting reintegration.

This issue is no longer at the margins. It has profound implications for public safety, the state's economy and the sort of society we create. While the public is understandably horrified by violent crime, we cannot keep pouring public funds into a correctional system that is not making us safer. If we continue in this way, current trends in both prisoner numbers and cost mean it will not be long before we have to make hard decisions between prison beds or hospital beds, better schools or more security.

Deborah Glass
Ombudsman

Executive summary

1. In July 2014, I announced that I was investigating rehabilitation and transitional services for prisoners in Victoria. My investigation was prompted by the growth in prisoner numbers, concerns with rates of reoffending, and the spiralling cost to the Victorian community. The correctional system is also the subject of more complaints to the Ombudsman than any other government agency. With the strain on prison resources, the question of whether the system is working to reduce reoffending becomes even more important.

Increase in prisoners

2. Over the last five years, the number of recorded crimes has increased by just over 20 per cent. However, more crime does not alone explain the increase in prisoner numbers. Imprisonment rates have grown faster than the increase in recorded crime; legislative change has resulted in fewer parole orders being granted, suspended sentences being abolished and bail procedures being tightened.
3. In the four years between 2009 and 2012, the Victorian prison population rose by just under 11 per cent. In the subsequent three years, this growth more than doubled to 25 per cent. The new Ravenhall Prison, with an initial capacity of 1,000, is due to open in 2017, but on current projections, Victoria's prisons will again be at capacity by 2019.
4. Victoria's prison doors are rotating faster than at any time in recent history. Year on year improvements in Victoria's recidivism rate between 2001-02 and 2009-10 were reversed over the following five years, with the recidivism rate¹ now at a high of 44.1 per cent.

5. There are also growing numbers of prisoners in custody eligible for parole but choosing not to apply. They leave prison on 'straight release', without having completed the programs that might have addressed offending behaviour and without any supervision in the community. Meanwhile, others want to participate in rehabilitation programs but cannot get access and are consequently unable to obtain parole.
6. The number of people on remand has also soared, accounting for nearly one quarter of all prisoners – almost doubling since 2011.
7. The impact of the increased use of Community Correction Orders, following a guideline judgement by the Court of Appeal in December 2014, is one positive factor.

Increasing cost

8. The cost of the prison system continues to spiral. Since 2011, the budget for correctional services in Victoria has risen by 31 per cent to \$1.04 billion. And this excludes a further \$670 million committed to the construction of the new Ravenhall Prison and the estimated \$1.6 billion required to operate it for the following 25 years.
9. Much of the corrections budget is capital expenditure – building, expanding and refurbishing prisons. If the projections provided to my investigation come to pass, substantial capital outlays will continue to be required to maintain the status quo. The average prisoner now costs the Victorian taxpayer around \$270 a day or \$295,168 over their average sentence of three years' imprisonment.

¹ The rate of return of prisoners discharged from prison following a sentence, who return within two years of release.

Links between disadvantage and imprisonment

10. The profile of Victorian prisoners is clear and consistent: their disadvantaged backgrounds are evident in the demographics and statistics.
11. A quarter of Victoria's prisoners come from just 2 per cent of the state's postcodes and half from just 6 per cent. High school completion rates are negligible: 6 per cent for men and 14 per cent for women. The average prisoner was unemployed at the time of committing the offence and has a history of substance abuse. Many female prisoners have a history of abuse, and over 40 per cent are homeless upon release. Children of prisoners are six times more likely to be imprisoned than their peers. Mental illness and cognitive disabilities are also common.
12. As one witness put it:

... for the most part prisons have become warehouses ... In reality, Corrections Victoria and Justice Health will never be able to find enough funding to cope with the complexity of these [people]. Upon release, they return to homelessness and re-entry to prison is a pretty good option when you have a clean bed, three meals, a job and your mates! The difficulty of re-assimilation into an unwelcoming community is overwhelming for [people] who are suffering severe anxiety with depression, from years of trauma and incarceration.

Prison services and support

13. Over 99 per cent of prisoners in Victoria will be released, so imprisonment is only a temporary solution. Supporting prisoners to address their offending behaviour and to prepare them for successful reintegration requires intervention, both within prison and after release. The evidence shows there is ample opportunity to provide this support far more effectively.

Case management

14. Effective case management is key to improving rehabilitation prospects in prison. This is presently done by a prison officer with dual responsibilities: developing a plan for addressing a prisoner's needs, and maintaining the security and good order of the prison. There is considerable evidence of problems within this model, including a lack of continuity and consistency and variable quality, so other approaches should be considered.

Offending behaviour programs

15. Although all sentenced prisoners are, in principle, eligible to participate in a range of programs, there are significant delays at all points, from screening to program delivery, resulting in long waiting lists. In April 2015, more than two-thirds of serious violent offenders had not been screened or assessed for programs within the required timeframe.
16. Despite representing nearly a quarter of the prison population, remandees have very limited opportunities to access programs to address their offending behaviour. This is a lost opportunity for early intervention.
17. Although much research supports the proposition that programs can be effective in reducing recidivism, it is not possible to confidently state how effective any individual program is. Despite programs being delivered for many years there has not, until recently, been any evaluation of their effectiveness. Corrections Victoria has now commissioned the Australian Institute of Criminology to evaluate core programs, including violence and sex offender programs. This will provide a much-needed evidence base to promote effective rehabilitation.
18. Additional funding has now been provided for offending behaviour programs, however there are still significant waiting lists.

Alcohol and other drug programs

19. The links between problematic substance use and offending are strong: over 75 per cent of men and at least 83 per cent of women in prisons report previous illicit drug use. The provision of effective alcohol and other drug (AOD) programs is therefore a key component in changing a prisoner's behaviour.
20. There are long waiting lists for AOD programs, which prisoners are often required to complete before they will be considered for parole.
21. The effectiveness of prison-based AOD programs is only fully tested once the participant is released back into the community. Yet transitional support services for prisoners with substance abuse issues are inadequate and community-based support services for former prisoners are limited.

Mental health

22. Forty per cent of the Victorian prison population has been assessed as having a mental health condition, ranging from psychotic disorders to depression and anxiety. Failure to properly treat a prisoner's mental health condition during their imprisonment will have a significant effect on their rehabilitation and ability to reintegrate into the community.
23. Specialised mental health beds are available for prisoners with severe conditions requiring intensive treatment, however the number of beds across the system is very limited. There are significant wait times for prisoners to be transferred from prison to the single hospital for involuntary treatment that cannot be provided in prisons. Despite a recent boost to funding, demand is still unlikely to be met.

Education, skills and training

24. It is well established that a prisoner's prospects for successful rehabilitation are improved if they are able to work after release. Less than 14 per cent of prisoners have completed secondary schooling and it is clear that low literacy and numeracy is widespread. Prison is a good opportunity to address this and I understand there will be compulsory education assessments for prisoners from 2016 – a welcome development.
25. Offering prisoners the opportunity to train or retrain is a valuable use of time and resources, however our prisons regularly fail to meet benchmarks for the education and training they have committed to. In addition, the range of options is further constrained as there is no individual access to online learning. Despite a number of other jurisdictions providing prisoners with controlled access to online learning, this is not available to Victorian prisoners.

Prisoner groups with particular needs

26. Some groups in our community are significantly overrepresented in the prison population.

Aboriginal and Torres Strait Islander people

27. Victoria has the fastest rate of increase in Aboriginal and Torres Strait Islander imprisonment in the country.
28. Despite Aboriginal and Torres Strait Islander people making up only 0.7 per cent of the state's population, they represent nearly 8 per cent of prisoners. They are also more likely than the general prison population to return to prison, with a recidivism rate of 55 per cent, compared to the overall rate of 44.1 per cent.

-
29. The number of staff providing ongoing welfare, advocacy and support to Aboriginal and Torres Strait Islander prisoners requires review. In one prison, a single officer was responsible for supporting 99 prisoners.
 30. Corrections Victoria offers a number of cultural programs designed specifically for Aboriginal and Torres Strait Islander prisoners. The efficacy of these programs was well supported, however they are not run consistently across all prisons.

Cognitive disability

31. A recent study estimated that 42 per cent of male and 33 per cent of female prisoners show evidence of an acquired brain injury (ABI). Corrections Victoria however does not systematically record the ABI status of prisoners. There is no consistent process to identify, assess or support this group of vulnerable prisoners, and a significant shortage of specialist beds for them.

Women

32. Between 2008 and 2013, the number of women imprisoned in Victoria increased by more than double that of the male prison population.
33. Women prisoners have a distinctly different profile from their male counterparts; for example:
 - women are generally serving shorter sentences for less serious crimes
 - many women are victims of sexual, physical and/or emotional abuse
 - women are more likely to have caring responsibilities.
34. When I started my investigation, there was no program delivered to women prisoners to address violent offending and access to offending behaviour programs generally was limited. Corrections Victoria has now taken measures to address these issues.

35. Despite recognition of the specific needs of women prisoners, they do not have the same options as men for a staged transition through security levels to assist with their preparation for release.

Young prisoners

36. While young adults under 25 years of age make up a relatively small percentage of the prison population, their rate of recidivism is higher, and the impact of that cycle can be significant for community safety.
37. Victoria has only one dedicated youth unit, at Port Phillip Prison, which has achieved good results in reducing recidivism. However it has capacity for 35 of more than 700 prisoners under 25 at any one time and is only available to first time, male prisoners. There is no equivalent unit for young female prisoners.

Transition, pre- and post-release support

38. The evidence is strong that transitional support for prisoners is effective: 10.4 per cent of prisoners discharged from Victoria's single transitional facility return to prison within two years compared to 44 per cent of all prisoners. However this option is only available to male prisoners and is limited to 25 places.
39. In the community, around 20 per cent of prisoners get any form of post-release support through Corrections Victoria. Only 1.7 per cent have access to housing through the two state government programs specifically for former prisoners. This can have a profound effect on women who return to violent or offending environments or go homeless upon release. Hundreds of former prisoners are on waiting lists for alcohol and drug support and mental health services in the community. Employment opportunities are limited, and the current requirements of parole reporting can affect job prospects.

Alternative approaches

40. My investigation identified a number of alternative justice and sentencing approaches being implemented in specific Victorian courts that are achieving positive results by reducing reoffending. These include:
- the Drug Court in Dandenong: 34 per cent reduction in reoffending within 24 months
 - Koori Courts operating in Melbourne and regional Victoria: reduction in recidivism among Koori defendants
 - the Court Integrated Services Program in Melbourne, Sunshine and the Latrobe Valley: almost \$2 million in avoided costs of imprisonment per annum
 - the Assessment and Referral Court List at the Melbourne Magistrates' Court for people with mental illness or cognitive impairment: an estimated benefit of between \$2 and \$5 for every dollar spent
 - the Neighbourhood Justice Centre Collingwood: 16.7 per cent reduction in reoffending within 2 years
 - Criminal Justice Diversion Program for first-time or low-risk offenders: 94 per cent of participants successfully completed the program
 - the CREDIT/Bail Support Program: 2.5 per cent of participants who successfully completed this program received a custodial sentence, compared to 30 per cent of non-participants.
41. The funding available for these programs has been very limited when compared to the spending in the corrections system more broadly. In light of their effectiveness, consideration should be given to extending them to more courts throughout Victoria.
42. There are also international examples that Victoria should examine. Justice reinvestment, where government spending is diverted from prisons and invested in projects to reduce offending, has been successfully implemented in a number of jurisdictions including the United States. While the comparisons are not direct, there are elements of this approach worth considering.
43. Reducing recidivism has been the focus in New Zealand and Singapore, where whole-of-government responses have had a significant impact.

Conclusions

44. The current system is not sustainable. We are witnessing spiralling numbers of prisoners and higher rates of return than ever before. Throughout this investigation, my officers have observed areas of good practice and good intent across the criminal justice system, but the rapid growth in numbers of people in the system and behind bars has overwhelmed the capacity to deliver consistent and effective rehabilitation or reintegration for prisoners.
45. One of the results of the significant increase in prisoner numbers is that many are not able to access rehabilitation programs or adequate support while they are imprisoned and less than a quarter are provided with post-release support.
46. Over 99 per cent of prisoners will be released back into the community, so programs and services that improve outcomes make sense both in terms of public safety and the public purse.
47. While there are many reasons people reoffend and return to prison, it is evident that insufficient access to rehabilitation and reintegration programs has a significant bearing on the likelihood of returning.

-
48. Although there is some good practice across the justice system in diversion, rehabilitation and reintegration, these are often uncoordinated, as well as demographically, geographically and financially constrained. A whole-of-government approach is needed to shift the focus: to reduce offending and recidivism and to promote the rehabilitation of offenders. This requires a common intent and set of shared objectives across justice agencies, health, education and housing, and stronger links to community service organisations.
 49. Reducing imprisonment rates will inevitably require an increase in funding for a number of years, until the results of new measures are realised. However, over time there should be substantial savings for the Victorian community, both financially and in terms of community safety.

Investigation scope and methodology

50. My investigation examined the effectiveness of rehabilitation and transitional services for prisoners in Victoria, including:
- rehabilitation program provision
 - pre-release transitional services
 - the provision of services for prisoners with particular needs
 - post-release services.
51. This investigation focused on:
- whether these services are effective in reducing recidivism
 - the impact of increasing prisoner numbers on services
 - whether there are any particular groups within the prisoner population which are not being adequately supported.
52. In October 2014 I released a discussion paper outlining the emerging concerns and issues that my investigation had identified to that point². The discussion paper posed a number of questions in seven key areas:
- assessment of prisoners
 - case management
 - rehabilitation programs for prisoners
 - preparing prisoners for release
 - post-release support
 - Aboriginal and Torres Strait Islander prisoners
 - women prisoners.
53. In the discussion paper, I called for written submissions from people with experience of the justice system in response to both the questions raised in the paper, and on the issue of rehabilitation and reintegration in general. I received a total of 34 submissions from a variety of sources, including current and former prisoners, advocacy groups, professional organisations, community service providers and academics.
54. In addition to addressing the matters raised in the paper, a number of submissions identified further issues including:
- an increased need for rehabilitation and reintegration efforts for young prisoners (aged 18-25), noting that they are overrepresented in the recidivism figures³
 - the need for greater support for prisoners with underlying drug and alcohol issues, mental health issues, acquired brain injuries and cognitive disabilities
 - a whole-of-government approach addressing the drivers of crime and improved early intervention strategies, rather than a focus on in-prison programs and services only.
- These were subsequently added as major areas within the scope of my investigation.
55. In the course of this investigation, my officers:
- conducted numerous visits to private and public maximum, medium and minimum security prisons in Victoria; the Judy Lazarus Transition Centre; and the Specialised Offender Assessment and Treatment Service

² Victorian Ombudsman, *Investigation into the rehabilitation and reintegration of prisoners in Victoria: Discussion paper*, October 2014.

³ Department of Justice, *Who returns to prison? Patterns of recidivism among prisoners released from custody in Victoria in 2002-2003, 2007*.

-
- reviewed legislation, procedural and policy documents
 - took evidence from more than 70 witnesses and stakeholders including male and female prisoners, custodial staff, advocacy group representatives, legal services, prison chaplains, contract service providers including offender program staff and university researchers
 - examined documentation and material obtained from the Department of Justice and Regulation, including Corrections Victoria and Justice Health; the Victorian Coroners Court; the Sentencing Advisory Council; the Department of Health and Human Services; contract service providers and witnesses
 - reviewed complaints made to my office from prisoners (both current and former), family members of prisoners, members of the public, advocacy groups and contract service providers.
56. Professor Richard Harding, Emeritus Professor of the University of Western Australia's Crime Research Centre and former Inspector of Custodial Services in Western Australia, provided assistance to my investigation as an advisor.
57. I am reporting my opinion and the reasons to the Minister and the Secretary of the Department of Justice and Regulation under section 23(1)(g) of the *Ombudsman Act 1973*. The administrative action to which the investigation relates is the effectiveness of decision making processes of the Department of Justice and Regulation and Corrections Victoria as they relate to the rehabilitation and reintegration of prisoners.
58. This report does not include adverse comments about individuals. In accordance with section 25A(3) of the *Ombudsman Act 1973* I advise that any people who are identifiable, or may be identifiable from the information in this report, are not the subject of any adverse comment or opinion and:
- I am satisfied that it is necessary or desirable in the public interest that the information that identifies or may identify those persons be included in this report
 - I am satisfied that identifying them will not cause unreasonable damage to their reputations, safety or wellbeing.

The prisons landscape

Reforms to sentencing, bail and parole legislation have had a significant impact on Victoria's prison population, and the justice system as a whole.

These changes have resulted in more people going to prison for longer periods. It has also seen a reduction in the number of people being granted parole and an increase in people remanded without bail.

These changes have resulted in an increased prison population and attendant rise in spending on the corrections sector.

Victoria recorded its highest ever prison population of 6,506 in January 2015. While this has fallen the population is still projected to reach 8,300 in June 2019.

Key facts:

- 25.8% increase in Victoria's prison population between 2012 and 2014
- 31% increase in Corrections Victoria budget to \$1.04bn in the five years to 2015
- 71% increase in the number of bail application hearings at the Magistrates' Court between 2010-11 and 2013-14
- 118% increase in the number of recorded 'breach of bail' offences between January 2012 and December 2014.

59. Correctional systems are subject to constant pressure, review and change, and the Victorian system is no different. During the course of my investigation Corrections Victoria has introduced a number of new initiatives and roles relevant to the rehabilitation and reintegration of prisoners.
60. The majority of these changes have taken effect between late 2014 and mid-2015, after the release of my discussion paper and preliminary views in October 2014. These changes relate to key areas of interest in my investigation such as the prisoner risk and needs assessment process, case management, support for transition back into the community and the evaluation of programs to address the reasons behind a prisoner's offending behaviour.
61. In a number of instances, the changes introduced by Corrections Victoria have been significant enough to make detailed analysis of the previous arrangements redundant and any assessment of the new approach premature. Two to three years of operation will be required before meaningful evaluation can be undertaken.
62. I discuss these changes in more detail in the relevant sections of my report, and have notified Corrections Victoria of my intention to revisit the implementation and effectiveness of a number of these in due course.

Structure

63. Corrections Victoria is the business unit of the Department of Justice and Regulation responsible for the implementation of court judgments and orders made by the Adult Parole Board. It sets policies and procedures for the management of Victoria's correctional facilities. It also develops rehabilitation programs for prisoners and offenders on community-based supervision.

-
64. Corrections Victoria's stated purpose is:
 ... to contribute to safer communities by delivering a safe, secure and humane correctional system.
 ...
 We do this through our offender management practices, actively engaging with offenders and the community to promote positive behavioural change and address social disadvantage.
65. Across Victoria there are 11 public and two private prisons, as well as one transitional centre. Two prisons are for women and the remainder for men.
66. Across the men's prisons, there are:
- four maximum security prisons
 - one medium/maximum security prison
 - three medium security prisons
 - three minimum security prisons.
67. The Melbourne Assessment Prison is a maximum security facility providing statewide assessment and orientation services for all male prisoners.
68. Of the two women's prisons, the Dame Phyllis Frost Centre is maximum security and Tarrengower is minimum security.
69. There is only one dedicated transition centre for prisoners in Victoria. The Judy Lazarus Transition Centre is a secure residential facility for up to 25 selected male prisoners nearing the end of their sentences. It provides them with a supervised pathway back into the community through an intensive case management model. There is currently no dedicated transition centre for female prisoners.
70. Construction of a third private prison, Ravenhall Prison, is expected to be completed in 2017 and will increase Victoria's prison capacity by a further 1,000 beds, with the flexibility to increase its capacity by a further 300.

Increase in prisoner numbers and recidivism

71. In the four years between 2009 to 2012, the Victorian prison population rose by just under 11 per cent. In the subsequent three years between 2012 and 2014, this growth more than doubled to 25 per cent.
72. Complaints from prisoners are the highest single category received by my office. In 2014-15 they numbered 2906. The issues raised by prisoners and people on remand cover a wide range of concerns, including access to rehabilitation and reintegration programs.
73. There is also increasing community debate about the impact of these rises on reoffending rates, and the cycle of crime and punishment.
74. In 2014, the ratio of prisoners in Victoria per 100,000 adult population was 134.4, an increase of nearly 11 per cent on the rate recorded in 2013⁴. Over the same period, the population of Victoria has grown by less than 8 per cent⁵.
75. On 31 January 2015, Victoria recorded its highest ever prisoner population of 6,506. Since that time the population has slightly receded, but as of 30 June 2015, there were 6,182 prisoners in Victoria as shown in Table 1⁶.

4 Australian Bureau of Statistics, *Prisoners in Australia 2014*, Victoria.

5 Australian Bureau of Statistics, *Australian Demographic Statistics, Estimated Resident Populations, States and Territories (Number)*, Victoria. Comparison of September 2009 and September 2014 figures.

6 Corrections Victoria, *Daily Prisoner and Police Cells Report for Tuesday 30 June 2015*.

Figure 1: Victoria's prison locations

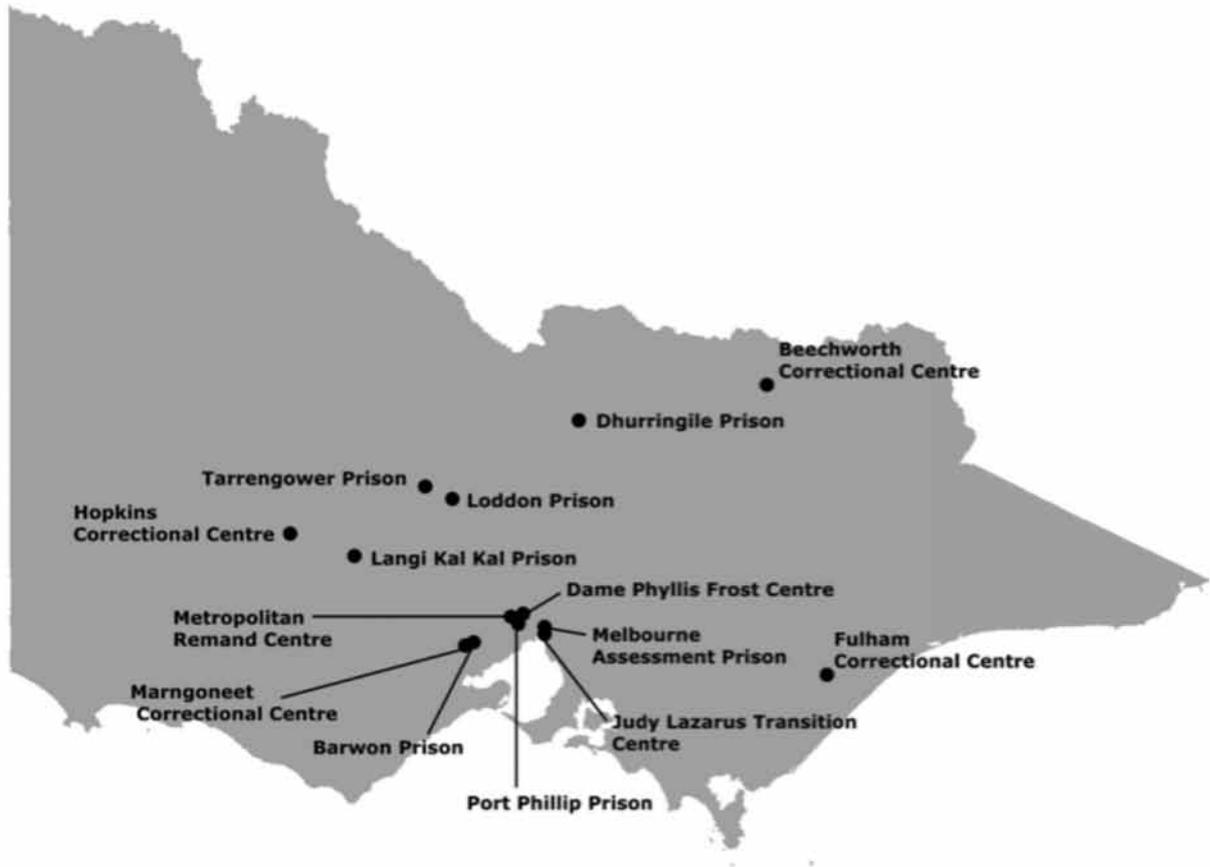
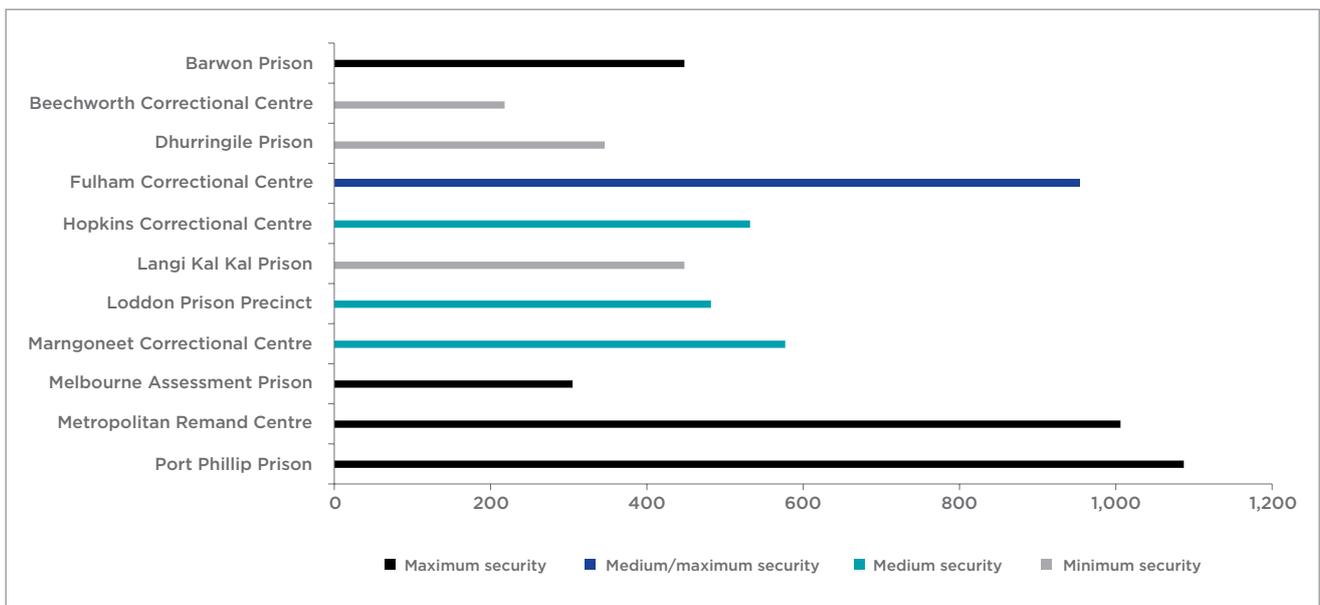
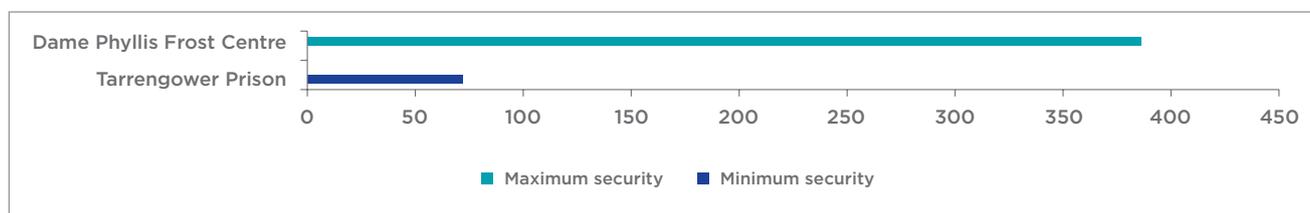


Figure 2: Victorian male prison capacities - 30 June 2015



Data source: Corrections Victoria.

Figure 3: Victorian female prison capacities – 30 June 2015



Data source: Corrections Victoria.

	Male prisoners	Female prisoners	Total
Sentenced	4,476	293	4,769
Unsentenced	1,286	127	1,413
Total	5,762	420	6,182

Data source: Corrections Victoria.

Male prisoners	
Total	5,762
As a percentage of the overall prison population	93%
Female prisoners	
Total	420
As a percentage of the overall prison population	7%
Aboriginal and Torres Strait Islander prisoners	
Total	480
As a percentage of the overall prison population	8%

Data source: Corrections Victoria.

76. In my October 2014 discussion paper I noted that Corrections Victoria's projections at that time were for the prisoner population to reach 7,169 by 30 June 2015. This has not been realised, however Corrections Victoria's revised 2014 projections still anticipate Victoria's prison population to be at least 8,300 – and possibly as high as 8,600 – by June 2019.

77. Ninety-three per cent of Victoria's prisoners are male. The male imprisonment rate is 256.2 prisoners per 100,000 male adult population. Female prisoners are incarcerated at a much lower rate than men, at 17.5 prisoners per 100,000 female adult population⁷.

⁷ Australian Bureau of Statistics, *Prisoners in Australia 2014, Victoria*.

-
78. The rate of imprisonment for Aboriginal and Torres Strait Islander adults in Victoria is almost 11 times higher than the rate of non-Indigenous adults, according to age standardised data⁸.
79. Correctional agencies, both nationally and internationally, monitor the number of prisoners who have been released after serving a prison sentence and return to the prison system to serve a further sentence. This measurement is often referred to as the 'recidivism rate', and usually involves the measurement of return to prison within a set time period.
80. Corrections Victoria defines recidivism as the percentage of prisoners discharged from prison, following a sentence, who return to prison within two years of their release. In my discussion paper, I referred to the reoffending rate, which is the percentage of people who return to prison at any time in their lives. In 2013 this was 51 per cent.
81. An examination of national recidivism rates over the last 15 years shows that while Victoria has never had the lowest rate in the country, between 2001-02 to 2009-10 the state's recidivism rate was trending down.
82. During this period Victoria consistently recorded year on year improvements, resulting in an overall decline in the state's recidivism rate of 8.8 per cent, and a low of 33.7 per cent in 2009-10. These reductions have however been reversed in the subsequent five years. Between 2009-10 and 2014-15, Victoria's recidivism rate has risen by 10.8 per cent, to 44.1 per cent⁹, with a 5.5 per cent increase in twelve months since 2013-14.
83. Overall there is only a slight variance between the recidivism rates of men (44.4 per cent) and women (41.2 per cent)¹⁰.
84. The rates of recidivism amongst Aboriginal and Torres Strait Islander prisoners are higher. According to the *Victorian Government Aboriginal Affairs Report 2013*, 50.3 per cent of Aboriginal prisoners in Victoria returned to prison within two years of release¹¹ and in 2013-14 that had risen to 55 per cent¹².
85. Incarcerating people is expensive. The average cost to keep a prisoner in a Victorian prison per day is \$269.56¹³ or \$98,389 per year. The average sentence length for a Victorian sentenced prisoner is three years¹⁴. On this basis, the average cost per prisoner sentence to the Victorian community is \$295,168.
86. Although the average sentence length in Victoria is three years, more than a quarter of Victoria's prisoner population, or 26.2 per cent¹⁵ are serving a sentence of less than one year.
87. The rates of reoffending therefore not only have a negative impact on community safety, but also result in a significant cost to the public purse.

8 Australian Bureau of Statistics, *Prisoners in Australia 2014*, Victoria.

9 Department of Justice and Regulation, email response to Victorian Ombudsman, 21 August 2015.

10 Department of Justice and Regulation, email response to Victorian Ombudsman, 21 August 2015.

11 State Government Victoria, *The Victorian Government Aboriginal Affairs Report 2013*, page 10.

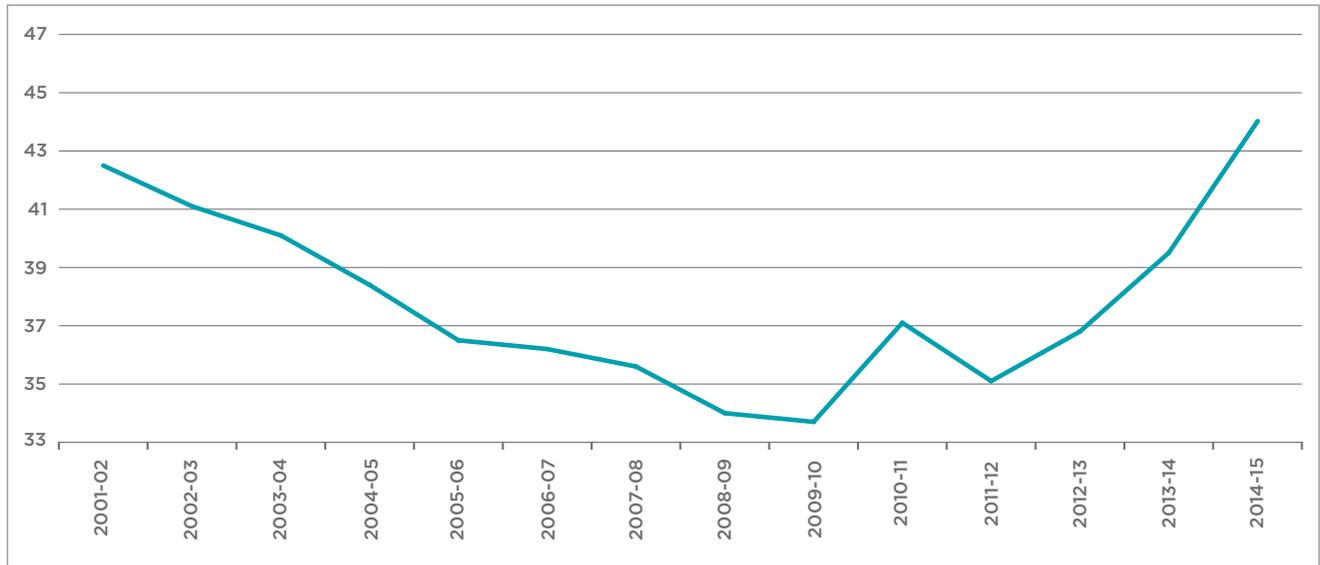
12 Corrections Victoria, *Review of the Koori Education, Training and Employment Strategy January 2015*.

13 Australian Government, *Report on Government Services 2015*, Justice, Chapter 8 Corrective Services, page 2, Table 8A.34.

14 Australian Bureau of Statistics, *Prisoners in Australia 2014*, Victoria, Table 23, Sentenced Prisoners, state/territory and most serious offence by sentence length, page 2.

15 Corrections Victoria, *Key statistics on the Victoria Prison system 2009-10 to 2013-14*, Table 6 Historical Trends all prisoners as at 30 June 2014, page 12.

Figure 4: Prisoners released in Victoria who return to prison under sentence within two years (%)



Data from 2001-02 to 2012-13 is from the Productivity Commission's *Report[s] on Government Services*. Data for 2013-14 is from the *Victorian Budget 2014/15*. Data for 2014-15 is from Corrections Victoria.

Pressures on the justice system

88. While the primary focus of my investigation is on rehabilitation and reintegration programs, services and support provided to prisoners during their sentence, it is relevant to take into account the drivers behind the significant increase in Victoria's prison population.

Prison funding

89. Since 2011, the budget allocation for correctional services in Victoria has risen by 31 per cent, from \$714.8¹⁶ million to \$1.04 billion. The capital expenditure for Victoria's prisons also rose considerably in the four years between 2009-10 and 2013-14. This expenditure, which includes the construction, expansion and refurbishing of prisons, has risen by nearly 25 per cent, from \$596.9 million in 2009-10, to \$794.2 million in 2013-14.

¹⁶ Australian Government, *Report of Government Services 2015, Corrective Services*, combining 'expenditure and capital costs total net operating expenditure and capital costs' from table 8A.36 (page 3) and total net operating expenditure and capital costs from table 8A.33 (page 3).

90. These figures do not include the costs of the new Ravenhall Prison, which is expected to be completed in 2017. To date the Victorian Government has committed to contributing nearly \$670 million in capital costs and a further \$1.6 billion in running costs over the next 25 years¹⁷ to this new prison.

The relationship between crime rates and prisoner numbers

91. Table 3 shows there has been an increase of just over 20 per cent in the number of criminal offences recorded in Victoria over the last five years, at an average of 4.9 per cent per year. This followed a 10-year low in the number of offences recorded in 2009.
92. The offence rate per 100,000 adult population has risen by just under 12.8 per cent, at an average of 3.1 per cent per year, over the same period.
93. While the increase in the number of recorded offences is 20 per cent, Victoria's prison population has risen by 25.8 per cent over the same period¹⁸.
94. There are likely to be a number of reasons for this steady increase. The introduction in Victoria of an additional 1,700 front line police officers and several hundred protective services officers since late 2010 is likely to be a significant contributor, as more police generally means more reported crime.

Parole reforms

95. Between 2012 and 2013 the adult parole system in Victoria was subject to a number of reviews, including by the Sentencing Advisory Council and another headed by former High Court Justice the Hon Ian Callinan QC (the Callinan review).
96. The Callinan review was commissioned in May 2013 by the Victorian Government. This review was precipitated by several widely publicised, high profile, violent crimes resulting in death where the Victorian Adult Parole Board had either granted parole to an offender, or where no action had been taken following an offender's breach of parole.
97. The Callinan review resulted in a report with 23 recommendations intended to improve the operation of the adult parole system in Victoria. All recommendations were accepted and have had a significant impact on the number of prisoners being released on parole.
98. The Callinan review identified a category of 'potentially dangerous parolees' made up of serious violent offenders and serious sex offenders. The report recommended that these parolees should only be granted parole if:
- ... they can satisfy the Parole Board, taking as paramount the safety and protection of the community, to a very high degree of probability that the risk of reoffending is negligible, and that they are highly likely to satisfy the conditions of parole to which they are likely to be made subject¹⁹.

Table 3: Criminal offences recorded in Victoria 2010-14

	2010	2011	2012	2013	2014	2013-14 % change
Number of offences	378,082	386,061	423,555	437,409	456,381	4.3%
Population	6,923.2	6,971.4	7,519.8	7,621.2	7,808.6	2.5%

Data source: Corrections Victoria.

¹⁷ The Hon Daniel Andrews MP, Premier, *Media Release - Work Begins on Victoria's Newest Prison*, 12 February 2015.

¹⁸ Crime Statistics Agency Victoria, *Recorded offences, March 2015* <www.crimestatistics.vic.gov.au> viewed on 8 September 2015.

¹⁹ Mr Ian Callinan, *Review of the parole system in Victoria*, July 2013.

99. This measure reverses the presumption that had applied to the administration of parole: that parole should be granted at the eligibility date unless there was some compelling reason not to do so. Following the government's acceptance of the Callinan review, from 1 April 2015 the onus is now on the prisoner to make an application for parole to be considered.
100. A second important recommendation of the Callinan review was that no prisoner considered a 'potentially dangerous parolee' should be granted parole if he or she has not undertaken programs which either the Court or Corrections Victoria 'has ordered or directed or believes should be taken, even if the prisoner has to await their availability'. These programs can include anything from general drug, alcohol and violence programs, to programs which target specific behaviours.
101. While the most significant measures from the Callinan review did not take effect in legislation until July 2014 and April 2015, the outcomes recorded in the Adult Parole Board's 2013-14 annual report showed a number of changes in its decision making, including:
- a 96.2 per cent increase in the number of parole orders denied
 - a 36 per cent decrease in the number of parole orders made
 - a 38.3 per cent decrease in the number of requests for review of parole accepted
 - a 143.6 per cent increase in the number of requests for review of parole rejected²⁰.

Sentencing reforms

102. A number of legislative changes have been introduced in the last three years affecting the sentencing options available in Victoria's courts which has also had an impact on the increase in the state's prisoner numbers.

Suspended sentencing and Community Corrections Orders

103. Suspended sentences were introduced in Victoria under the *Sentencing Act 1991*. A suspended sentence is a term of imprisonment that is fully or partially suspended for a specified period. During the suspension, the offender is able to continue living in the community on the condition that he/she does not commit a further offence that, if found guilty, would be punishable by imprisonment. Other conditions can also be imposed. Where an offender is found guilty of having committed an offence whilst subject to a suspended sentence, the original suspended sentence will be activated on top of any new sentence.
104. While the courts had the option of applying a partially suspended sentence, research conducted by the Victorian Sentencing Advisory Council found that between 2008 to 2012, approximately 90 per cent of suspended sentences issued in the Magistrates' Court of Victoria were wholly suspended²¹.
105. In addition to the parole reforms outlined above, legislation was introduced in 2013 that initially restricted and then abolished the use of suspended sentencing in Victoria for all offences committed on or after 1 September 2014.
106. Table 4 shows that prior to their gradual abolition, suspended sentences were regularly used as a sentencing option by the courts, and at a rate that was consistently higher than imprisonment.
107. The number of suspended sentences peaked at 8,209 in 2009-10. In 2012-13, the financial year prior to their full abolition, there were 5,695 wholly and partially suspended sentences imposed by Victorian courts, compared to 5,670 prison sentences.

20 Adult Parole Board of Victoria, *2013-14 Annual Report*.

21 Sentencing Advisory Council, *Community Corrections Orders Monitoring Report*, February 2014, page 27.

Table 4: Select sample of sentencing outcome in Victorian courts

Sentencing outcomes	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
Imprisonment	4,392	4,517	4,510	4,407	4,497	5,042	4,481	4,729	5,670
Intensive correction order*	1,293	1,325	1,576	1,597	1,597	1,779	1,630	663	0
Wholly and partially suspended sentence	6,561	6,165	6,031	6,802	7,762	8,209	7,416	5,885	5,695
Community-based order/Community Corrections Order	4,995	4,800	4,502	4,456	4,929	5,018	4,780	5,681	6,898
Dismissal	1,008	854	1,842	3,288	3,264	2,484	3,603	4,180	5,057

* Replaced by Community Corrections Orders in January 2012.

Data source: Sentencing Advisory Council, *Sentencing Outcomes in the Higher Courts and Sentencing Outcomes in the Magistrates' Court*.

108. Community Corrections Orders (CCOs) were introduced as a sentencing option in Victoria in January 2012. The purpose of the CCO is to provide a non-custodial sentencing option that is more flexible than the suite of different community-based orders that were in place prior to the introduction of the CCO²². The key differences between the CCO and the orders it replaced include the ability for courts to:

- impose CCOs for longer durations in the higher courts
- order a higher number of unpaid hours of community work
- attach a greater range of conditions to address the specific circumstances of the offender²³.

109. According to Corrections Victoria modelling, of the offenders who, prior to September 2014, might have received a wholly suspended sentence:

- 41 per cent of offenders are likely to now be placed on a CCO

- 21 per cent are likely to be sentenced to imprisonment, either as a standalone sentence or in combination with a CCO
- another 37 per cent are expected to receive an outcome referred to as 'other', which according to advice from Corrections Victoria:

... refers to all other court sentencing outcomes. This would largely comprise of fines (the highest volume outcome comprising more than half of all principal proven outcomes in the Magistrates' court), but could also include adjourned undertakings, adjournment for diversion plans and cases proven and dismissed by the court²⁴.

110. For example, conditions set by a magistrate as part of a CCO might require an offender to undertake a set number of hours of community work, undergo treatment for drug and alcohol use, stay away from a particular person and/or place, and accept supervision or management by Corrections Victoria.

111. As of June 2014, Victoria's community-based corrections rate of 211.4 people per 100,000 adults was the lowest in Australia, compared to the national average of 309.8 per 100,000 adults (refer to Figure 5)²⁵.

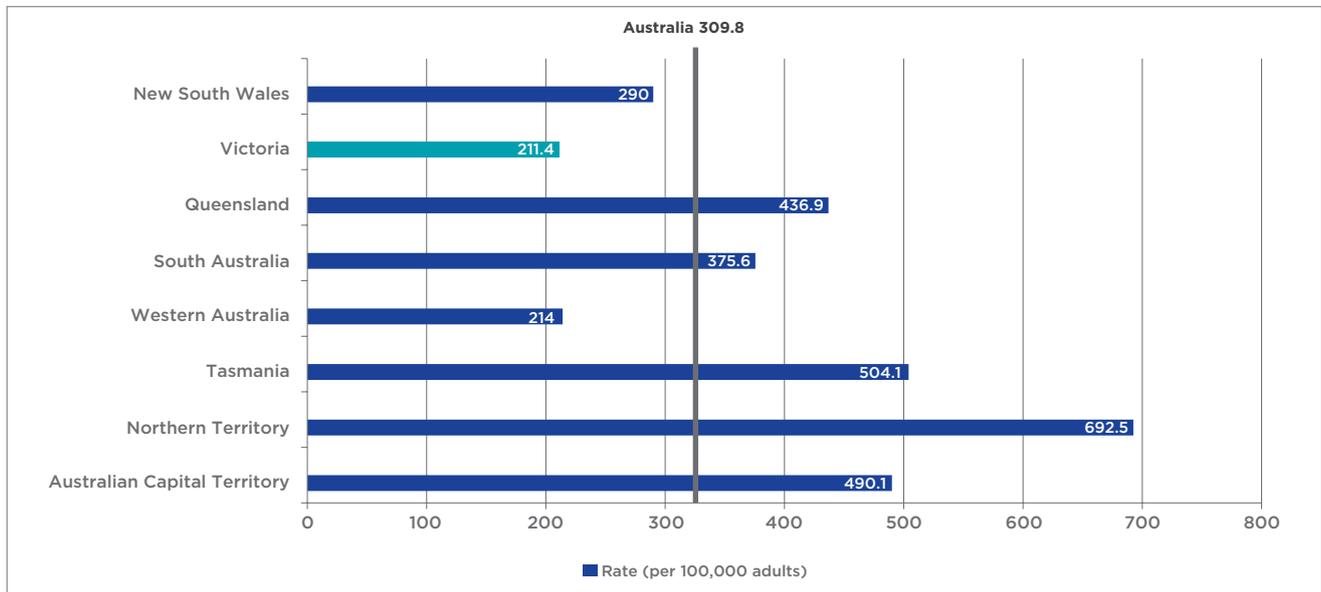
22 The non-custodial orders available prior to January 2012 were: Community-Based-Orders (CBOs), Intensive Correction Orders (ICOs) and Combined Custody and Treatment Orders (CCTOs).

23 Sentencing Advisory Council, *Community Corrections Orders Monitoring Report*, February 2014, page 7.

24 Corrections Victoria, email from Forecasting and Statistical Analysis Branch to Victorian Ombudsman, 4 May 2015.

25 Sentencing Advisory Council, *Sentencing Statistics, Community-based Corrections Orders*, 2014.

Figure 5: Use of Community Corrections Orders in Australia*



*The rate of people serving community-based corrections orders in each Australian state and territory. Data source: Sentencing Advisory Council, June 2014.

112. Corrections Victoria projects that the use of CCOs as a sentencing option in Victorian courts is likely to rise significantly over the next four years. This projected increase can largely be attributed to two factors:

- the abolition of suspended sentencing on 1 September 2014
- the Guideline Judgement of the Supreme Court of Victoria in December 2014 for the use of CCOs by sentencing judges²⁶.

113. The Court pointed out, in this judgement, the adverse effects of incarceration:

The challenge for sentencing courts in the early years of the CCO regime will be to re-examine the conventional wisdom about the types of offending which ordinarily attract a term of imprisonment ...

When ... a court has to consider whether to send a young person to gaol for the first time, it has to take into account the likely adverse effects of a gaol sentence.

A distinct possibility, particularly if the sentence is a long one, is that the person sent to gaol will come out more vicious, and distinctly more anti-social in thoughts and deed than when he went in. His own personality may well be permanently impaired in a serious degree. If he could be kept in gaol for the rest of his life, it might be possible to ignore the consequences to society, but he will re-enter society and often while still quite young. His new-found propensities then have to be reckoned with. A substantial minority of persons who serve medium or long gaol sentences soon offend again²⁷.

...
Time and again, courts are told that correctional authorities are simply not adequately resourced to provide the sorts of facilities which are essential if those in prison – many of whom have very serious psychological and behavioural problems – are to be meaningfully rehabilitated and assisted so that, when they are released, they will have some real prospect of reintegration into the community²⁸.

²⁶ Supreme Court of Victoria – Court of Appeal, *James Boulton v The Queen; Benjamin James Clements v The Queen; John Thomas Fitzgerald v The Queen* [2014], 22 December 2014.

²⁷ *R v Dixon*, quoted in *Boulton v The Queen; Clements v The Queen; Fitzgerald v The Queen* [2014], VSCA 342 (22 December 2014).

²⁸ *DPP v Anderson*, quoted in *Boulton v The Queen; Clements v The Queen; Fitzgerald v The Queen* [2014], VSCA 342 (22 December 2014).

114. The results of a review into the use of CCOs by the courts in the first three months of 2015 would appear to be consistent with these projections, with an additional 418 orders being issued between January and March²⁹.
115. Offenders who receive a CCO in lieu of, or in combination with, a prison sentence are monitored in the community by Corrections Victoria's Community Corrections division.

Baseline sentencing

116. On 5 August 2014 the Victorian Parliament passed the *Sentencing Amendment (Baseline Sentences) Act 2014*. This Act, which took effect in relation to offences committed after 2 November 2014, introduced median sentences for seven specific offences. These offences relate to serious violent and serious sexual offences, including murder, sexual abuse of a child, as well as commercial drug trafficking.
117. In its September 2014 report³⁰, the Sentencing Advisory Council calculated that the new baseline sentences represented an increase of between three and a half and seven and a half years above the average prison sentences that had been applied to such offences in the previous five years.
118. In relation to the likely impact of the introduction of baseline sentencing, the Supreme Court of Victoria in its 2013-14 Annual Report said the following:

... the Sentencing Amendment (Baseline Sentencing) Bill 2014 ... will require courts to impose jail sentences according to 'baselines' across the range of sentences available to judges in criminal matters. This model of sentencing will pose varied challenges for the Division in the administration of criminal justice.

Such reforms are likely to impact on the sentencing discretion that the law commits to judges, the Court's approach to non-parole periods, the interplay between head sentences and non-parole periods, the classification of the seriousness of offences during plea hearings. Fixed sentences and the removal of sentencing considerations of mitigating circumstances may also increase the disincentive to plead. These likely flow on effects include an increased prison population and correction[s] costs, less guilty pleas, and increased delays and greater complexities in both trial and sentencing phases.

119. The increase in duration of the average sentences for these offence types necessarily results in a number of prisoners remaining in prison for longer.

Changes to the bail process

120. When police arrest a person they must either release that person or take them before a bail justice of the Magistrates' Court within a reasonable time. If it is not practicable to bring the person arrested before a court within 24 hours, the police cannot refuse to release them on bail unless they consider that there is an 'unacceptable risk' that they will:
- fail to appear
 - commit an offence
 - endanger someone's safety or welfare
 - obstruct the course of justice.
121. This presumption in favour of bail does not apply where the accused is charged with certain serious offences, such as murder, charges related to trafficking, cultivating or importing/exporting large quantities of drugs and terrorism related offences.

²⁹ Corrections Victoria response to Victorian Ombudsman enquiries *Monthly registered CCOs by court, 2014-15 year to date (July 2014 to March 2015)*, 24 April 2015.

³⁰ Sentencing Advisory Council, *Calculating the Baseline Offence Median Report*, table 1, page 1.

Table 5: Applications relating to bail heard at Victorian Magistrates' Courts 2009–2014*

Application type	2009-10	2010-11	2011-12	2012-13	2013-14
Application for bail	14,150	14,162	16,791	20,118	24,248
Application for bail variation	6,919	7,321	8,251	9,307	9,954
Application for revocation of bail	1,675	1,673	2,251	2,693	3,447

* Magistrates' Court of Victoria, 2013-14 Annual Report, page 80.

122. There has been a significant increase in the number of bail applications heard by the Magistrates' Court over the last four years. Between 2010-11 and 2013-14 the number of applications heard at the Magistrates' Court has risen by over 10,000, representing an increase of over 71 per cent.
123. The Supreme Court of Victoria also recorded a 20 per cent increase in bail hearings in 2013-14 compared to the previous financial year³¹.
124. Alleged offenders for non-serious offences need only apply to a Magistrate for bail if police have declined to release them once charged. As noted earlier, one of the factors Victoria Police must consider when deciding whether to release someone on bail is whether the alleged offender can be brought before a court within 24 hours. Alleged offenders who have not been granted bail by police are held on remand until their application for bail can be heard by a Magistrate, and will remain in the prison system on remand should their application not be successful. This again contributes to the overall prisoner population.
125. The increased bail hearings before the Magistrates' Court shows that there has been a substantial decrease in the exercise of police discretion to release people on bail.
126. Like parole and sentencing, a number of legislative reforms were introduced to bail procedures in 2013 that have resulted in more offences and an increase in the prison population³². These changes include new offence codes which:
- make it an offence to contravene certain bail conditions
 - make it an offence to commit an indictable offence whilst on bail
 - require further bail applications to be heard by the same magistrate or judge who heard the previous application, if it is reasonably practicable to do so
 - generally require an accused to give the informant and the prosecution notice of further applications for bail or applications for variation of bail conditions three days before the hearing of the application.
127. In addition, on 1 September 2015 the Victorian Government announced that it would introduce new laws relating to serious sex offenders, including laws that:
- Create a presumption against bail under the *Bail Act 1977* for any serious sex offender on a supervision order who is charged with any indictable offence, including a non-sexual one³³.

31 Supreme Court of Victoria, 2013-14 Annual Report, page 45.

32 *Bail Amendment Bill 2013* amendments to the *Bail Act 1977*.

33 The Hon Daniel Andrews MP, Premier, *Media Release - New reforms tighten net on serious sex offenders*, 1 September 2015.

128. According to figures published by the Victorian Crime Statistics Agency, there has been a 118 per cent increase (or 9,752 offences) in the recorded number of 'breach of bail' offences since the introduction of the new offence codes under the *Bail Act 1977*. In the explanatory notes the Crime Statistics Agency stated that:

This increase was the result of the introduction of new offences codes under amendments to the Bail Act 1977, which came into effect in December 2013... Additionally, in April 2013 another two new offence codes for breaches of family violence orders came into effect under amendments to the Family Violence Protection Act 2008, leading to a 26.7 per cent (5,606 offences) increase in the number of breaches of family violence orders in 2014. The increase in Breaches of orders was almost entirely comprised of counts against these new offences³⁴.

129. According to figures from the Sentencing Advisory Council, over 40 per cent of people who are found guilty of committing these offences are imprisoned³⁵.

130. As Table 6 shows, between 2009 and 2014 these new offences and a 37 per cent increase in 'failure to answer bail' have resulted in higher numbers entering the prison system³⁶.

131. The net impact of the changes to bail, sentencing and parole is a higher number of people in Victorian prisons for longer.

Impact on the justice system

Prison capacity

132. There are various definitions and descriptions as to what the capacity of a prison system is and what constitutes overcrowding. Corrections Victoria refers to 'operational capacity'. The Department of Justice and Regulation sets operating parameters for Corrections Victoria to manage the prisoner population.

133. In the past this rate has generally been set to within 90 to 95 per cent utilisation of the prison system's operational capacity³⁷, however in 2014-15 this rate was raised to 90-97 per cent, seemingly in acknowledgement of the increase in prisoner numbers. The department has advised that these parameters will return to 90-95 per cent for the 2015-16 financial year.

134. As Table 7 shows, Victoria's prison population exceeded this upper threshold of 95 per cent utilisation of prison capacity in nine of the 15 months between March 2013 and July 2014, peaking at 97.7 per cent in the second quarter of 2013-14.

135. The utilisation rate has eased since July 2014, as a result of an additional 751 beds in operational capacity, from 6,342 to 7,093 in December 2014, and an increase of 1,202 beds over 2013-14.

³⁴ Victorian Crime Statistics Agency, *Alleged Offender Incidents, year ending 31 December 2014*.

³⁵ Sentencing Advisory Council, *SACstat as at 5.6.15 - s 30B - commit an indictable offence while on bail (42.8 per cent imprisonment rate), and s 30A(1) - contravene a conduct condition of bail (41.5 per cent) imprisonment rate*.

³⁶ Victoria Police, *Offences recorded by offence code 2004/05-2013/14*, 2014.

³⁷ Victorian Auditor-General, *Prison Capacity Planning*, November 2012, page ix.

Offence type	2009-10	2010-11	2011-12	2012-13	2013-14
Fail to answer to bail	5,332	5,011	6,859	7,075	8,577
Contravene a conduct condition of bail	N/A*	N/A*	N/A*	N/A*	1,422
Commit indictable offence whilst on bail	N/A*	N/A*	N/A*	N/A*	2,104

* Offence type not introduced until 2013.
Data source: Victoria Police, 2014.

	Q2 2013-14	Q3 2013-14	Q4 2013-14	Q1 2014-15	Q2 2014-15
Average number of prisoners	5,753	5,876	6,039	6,249	6,422
Average operational capacity	5,891	6,102	6,342	6,688	7,093
Utilisation rate (%)	97.7	96.3	95.2	93.4	90.5

* Corrections Victoria, *Public Prisons Service Delivery Outcomes (SDO) 2nd Quarter Report October - December 2014 report*, Page 4; *Port Phillip Prison Service Delivery Outcomes (SDO) 2nd Quarter Report October - December 2014*; and *Fulham Prison Service Delivery Outcomes (SDO) 2nd Quarter Report, October to December 2014*.

136. On 31 March 2015 there were 6,386 prisoners, and this, combined with an increase in operational capacity to 7,228 in April 2015³⁸, resulted in a utilisation rate of around 88 per cent. This is the lowest it has been for a number of years largely as the result of significant new investment. As noted earlier, capacity is expected to increase by a further 1,000 to 1,300 beds once the new Ravenhall Prison is completed in 2017.

137. In its 2014 Prisoner Projections, Corrections Victoria estimated that Victoria's prison population will grow by a further 2,158 prisoners by 30 June 2019, taking the total population to around 8,300. These projections also acknowledge however that this growth could be higher – as much as a further 462 prisoners by 30 June 2019, which would take the overall population to around 8,575, exceeding the anticipated capacity at this time.

Remand numbers

138. Alleged offenders held in prison before and during criminal trials by order of a court are described as on remand. Remandees are required to be kept separate from sentenced prisoners³⁹. An alleged offender is remanded in custody by a court if they:

- have not applied for bail
- have been refused bail
- cannot afford to pay the amount of money set by the court to be forfeited for failure to appear when required, or nominate another person to pay this money on their behalf
- are unable or unwilling to meet the conditions set out in the bail bond.

139. Male remandees are generally held on remand at one of two prisons, the Metropolitan Remand Centre or the Melbourne Assessment Prison. Female remandees are held at the Dame Phyllis Frost Centre.

38 As at 24 April 2015.

39 Corrections Victoria, *Public Prisons Service Delivery Outcomes April-June 2014 report*, page 10.

140. The number of remandees in Victoria's prisons is the area of most significant growth in the past four years, with the numbers nearly doubling since 2011. On 31 March 2015⁴⁰, 1,539 people, or 24 per cent of the Victorian prisoner population were being held on remand. In 2011 this figure was 18.5 per cent⁴¹, or around 896 prisoners⁴².

141. In advice provided to my office dated 1 June 2015, Corrections Victoria stated:

Recent times have seen considerable growth in prisoner numbers of which a significant contributor has been an increase in remandees. As at 8 April 2014, there were 996 unsentenced men and 98 unsentenced women in Victoria's prisons. The number of male unsentenced prisoners has increased by 19.9 per cent whilst for women there has been an increase of 21 per cent in the last 12 months. The drivers of this recent growth are attributed to an increase in remand receptions to over 1000 in 2012-13, equating to 150 additional unsentenced prisoners in the system at any one time⁴³.

142. According to figures published by the Australian Bureau of Statistics⁴⁴, 59 per cent of prisoners held on remand in Victoria in 2013-14 were detained in the prison system for up to three months. Around another 32 per cent are held on remand for between three months and one year, while nearly 9 per cent of prisoners are held on remand for one year or more.

143. Offenders are currently held on remand for an average of 9.1 months in relation to hearings at the Supreme and County Courts, and 2.2 months in relation to hearings at the Magistrates' Court⁴⁵.

144. In its 2010 report, *Young People on Remand in Victoria*, Jesuit Social Services pointed to research conducted in 2005 that found that around 40 per cent of remandees are either found not guilty or sentenced to a period equal to, or less than, the time they have already served on remand⁴⁶. While my investigation was unable to identify more recent Victorian based research on this issue, a 2012 NSW Law Reform Commission report made similar findings, identifying that 55 per cent of inmates on remand were released without conviction⁴⁷.

Safety risks associated with overcrowding

145. The link between overcrowding and the impact of the safety of prisoners and staff has been known for some time. Recently, Jesuit Social Services connected overcrowding with the riot at the Melbourne Remand Centre in June 2015. CEO Julie Edwards said:

Overcrowding means that there is more pressure on scarce shared facilities, such as open space, canteens, phones, libraries or gyms – all of which increases tensions and conflict.

In this context of overcrowding Victoria has become the state with the most violent prisons in Australia – with a prison officer assaulted every three days and fights between inmates a daily occurrence⁴⁸.

146. In his 2012 report, *Prison Capacity Planning*, the Victorian Auditor-General made the following observations:

40 Corrections Victoria, *Daily Prisoner and Police Cells Report for Tuesday 31 March 2015*.

41 Australian Bureau of Statistics, *Prisoners in Australia 2014*, Table 14: Prisoners, state/territory by selected characteristics, 2004-2014.

42 Out of a total of 4,737 prisoners.

43 Corrections Victoria response to Victorian Ombudsman enquiries, 15 May 2015.

44 Australian Bureau of Statistics, *Prisoners in Australia, 2014*, Table 30: Unsented Prisoners, time on remand by state/territory.

45 Australian Bureau of Statistics, *Prisoners in Australia, 2014*, Table 33: Prisoners, state/territory and level of court by legal status and time on remand.

46 Jesuit Social Services, *Young People on Remand in Victoria, Balancing Individual and Community Interests*, 2010, page 20.

47 New South Wales Law Reform Commission, *Report 133, Bail*, April 2012.

48 Jesuit Social Services media release <www.jss.org.au/policy-and-advocacy/news/959-overcrowding-in-vic-prisons> viewed on 7 July 2015.

The increase in prisoner numbers and overcrowding within prisons and management cells has coincided with an increase in prisoner incidents over the past six years. The rate of serious incidents per prisoner, such as assaults, attempted suicides and self-mutilation, has almost doubled over this time.

147. More recently, my predecessor noted in his 2014 report into deaths and harm in custody that:

As a result of overcrowding, people detained in custody in Victoria face a greater risk of harm than at any time in the past decade. Prisoners are placed in overcrowded and at times substandard conditions with a risk of physical and sexual assault, and with limited access to appropriate health care services⁴⁹.

148. This link has been acknowledged by *Corrections Victoria in its Public Prisons Service Delivery Outcomes April-June 2014* report, where it is noted that:

... the number of assaults on staff in Q4 2013-14 remains higher than any quarter from previous financial years...

[Available data shows] a correlation between the number of assaults on staff for the public prison system and the capacity utilisation rate.

... over the long term there remains a correlation between occupancy rates and the number of prisoner-on-prisoner assaults across the system⁵⁰.

149. As indicated in these comments Corrections Victoria monitors the number of prisoner on prisoner assaults and prisoner assaults on staff or other people as part of its performance measuring process. These measures are referred to as Service Delivery Outcomes (SDOs), and each prison location is subject to monthly reporting against these which is then analysed by Corrections Victoria on a quarterly basis.

150. My investigation obtained copies of the quarterly reports for all public and private prison locations for the 15 months to March 2015. A review of these reports revealed the following:

- In December 2014 nearly half Victoria's public prisons⁵¹ were failing the performance measure for prisoner on prisoner assaults, while one prison was failing to meet the benchmark for assaults on staff or other persons by prisoners.
- In the July-September quarter 2014 three public prison locations failed to meet the benchmark performance standard in terms of prisoner assaults on staff or other persons.
- One private prison, Port Phillip, had failed to achieve the benchmark for prisoner on prisoner assaults every month for the six months between July and December 2014, recording 140 such incidents during that period⁵².
- Despite passing the benchmark for prisoner on prisoner assault in Q3 2014-15, the other private prison (Fulham) reported a large increase in the number of incidents from the previous quarter, from six incidents in Q2 2014-15 to 24 incidents in Q3 2014-15; a 300 per cent increase.

151. Separate figures produced in the 2015 *Report on Government Services* show that in 2013-14 the number of prisoner on prisoner assaults, serious assaults and prisoner on officer assaults recorded in Victoria was higher than the national average⁵³ and had risen sharply, more than doubling in five years⁵⁴.

49 Victorian Ombudsman, *Investigation into deaths and harm in custody*, March 2014, page 10.

50 Corrections Victoria, *Public Prisons Service Delivery Outcomes April-June 2014* report, page 8.

51 Equates to six of the 13 (46 per cent) of public prison locations monitored by Corrections Victoria.

52 Corrections Victoria, *Port Phillip Prison Service Delivery Outcomes (SDO) 2nd Quarter Report*, September to December 2014, page 8.

53 Australian Government, *Report on Government Services 2015, Corrective Services*, Table 8A.14, page 1. Results based on per 100 prisoners/detainees.

54 Australian Government, *Report on Government Services 2015, Corrective Services*, Table 8A.34, page 1, 0.85 (2009-10) to 1.98 (2013-14).

152. Similar outcomes are being seen in other Australian jurisdictions that have experienced significant recent growth in their prisoner populations. Queensland's prisoner population has seen a 20 per cent increase in the last three years and in the last two years the number of serious assaults there has doubled⁵⁵.

Use of court and police cells

153. My investigation identified that the changes to bail and parole legislation also had a significant effect on the number of prisoners held in custody by Victoria Police and the impact on the judicial process.

154. In his 2014 report on Prisoner Transportation, the Victorian Auditor-General noted that between July 2006 and January 2012, 'numbers in police cells generally averaged well below 100'⁵⁶.

155. The number of alleged offenders recorded in Victoria Police cells peaked at 372 on 18 November 2013, and was consistently between 200-330 in 2013-14, averaging 267 prisoners per day for the financial year. At most locations, prisoners can only be held in police cells for 14 days⁵⁷.

156. One of the consequences of this on Victoria Police cells and the prison system in general was a number of instances in 2013 where Corrections Victoria were unable to produce an accused offender to the courts upon request. In the Magistrates' Court of Victoria's *2013-14 Annual Report*, the Chief Magistrate said:

Since September 2013, the Court has experienced the rare circumstance that persons in custody were not produced at the Court in response to a remand warrant or gaol order ... This issue is a by-product of the increasing prison population.

157. In his 2014 report⁵⁸ the Victorian Auditor-General noted that:

Prior to August 2013 all prisoners were accepted by Victoria Police from Corrections Victoria for daily court appearances. However, between 1 September and 31 December 2013, 824 prisoners requested to attend court were not accepted by Victoria Police into court-located police cells. In these cases there was no spare capacity for prisoners attending court because of police cells being used to detain sentenced and remand prisoners.

158. In response, Victoria Police, the Magistrates' Court, and Corrections Victoria introduced a number of measures in late 2013 to deal with the significant demand in the court system. These initiatives included⁵⁹:

- weekend remand court – effective November 2013, the Melbourne Magistrates' Court commenced sittings on Saturdays and Sundays in order to deal with remand matters, and provide the accused with the earliest opportunity to apply for bail
- sittings in County Court buildings – the utilisation of the County Court premises for the sitting of two Magistrates' Court sessions per day as well as the use of the cells at the County Court, which in turn eased pressure on the Melbourne Custody Centre
- reactivation of cells at Ringwood Magistrates' Court – in order to reduce the number of alleged offenders unable to be brought to court at Ringwood.

159. These initiatives resulted in a further 2,450 hearings of the Magistrates' Court in just over six months⁶⁰. They also reduced the number of prisoners being held on remand in Victoria Police cells. As at 31 March 2015 there were 115 people held in Police cells across the state, 65 per cent lower than the same time in 2014 when there were 213 prisoners being managed in Victoria Police premises.

55 ABC Television, 7.30 Program, *Number of prisoners across Australia rising at unprecedented, unsustainable level*, 28 May 2015.

56 Victorian Auditor-General, *Prisoner Transportation*, June 2014.

57 Pursuant to Orders in Council signed by the Governor In Council under the *Corrections Act 1986* and published in the *Victorian Government Gazette*.

58 Victorian Auditor-General, *Prisoner Transportation*, June 2014, page 29.

59 Magistrates' Court of Victoria, *Annual Report 2013-14*, page 7.

60 *ibid*.

160. The Chief Magistrate noted in the 2013-14 Annual Report that the above measures:

coupled with the intense work of Court staff, have reduced the number of persons not produced; however, they have not eliminated the problem, [which] may intensify with the abolition of the suspended sentence of imprisonment on 1 September 2014⁶¹.

161. The impact of these changes to the justice system can also be quantified in other areas of the running of Victoria's courts. For example, in 2013-14 237,452 criminal cases were heard at the Magistrates' Court, a 26 per cent increase on the previous year.

162. Victoria Police has responsibility for the management and guarding of prisoners in its cells while they await transfer to correctional facilities. In May 2015 the Victorian Government announced an allocation of \$148.6 million to recruit and accommodate 400 custody officers to guard prisoners across 20 police stations and relieve Victoria Police of this responsibility, as part of the *2015-16 Victorian Budget*⁶².

Other consequences

Prisoners passing their earliest eligibility date

163. To be eligible for parole an offender must have received a sentence that includes a non-parole period. For example, a court may sentence an offender to a maximum 10 year term of imprisonment, with a 7-year non-parole period. Once the non-parole period expires, the prisoner is eligible to apply for parole, and this is known as an offender's Earliest Eligibility Date (EED).

164. Not all sentences include a non-parole period, including those:

- less than 12 months – a non-parole period is not set, therefore parole is not available
- between 12 and 24 months – the court is not required to but may decide to fix a non-parole period
- greater than 24 months – the court must set a non-parole period, unless the nature of the offence or the offender's history would make parole inappropriate.

165. As discussed above, the parole reforms require prisoners to apply to the Adult Parole Board (the Board) to be considered for parole, reversing the previous default position of automatic consideration for parole.

166. My investigation identified that as at 2 March 2015 there were 690 prisoners that had remained in the system past their EED. In explaining these figures, Corrections Victoria advised:

To put this figure into context, there are around 3,400 prisoners in custody who are serving a sentence with a non-parole period. Of the 690 past their EED on 2 March 2015, 493 (71 per cent) were SVOSOs [serious violent or sex offenders]. While only a handful had had their parole denied, the vast majority (76 per cent, or 525) had had a parole assessment completed by CCS [Community Corrections Services] in their current episode [period of imprisonment].

As you may be aware, with the reforms to the parole system it is harder for prisoners to be granted parole (particularly if they are a serious violent or sex offender) and there is not an expectation that the Adult Parole Board will release prisoners on their EED. The EED is certainly the date CV plans towards for release, but ultimately the Adult Parole Board may not choose to release the prisoners until they are satisfied that it is appropriate to do so⁶³.

61 Magistrates' Court of Victoria, *Annual Report 2013-14*, page 6.

62 The Hon Daniel Andrews MP, Premier, *Media release – Police back on the beat a boost for community safety*, 5 May 2015.

63 Email correspondence from Corrections Victoria, Forecasting and Statistical Analysis Branch to Victorian Ombudsman, 4 May 2015.

167. My office has received complaints in the last twelve months from prisoners who have either been unable to:

- get access to programs they have been required to undertake as part of their conditions for consideration for parole, such as offending behaviour programs, or alcohol and drug programs
- receive an assessment for program eligibility, in line with their parole requirements
- meet the conditions of their parole in a timely manner by the Board due to administrative delays with the transmission of paperwork between the Board and prisons
- secure housing that meets the requirements of the Board.

168. In a large number of these complaints, the prisoner's EED for parole had or was likely to pass before the matter was due to be resolved. In a number of cases, the EED of the prisoners involved had already expired several months beforehand.

169. The likelihood of prisoners not being able to access programs and therefore satisfy the requirements of the Board was anticipated by the Callinan review, as illustrated by the comments below:

If the programmes are not available, a prisoner may have to await their availability. There may be persons who are not PDPs [Potentially Dangerous Parolees] who nonetheless need some education or re-education before returning to the community. At the very least, all persons hoping for parole should behave well in prison to qualify for it. No Department of Government has unlimited resources⁶⁴.

170. The review also went on to recommend that:

No person, whether a PDP or otherwise, should be granted parole who has not undertaken programmes which either the Court, or Corrective Services has ordered or directed or believes should be taken even if the prisoner has to await their availability...

171. There is a distinction between prisoners who are unable to have an application granted by the Board around the time of their EED due to difficulties in accessing the required programs, and those where applications have been considered by the Board but have been denied.

Straight release without conditions or having completed programs

172. My investigation heard that a growing number of prisoners are choosing not to apply for parole upon eligibility, and instead are opting to complete their maximum sentence and to leave on straight release at the end of their sentences, without having completed programs, and not subject to any conditions or reporting requirements.

173. Several witnesses told my investigation about examples where prisoners found the new parole conditions to be too onerous, and would rather spend extra time in prison than be released on parole and risk the chance of breaching parole and being reimprisoned. A manager of a contracted service provider to Justice Health, told my investigation:

Some prisoners, our staff are telling us, are rejecting parole, so they're saying I've waited too long and I'm nearly out, it's too much, I'm not doing it. So we've got some of our high risk offenders, potentially not going through the parole process.

⁶⁴ Mr Ian Callinan, *Review of the parole system in Victoria*, July 2013.

174. The Managing Director of the provider reiterated these concerns. They said:

... I think the thing that concerns me most... is this new cohort of offenders that are saying stuff your parole, are likely to be more high risk, and they are going to be released into the community with no treatment, and with no supervision ... we've got a system that is potentially incentivising that ...

175. The manager of the service provider also raised concerns about prisoners, who had also received a CCO in combination with their prison sentence, opting out of in-prison treatment on the basis that they were required to undergo similar treatment in the community as part of the CCO. He said:

The new combined custodial orders or shandy type sentences where offenders have a term of imprisonment followed by a term of community corrections supervision with a treatment condition placed on them in the community. So they're coming in to prison, they've got the opportunity to do targeted treatment, it's available for them and they're saying I'm not doing it, because I have do it when I get out. And if I've got to do it when I get out then I'm not doing it in here. So they're rejecting the prison treatment model, they're sitting in prison often for short periods, and they get out, and when they get out the treatment options that they have are extremely limited.

176. One senior prison officer also raised concerns about the increased prevalence of straight release and the consequences of combined prison terms with CCOs being utilised by magistrates to address their concerns with the parole changes. The officer said:

Judges and Magistrates ... historically give maximum sentences and expect the minimum term is when someone will get parole. The Parole Board has sent the message loud and clear that minimum sentences mean nothing, EED's [earliest eligibility dates] mean nothing, it's the end date they are looking at and they will determine when someone gets out.

So Magistrates and judges ... have decided it appears ... that they don't like that, and so now they're setting straight release sentences with a Community Corrections Order following to ensure that someone will get out of jail when they say they should get out, not when the parole board says they should get out ... What that will mean in the long term ... is that there will be less and less and less parole terms, and the majority of those will be murderers or [those on] really long sentences ... and many many ... more Community Corrections Orders, being supervised by really inexperienced young staff who don't know what they're doing ... When a prisoner comes in on a sentence, they go through a system that determines what programs they should do. If they're on a straight sentence, technically they're not required to do any programs at all, and we're seeing more and more and more straight sentences.

...

The other thing that's happening is that prisoners are saying to the Parole Board 'I don't want my parole, stick it, I'm not doing it' ... [this is happening] because the Parole Board is making it almost impossible for anyone to get through their parole. You can be breached on an allegation, you can be breached on suspicion, you can be breached on a phone call made to the board by anybody expressing any sort of concern about this person ... because it is so easy to breach, they're saying 'well you know what, it's not worth it, I'd rather get out with nothing hanging over my head' ... [the] parole reforms, great in theory, but in practice, I don't think it's workable. I don't think they've thought it through very well, to actually see what it's going to be like in practice.

177. In response to my draft report, the Department of Justice and Regulation stated:

The 2015-16 Budget provided \$11.2 million in funding over four years for additional programs to meet court ordered conditions, and reduce re-offending targeting clinical and psycho-educational needs. This includes \$4.7 million in 2015-16 for one year of funding for alcohol or other drug treatment programs for the growth in offenders with an alcohol or other drug treatment condition attached to their order⁶⁵.

65 Corrections Victoria, response to draft report, 31 July 2015.

Links between disadvantage and offending

The relationship between disadvantage and imprisonment is clear. Half of Victoria's prisoners come from six disadvantaged postcodes.

Prisoners are far less likely to have finished school than the average Victorian and have dramatically higher rates of mental illness and acquired brain injury.

Prison experience is often multi-generational: the children of prisoners are six times more likely to be imprisoned than their peers⁶⁶.

Aboriginal and Torres Strait Islander people, already facing massive disadvantage, are overrepresented in Victorian prisons and their rate of imprisonment is growing at a faster rate than anywhere else in the nation.

Key facts:

- 48.5% of prisoners had two or more characteristics of serious disadvantage prior to admission to prison
- 63% of male prisoners and 45% of female prisoners were unemployed at the time they entered prison
- 40% of all Victorian prisoners have been identified as having a mental health condition
- prisoners are 10 to 15 times more likely to have a psychotic disorder than someone in the general community.

178. The links between disadvantage and imprisonment are well recognised. In its submission to my investigation the Victorian Council of Social Service stated that:

Victoria's prisoners are in the main, people who have faced great disadvantage. They have low rates of educational attainment, literacy and employment before entering prison. Many have histories of abuse, mental illness and substance use. Aboriginal prisoners, prisoners with disabilities and women prisoners in particular have multiple and complex layers of disadvantage. If these disadvantages are not addressed through individual targeted responses, it is more likely that these people will reoffend and return to prison, sometimes again and again.

179. The data highlighted on the left describes a cohort of significant and often multiple characteristics of disadvantage, and shows that offending and imprisonment is often intergenerational. A 2010 government report found that 48.5 per cent of prisoners in Victoria had two or more characteristics of serious disadvantage. The characteristics of 'serious disadvantage' are where the prisoner is or was prior to admission to prison:

- unemployed
- homeless
- identified as Aboriginal or Torres Strait Islander
- had a drug/alcohol status of abuse/offend/support
- identified as having an intellectual disability or are flagged as having had a psychiatric admission⁶⁷.

⁶⁶ Corrections Victoria, *2015-19 Prisoner Employment Pathway Framework*, page 9.

⁶⁷ State Government of Victoria, *Growing Victoria Together, Progress Report Service Delivery 2010-11*, Appendix B, page 433.

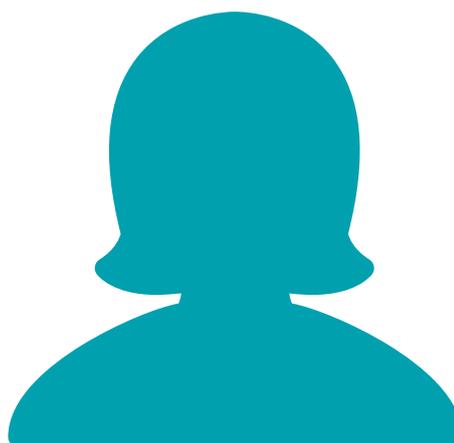
Profile of the average Victorian prisoner

The average male prisoner



- 35.5 years old
- born in Australia
- did not complete high school
- a history of alcohol and drug abuse
- single and unemployed at the time he entered the prison system
- sentence of three years in a medium security prison
- more likely than not to have been imprisoned previously

The average female prisoner



- 36 years old
- born in Australia
- single or in a de facto relationship
- likely to be a mother/primary care giver
- unemployed, home duties or on a pension before prison
- has a higher level of education than her male counterpart but still failed to complete high school
- sentence of less than two years
- likely to be in prison for the first time

180. While it appears that there is limited data on the link between homelessness and imprisonment in Victoria, national research⁶⁸ found that 35 per cent of prisoners recorded being homeless in the four weeks prior to being imprisoned. This number was even higher for women, with 52 per cent reporting that they were either 'sleeping rough' or in short term or emergency accommodation in the four weeks prior to being imprisoned.

Over-representation

181. Victoria's prison system has a disproportionate number of people from particular groups compared to the general community. Some of these are set out below.

Aboriginal and Torres Strait Islander people

182. Aboriginal and Torres Strait Islander people make up 0.7 per cent of Victoria's population⁶⁹ yet represent nearly 8 per cent of the state's prisoners⁷⁰. Aboriginal and Torres Strait Islander people are more likely than the general prison population to reoffend and return to prison, with a recidivism rate of 55 per cent⁷¹, compared to the overall rate of 44.1 per cent.
183. This over-representation of Aboriginal and Torres Strait Islander people in Victoria's prisons translates to a ratio of 1,435 prisoners per 100,000 adult population⁷², 11 times more than the rate of 129.8⁷³ for non-Indigenous prisoners.

In 2004 this rate was 670.8 per 100,000 adults⁷⁴, demonstrating the rapid growth over ten years⁷⁵, which is the fastest in the country.

Young people aged 18-25

184. People under 25 make up around 12 per cent of Victoria's prison population and are more likely to return to prison after release than older prisoners. In 2014-15 the recidivism rate for prisoners in Victoria under 25 years of age was 52.7 per cent⁷⁶, more than 8 per cent higher than the rate of 44.1 per cent for the general population.

People with an acquired brain injury

185. The rate of prisoners recorded as having an ABI is up to 20 times higher than in the general community. A 2011 study⁷⁷ showed that 42 per cent of male prisoners and 33 per cent of female prisoners had an ABI, compared with 2 per cent of the general Australian population.

Mental health conditions

186. On 31 March 2015, 40 per cent of prisoner in Victoria had been identified as having a mental health condition, two to three times higher than the reported rates in the general community. Prisoners are also 10 to 15 times more likely to have a psychotic disorder than someone in the general community⁷⁸.

68 Australian Institute of Health and Welfare, *The Health of Australia's Prisoners 2012*, page 27.

69 Australian Bureau of Statistics, *Census of Population and Housing – Counts of Aboriginal and Torres Strait Islander Australians*, 2011, June 2012.

70 Australian Bureau of Statistics, *Prisoners in Australia, 2014*, December 2014.

71 Corrections Victoria, Information Management and Evaluation Branch, *Review of the Koori Education, Training and Employment Strategy*, January 2015.

72 Australian Bureau of Statistics, *Prisoners in Australia, 2014*, December 2014.

73 *ibid.*

74 *ibid.*

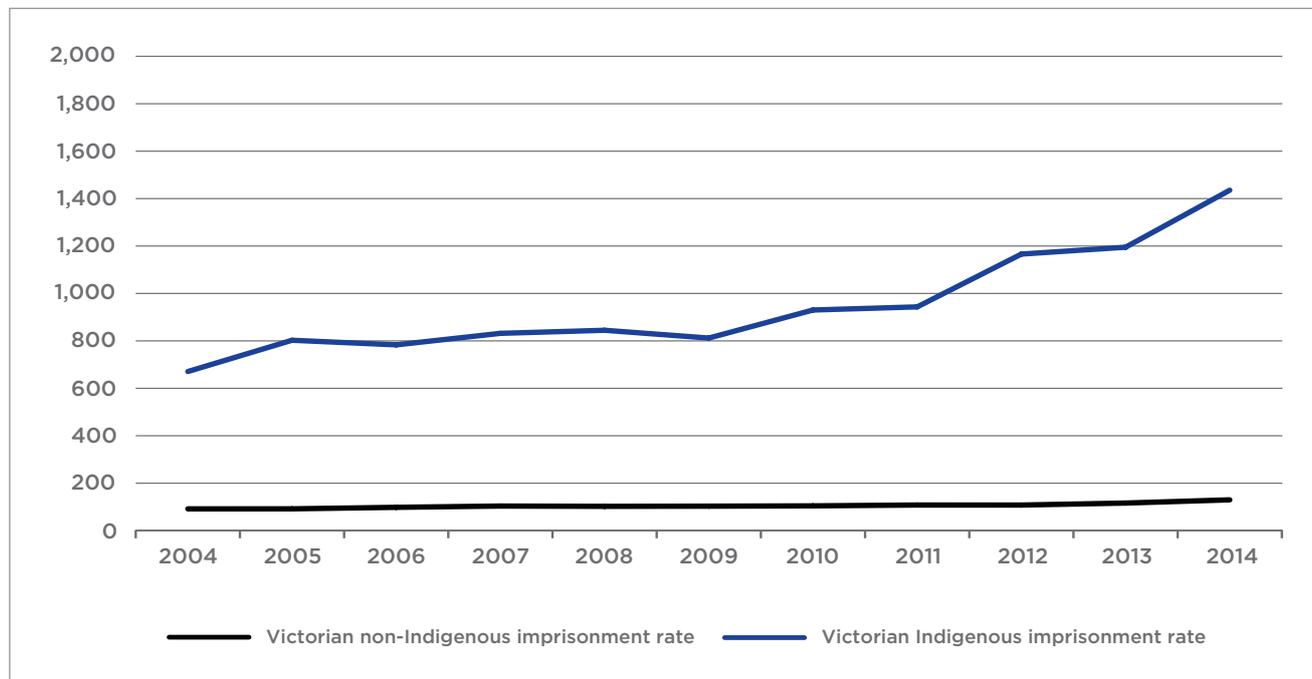
75 Australian Bureau of Statistics, *Prisoners in Australia, 2014*, Table 17, Age standard imprisonment rate, Indigenous status by state/territory, 2004-2014.

76 Department of Justice and Regulation, email to the Victorian Ombudsman, 21 August 2015.

77 Department of Justice, *Acquired Brain Injury in the Victorian Prison System*, Corrections Victoria Research Paper Series, Paper No. 04, 2011.

78 J.Ogloff, *Good mental health care in prisons must begin and end in the community*, The Conversation, 24 April 2015.

Figure 6: Indigenous and non-Indigenous age standardised imprisonment rates



Data source: Australian Bureau of Statistics, *Prisoners in Australia, 2014*, December 2014.

Prison services and support

Imprisonment is an opportunity to address the behaviour and issues that led to the prisoner being jailed and to work to prevent reoffending on release.

This outcome requires effective prisoner management and behaviour and education programs. Victoria's rising prison numbers make accessing programs difficult for those who need them most.

Prison staff play two roles in Victorian prisons: case managers and custodial officers. The current approach to case management is seen by many as inadequate.

The vast majority of Victorian prisoners reported having alcohol and other drug problems before they were imprisoned. Access to suitable rehabilitation programs is therefore vital, especially in a changing landscape of drug use.

Key facts:

- remand prisoners make up nearly 25% of the Victorian prison population but are unable to access many rehabilitation programs
- of prisoners who participated in alcohol and other drug programs, over 75% of male prisoners and at least 83% of female prisoners in Victoria reported previous illicit drug use
- methamphetamine (ice) use reported by prisoners in these programs has doubled from 20% to 40% in the last four years
- violent offences committed by drug users in this cohort have doubled in the last four years from 18.7% to 36.7%.

Assessment and case management

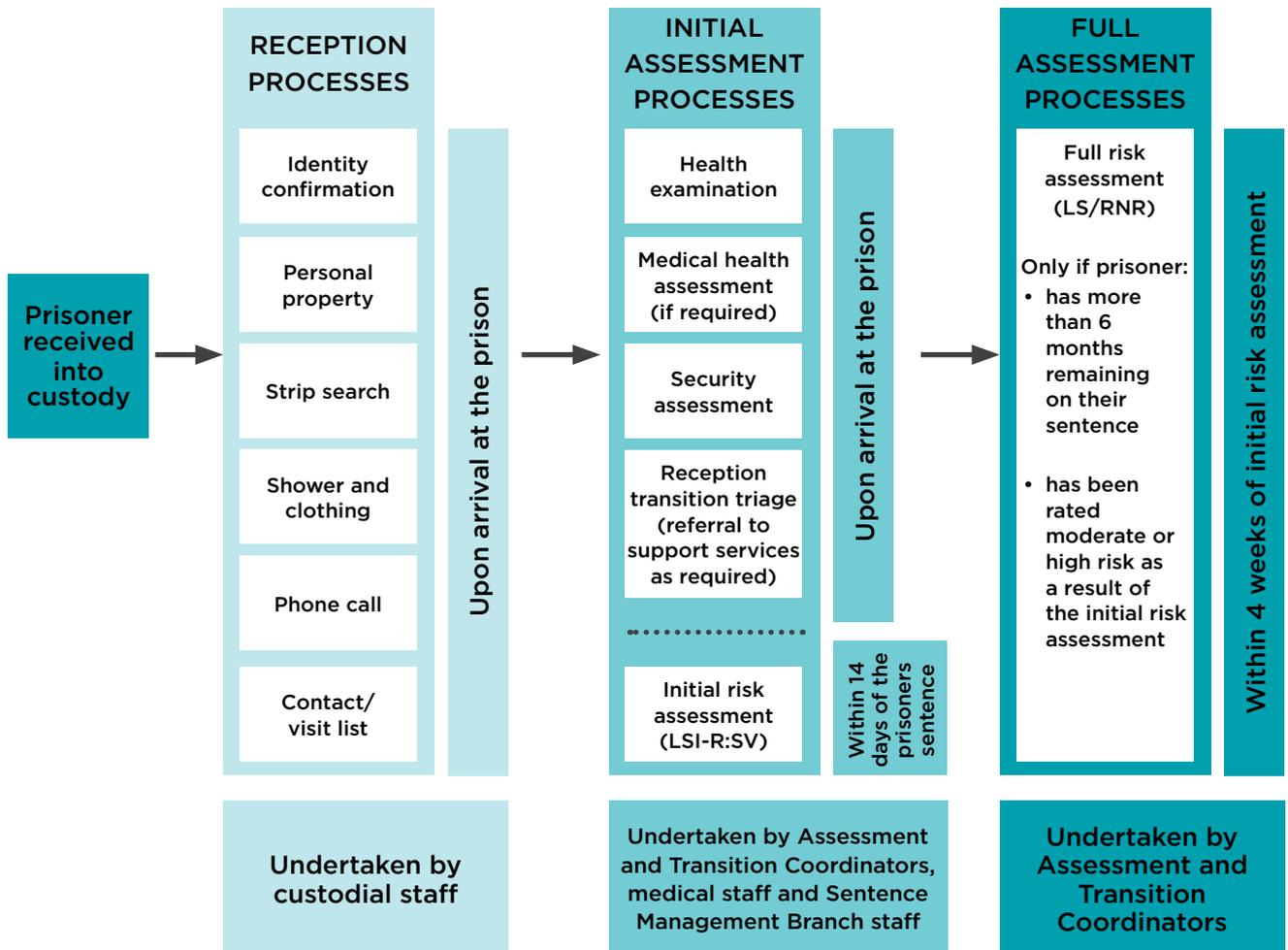
The assessment process

187. On admission to the correctional system, all prisoners are required to undergo a reception and assessment process⁷⁹ set out in Figure 7.
188. The reception process is conducted on a prisoner's initial arrival at prison and consists of several administrative and operational tasks including identity confirmation, handing over personal property and clothing, undergoing a strip-search, contacting family or a legal representative and organising lists for visits and telephone calls.
189. Following reception, prisoners then undergo an initial assessment that covers:
 - medical assessment
 - risk and needs assessment which includes assessment of psychiatric history, risk of self-harm and substance abuse
 - security assessment.
190. For female prisoners, whether sentenced or on remand, reception processes take place at the Dame Phyllis Frost Centre. Male sentenced or remand prisoners are assessed at the Melbourne Assessment Prison (MAP) or Metropolitan Remand Centre (MRC). Some also have a language, literacy and numeracy assessment at this point, however this is not yet compulsory.
191. The MAP is the principal reception point for male prisoners in Victoria. In 2014, 9,571 prisoners passed through the MAP⁸⁰ at an average of over 26 prisoners per day.

⁷⁹ Corrections Victoria et al, *Standard Guidelines for Corrections in Australia*, Revised 2012.

⁸⁰ Department of Justice and Regulation, *Melbourne Assessment Prison – Prison Fact Sheet*, 18 February 2015.

Figure 7: Reception and assessment processes



192. My officers attended the MAP and observed prisoners undergoing the reception and initial assessment process. Due to space limitations, prisoners were undergoing their screenings and mental health assessments in cramped, adjoining cubicles that provided little privacy for the prisoner to discuss personal, medical or other issues and difficulties they were facing. The lack of adequate facilities in which to discuss these private and often sensitive issues is an impediment to prisoners fully disclosing such information. This in turn is likely to have a negative impact on the effectiveness and accuracy of the assessment.

193. I note that in May 2015, the Victorian Government released its funding program for the corrections system, which included ‘\$17.4 million to improve safety in 28 cells and expand the reception area of the Melbourne Assessment Prison’⁸¹.

81 The Hon Wade Noonan MP, Minister for Corrections, *Media Release - \$333 Million to Ease the strain on our Corrections System*, 5 May 2015.

Assessment waiting lists

194. In my discussion paper, I commented on the significant backlog of prisoners awaiting risks and needs assessment, which was 1,449 on 2 October 2014⁸².
195. My investigation identified that the delays dated back to early 2010⁸³. The information available indicated that a significant number of prisoners were undertaking their sentences, and in some cases moving between units or prisons, without their risk of reoffending, treatment and/or rehabilitation needs having been assessed.
196. In early 2014, Corrections Victoria sought to identify a replacement assessment tool as a result of a recommendation made in the Callinan review⁸⁴.
197. A new assessment model and tool were implemented in January 2015. These now form the basis of all Corrections Victoria prisoner and offender general risk assessment measures, with additional specialist tools for violent and sexual offenders. The new assessment tool comprises two stages of assessment:
- an initial assessment to determine a prisoner's general risk of reoffending. Based on this, prisoners are assigned a risk rating of low, medium or high. Prisoners with a low risk of further reoffending do not receive any further assessment
 - where a prisoner is identified as having a risk rating of medium or above, a second more comprehensive assessment is conducted. This examines the rehabilitation needs of offenders, their risk of recidivism, and relevant factors related to supervision and programming.
198. A prisoner's initial screening is required to be completed within 14 days of sentence, as part of the initial classification process. For prisoners rated as medium or high risk and who have more than six months remaining on their sentence, their full second assessment must be completed within six weeks of the initial assessment.
199. At the time the new assessment model was introduced, there were still a number of prisoners awaiting an assessment under the old system⁸⁵.
200. In a December 2014 briefing to the Commissioner for Corrections, Corrections Victoria staff sought formal approval:
- ... not to reassess prisoners currently serving a sentence who are managed under pre-existing risk assessments, after introduction of the [new assessment] tools in January 2015⁸⁶.
201. The briefing said that on 27 November 2014 1,201 prisoners in Victoria had not received a risk assessment, including 660 serious violent offenders and a number who were unable to be assessed because they were in Thomas Embling Hospital (a secure mental health facility) or were assessed as 'Psych One' prisoners in the mental health unit at the Melbourne Assessment Prison⁸⁷.
202. As a result of the new approach, the number of prisoners awaiting assessment had fallen to 54 by April 2015⁸⁸, with over 80 per cent of eligible prisoners having had the second assessment completed within one week of their initial screen.

82 Corrections Victoria correspondence to the Victorian Ombudsman, 2 October 2014.

83 University of Melbourne, *Review of the Victorian Intervention Screening Assessment Tool, Final Report*, August 2013, page 24.

84 Mr Ian Callinan AC, *Review of the parole system in Victoria*, July 2013.

85 Corrections Victoria, internal memorandum, 'Risk Assessment for Current Prisoners following implementation of LS Suite of Tools', 5 December 2014.

86 *ibid.*

87 *ibid.*

88 Corrections Victoria email response to Victorian Ombudsman enquiries, 24 April 2015.

Case management

203. Case management is a vital component of prisoner rehabilitation and reintegration. The *Standard Guidelines for Corrections in Australia* specifies that prisons:

... should administer a system of individual case management of prisoners that enables the assessment, planning, development, coordination, monitoring and evaluation of options and services to meet the individual needs and risks of persons as they move between community corrections and prisons⁸⁹.

204. Corrections Victoria's *Offender Management Framework*⁹⁰ states that to maximise offender rehabilitation and reduce the risk to the community, case managers are required to:

- establish high quality relationships with offenders – respectful and open working relationships that maintain professional boundaries and encourage offenders to engage in offender management processes
- model and reinforce positive behaviour and attitudes
- challenge anti-social behaviour and attitudes
- enhance and sustain offenders' motivation.

205. In Victorian prisons, the role of 'case manager' is undertaken by prison officers, with supervision from more senior staff such as Senior Prison Officers, Prison Supervisors and Offender Management Supervisors. The case management responsibility features throughout the position description of the prison officer role:

Prison officers are responsible for the day-to-day supervision of prisoners within the facility and play an important role in performing case management tasks and supporting a range of services that contribute to offender management framework and practices.

...

Offender management also involves responsibility for appropriate note-taking, documentation and reports around working with and directly supervising prisoners within their Individual Management Plans (IMP). This includes direct offender management interactions with each prisoner to review progress and regular liaison with program staff to ensure the prisoner's program participation aligns with their needs⁹¹.

206. A research paper released by Corrections Victoria, titled *Reducing re-offending framework: Setting the scene*⁹², outlines that:

Moderate and high risk/need offenders require more intensive case management. This goes beyond managing the file administratively and includes careful psychological management of the offender. Correctional staff working with the offender on a daily basis require skills in motivational interviewing techniques with these clients.

...

The mission of Corrections Victoria includes actively engaging offenders. Effective offender management is based on values, attitudes and principles held by staff that are conducive to encouraging behaviour change.

...

To engage offenders, correctional staff themselves need to embrace a culture shift towards rehabilitation.

89 Corrections Victoria et al, *Standard Guidelines for Corrections in Australia*, 2012.

90 Corrections Victoria, *Offender Management Framework – Achieving the Balance*, May 2010.

91 Department of Justice, *Position Description, Prison Officer Position Numbers 4500, 4504, 4521, 4235*.

92 Corrections Victoria, *Reducing reoffending framework: Setting the Scene, Paper No. 1*, Revised January 2004.

207. In Victorian prisons, there are two different types of plans developed for each prisoner:

- sentence plan: provides a broad and flexible guide as to how sentenced prisoners should be managed during their term of imprisonment. This is developed by the Sentence Management Branch in line with the Sentence Management Manual
- local plan: developed by the prisoner with assistance from the case manager to identify offence-specific reintegration and general wellbeing needs. This builds on the sentence plan, articulates the steps and timeframe to meet goals and is ratified by the Case Management Review Committee⁹³.

208. As part of their case management duties, prison officers are required to meet their allocated prisoners at least monthly to review and discuss a prisoner's progress against set goals in their local plan and to document these meetings in a prisoner's individual management file⁹⁴.

209. My officers attended a number of prisons during the investigation and met with a range of correctional staff, contractors and prisoners to get an insight into the case management system. They identified a number of concerns with the case management process, which are addressed below.

Allocation of case managers

210. Prison officers are required to undertake case management responsibilities as part of their daily duties. Corrections Victoria has stated that while it does not prescribe the number of prisoners that each officer must manage, most have a case load of 10 to 15 prisoners. Case loads are dependent on the unit or prison an officer works in, an officer's employment status and specific prisoners' risks, behaviour or notoriety⁹⁵.

211. It is common for a prisoner to transfer between accommodation units within the prison, and also between prisons. In his June 2014 report, *Prisoner Transportation*, the Victorian Auditor-General noted that there is at least 58,000 prisoner movements⁹⁶ in Victoria each year⁹⁷. The Auditor-General report tracked the movements of 30 prisoners and highlighted the example of one prisoner who had been moved between five different prisons over a ten-month period⁹⁸.

212. As prison officers are assigned prisoners according to units, each time a prisoner moves they get a new case manager. As one senior correctional officer at a private prison stated, 'as there is larger turnover you don't get a chance to understand a whole lot about them [individual prisoners]'

213. My officers spoke with a number of peer prisoner workers, who are prisoners familiar with the system appointed to help prisoners cope with the transition and advise them on prison procedures, programs and services.

⁹³ Department of Justice, *Corrections Victoria, Correctional Management Standards for Men's Prisons in Victoria*, July 2014.

⁹⁴ Corrections Victoria, *Deputy Commissioner's Instruction 2.03 Offender Management*, February 2015.

⁹⁵ Corrections Victoria, email response to Victorian Ombudsman enquiries, 24 April 2015.

⁹⁶ This includes transfers between prisons for risk or capacity reasons, to attend health appointments or for court appearances.

⁹⁷ Victorian Auditor-General, *Prisoner Transportation*, 11 June 2014, page ix.

⁹⁸ In addition to the five prison moves, the Auditor-General identified the prisoner had undergone 16 moves to and from courts, two moves between police cells and one move from police cells to a correction facility.

-
214. One peer prisoner worker said that case management 'is as good as your case manager' and that case managers may not always be available, with prisoners instead relying on the peer prisoner worker system. A review of one prisoner's case file by my officers showed a ten week period where they had not been assigned a case manager and no entries were recorded in their local plan for over four weeks.
215. Another peer prisoner worker informed my officers that since entering prison in mid-2014, they had had at least four case managers. They had to retell their background and needs to each new case manager and try to build trust and rapport.
216. The lack of continuity and consistency with this model of case management has also been noted in the evidence provided to my investigation by a number of prison chaplains. Prison chaplains provide religious and spiritual support to prisoners, particularly during times of personal difficulty. They have a unique insight into the prison system and the social pressures and issues that may cause individuals to offend or reoffend. One chaplain who works across several maximum-security Victorian prisons shared the following example:
- ... I spoke with an unsettled young man, who had been in the one prison for 20 days and in that time [he] had three prison officer[s] [as] case managers.
217. A number of these prison chaplains concurred that one of the most frequent issues they had observed was that prisoners did not know who their allocated case manager was. One chaplain said that they had never spoken with a prisoner who could identify their case manager.

Quality of case management

218. My investigation was provided with varying examples of the quality of case management across several of Victoria's prisons, both positive and negative.
219. At one prison, a prisoner peer worker said that the quality of case management 'depends on the officer' and that prisoners needed a case manager who motivates them and follows up with clinicians to ensure they are promptly assessed for their eligibility for programs.
220. At the Judy Lazarus Transition Centre, my officers met with a prisoner who spoke highly of the support he received from his case manager. He said the case manager helped him reconnect with his family following a long period where he could not see his mother due to her poor health and his placement in a rural prison. He further stated:
- ... my mother treats [the case manager] like a son and calls him her angel for bringing her son back to her.
221. Several prison officers described the positive effect that supportive case management can have on some prisoners, with one officer stating:
- ... you can really, really have an impact ... often when they leave they will actually come and really, genuinely thank you.
- ... I got a Christmas card one year from one of the girls. She was probably only about nineteen and she wrote in that card ... I nearly cried, seriously. She wrote 'you are the only person I know who treat me decent [sic]'. I just thought even that [case management relationship] is just a big deal to them.

222. My officers also examined the role of the Case Management Review Committees (CMRCs). Each Victorian prison is required under legislation to establish one or more CMRCs, which are responsible for overseeing case management of prisoners, reviewing classifications, considering access to programs and monitoring prisoner welfare⁹⁹.

223. The CMRCs meet weekly and are also responsible for:

- examining the risks the prisoner could address, priority areas of the local plan and encouraging prisoners to undertake programs to address risk/needs
- engaging with eligible prisoners in the process of applying for parole and confirming that program requirements have or are being met as per relevant parole application criteria
- ensuring that all transitional needs have been identified and/or are being addressed in time for release.

224. The Case Management Review Committee Operating Guidelines introduced by Corrections Victoria specify that:

... [CMRC] meetings are a key aspect to proactively engaging prisoners throughout their sentence via a structured review process that allows for effective monitoring, pro social modelling, clearly articulating expectations and encouragement or support for prisoners to address [the factors that influence their criminal behaviour] while in custody¹⁰⁰.

225. Under these guidelines, the CMRCs need to have at least two members and should include an independent chairperson and people who know about the prisoner and their management¹⁰¹. If staff from relevant areas are not able to attend meetings, they should ensure information is provided to the chairperson¹⁰².

226. The guidelines also state that:

... all CMRCs should include the prisoner's caseworker or, where that is not possible, an officer with knowledge of the prisoner.

227. My officers attended four CMRC meetings at the Dame Phyllis Frost Centre – comprising one parole application meeting and three case planning meetings – and made some positive observations, including:

- CMRC members showed a high level of interest in a prisoner's background, their behaviour during imprisonment and participation in relevant programs, services or employment
- CMRC members reviewed the goals set by the case manager and agreed to by the prisoner and amended where appropriate
- CMRC members considered progress in achieving goals
- the meetings were highly collaborative between all parties and involved open and meaningful discussion.

228. The CMRC members told my officers that these meetings were far more 'positive' and 'engaging' than under the previous system, which one member described as being 'monotone' in its approach of engaging with the prisoner.

229. Despite these positive observations, none of the case managers responsible for each prisoner were present at these meetings. Furthermore, two prisoners advised the CMRC during their review that they were unsure who their case manager was.

230. When my officers queried the non-attendance by case managers, one CMRC member said that this was not always the case. They said of the 11 meetings held earlier that day, the allocated case managers were present at eight, and that a prison officer's work hours and rostering often made it difficult for them to consistently attend meetings.

99 Corrections Victoria, *Corrections Regulations 2009*, Part 3, Section 24.

100 Corrections Victoria, *Case Management Review Committee Operating Guidelines*, April 2015.

101 *ibid.*

102 *ibid.*

-
231. My officers asked several prison officers whether they attended the CMRCs with the prisoners they case managed. One prison officer said that for CMRCs held in their unit, an officer from their unit was required to sit in on the meetings, but it did not have to be the case manager.
232. Another officer gave an example of a prisoner who had told their children that they were working overseas and would regularly send money home to support them. The officer said that despite receiving approval at the CMRC in January to send \$500 for 'school books and school uniforms' this had still not been arranged by the prison in May. The officer said:
- ... This is someone trying to be decent to [their] family and it's just not right [what has occurred].
233. The officer told my investigation:
- Sometimes you may get one of the [prisoners] say to you 'can you come to [the CMRC] with me?' Generally, we don't go. But, if someone asks me to go with them, and it's mainly someone who is shy and doesn't like speaking in front of people and they'll say '[Officer's name], can you say that for me?'
- ... we say to [the prisoners] every week 'this is coming up this week, you've got this problem, make sure you ask [about it], make sure you bring it up, it was approved last CMRC and it still hasn't happened, why has the process fallen down'.
- Quality assurance measures**
234. As part of the quality assurance processes for case management, each prison must conduct monthly audits of prisoner individual management files to measure levels of compliance with, and the quality of, case management by prison officers¹⁰³.
235. At public prisons, files are generally audited on a peer-to-peer basis by an officer from a different prison within the same region. Corrections Victoria audit the case files of the two private prisons.
236. My officers reviewed internal audit reports completed between July and December 2014 across several public and private prisons. They observed that the majority of files audited were assessed as either 'standard' or 'good' with bonus marks occasionally awarded.
237. However, there were instances of files being assessed as 'unacceptable' because a case manager had not been assigned, there was no existing local plan, or case managers had failed to regularly meet with their assigned prisoner.
238. During the review of the internal audit reports, my officers identified instances of inconsistent marking. For example, one case file was deemed unsatisfactory as there was 'no evidence of any file notes or case management'. However, another file with no file notes and no allocated case manager was marked as 'good', which appeared to be on the basis that a CMRC meeting had occurred. No further justification was provided.
239. The review of these reports indicated a general inconsistency in applying the audit criteria and the results reported to Corrections Victoria.
240. The results obtained from these audits inform Service Delivery Outcome 23 (SDO 23), a quality measurement that examines a 'whole of prison' approach to case management. The benchmarks for SDO 23 vary across prisons depending on the security rating and profile.
241. My officers reviewed each Victorian prison's performance against SDO 23 during the 2013-14 financial year and the first three quarters of 2014-15, noting that Loddon Prison (public), Port Phillip Prison (private) and Fulham Correctional Centre (private) consistently failed to achieve their monthly benchmarks.

103 Corrections Victoria, *Sentence Management Manual, PM 1*, 2015.

242. Corrections Victoria advised my officers that SDO 23 was one of several quality measurements that were challenging to meet due to the increase in prisoner numbers. Corrections Victoria further advised that it was taking a number of steps to address these performance issues.

Training and guidance

243. In public prisons, prison officer recruits 'receive a minimum of 36 days pre-serving training' comprising theoretical and practical learning, as well as two weeks work placement¹⁰⁴. They receive an introduction to offender case management in their first week of training and further training in week five. As part of the work placement, recruits have some exposure to the case management processes.
244. As part of their pre-service training, all trainee prison officers in Victoria enrol in a nationally recognised training course leading to a Certificate III in Correctional Practice (Custodial).
245. Corrections Victoria expects that the assessment component of the qualification is completed once the officer has finished the pre-service training and is working in a prison. Officers are given up to two years to complete the qualification.
246. Correctional agencies in five other Australian states and territories require their prison officers to successfully complete this qualification as a condition of their employment; however it is not mandatory in Victoria. Instead, Corrections Victoria seeks to incentivise prison officers with eligibility for a salary increase on completing the qualification¹⁰⁵.

Practices in other jurisdictions

247. To get a fuller picture of case management best practice, my officers considered approaches and practices in other jurisdictions, both nationally and internationally.

Nordic/Scandinavian approaches

248. One of the alternative models of case management is the approach taken in Nordic/Scandinavian countries.
249. Norway has one of the lowest recidivism rates in the world at around 20 per cent¹⁰⁶. On 13 May 2015 it had a prison population of 3,710 with an estimated population of 5.19 million citizens¹⁰⁷. In September 2014 Victoria's population was similar at 5.86 million¹⁰⁸, however its prison population was in excess of 6,000.
250. Dr Anna Eriksson, Senior Lecturer in Criminology at Monash University researched and authored/co-authored reports and publications comparing Nordic correctional approaches with those in England, Australia and New Zealand¹⁰⁹. At interview, Dr Eriksson advised that like Victoria, prison officers in Norway undertake the dual role of custodial officer and case manager; however the key difference is the training required:

The difference is that in Norway, for example, the training to become a prison officer is two years. It's a university level education. Most people already have a university degree going into the prison service. It's a pretty high status job and it's part of the welfare state, whereas here [Victoria] it's low status.

104 <www.correctionsjobs.vic.gov.au/prison-officer/training> viewed on 6 March 2015.

105 Corrections Victoria email response to Victorian Ombudsman enquiries, 10 July 2015.

106 Carolyn W Deady, *Incarceration and Recidivism: Lessons from Abroad*, March 2014.

107 <www.prisonstudies.org/country/norway> viewed on 6 March 2015.

108 Australian Bureau of Statistics, *Australian Demographic Statistics*, September 2014.

109 Interview with Dr Anna Eriksson, Melbourne, 15 July 2014.

251. This point was also made in submissions from Dr Bronwyn Naylor, Associate Professor, Monash University and the Monash University Criminology Program and Imprisonment Observatory¹¹⁰. In its submission, the Monash University Criminology Program referred to the training for prison officer staff in Australia generally and in Victoria specifically as being ‘too basic’¹¹¹ and that there was a reluctance by ‘... many prison officers to engage with prisoners on a personal level’ on case management. The Monash University Criminology Program submission stated:

Many prison officers resent the ‘social work’ label that they attach to case management work. This is an issue that needs to be addressed¹¹² ...

252. The Monash Criminology Program submission commented that its research suggested that the training for Victorian prison officers in case management is task-focused and not people-focused and that this approach in part ‘... makes the current practice of the case management model ineffective’¹¹³.

New Zealand - a throughcare approach

253. The New Zealand model of case management was developed following a review, which identified the need for better continuity of case management and recognised the need to shift responsibility from prison officers to dedicated throughcare teams¹¹⁴.

254. The review identified a number of issues in keeping with those highlighted by the Monash University Criminology Program submission, including:

- the principles of case management were not understood, leading to a ‘perfunctory, tick box approach’
- the quality of case management across the system was ‘patchy’; in some cases sentence plans were not monitored actively and case notes not written up
- there is a perception that case management work is seen as having too much of a ‘social work focus’¹¹⁵.

255. The New Zealand model of prisoner case management is now centred on a throughcare approach – from a prisoner’s entry into the system to their eventual release.

256. Like Victoria, prisoners are assigned a prison officer who is their day-to-day case officer, responsible for supporting prisoners to achieve the goals in their offender plans.

257. In addition to support from prison officers, prisoners in New Zealand are assigned a non-custodial officer as their case manager. These dedicated case managers do not wear uniforms and are part of a broader throughcare team responsible for:

- managing prisoners from the start to the end of their sentence, including initial assessment
- identifying prisoner needs and case planning incorporating specialist rehabilitation and reintegration interviews and services
- facilitating links with the prisoner’s support groups and external providers¹¹⁶.

110 Comprising Dr Marie Segrave, Dr Anna Eriksson, Dr Claire Spivakosky and Dr Bree Carlton.

111 Monash University, Criminology Program, *Submission into the Ombudsman’s Investigation into the rehabilitation and reintegration of prisoners in Victoria*, January 2015.

112 *ibid.*

113 *ibid.*

114 Doug Martin, Richard Tait and Paul Clarke, *Value for money review of Department of Corrections*, New Zealand, July 2009.

115 *ibid.*

116 Corrections Department New Zealand website <www.corrections.govt.nz/about_us/working_with_us/careers/types_of_careers/prison_based_jobs/case_managers.html> viewed on 15 April 2015.

258. Case managers in New Zealand focus on reducing the likelihood of prisoners reoffending and are involved from the initial assessment.
259. The position description for New Zealand case managers lists tertiary qualifications as desirable, as well as backgrounds in rehabilitative services, allied health services, psychology or social work, together with knowledge of and experience working with Maori and Pacific Peoples and their communities¹¹⁷.
260. Following induction, case managers in New Zealand prisons are given access to a specifically designed core development training program to ensure they have the necessary skills to meet the competencies of the role¹¹⁸.
261. In December 2013, the New Zealand Controller and Auditor-General released a report following an audit which examined the Corrections Department's success in managing offenders to reduce reoffending. The audit found that prisoners spoke positively about the level of cooperation between their case manager, case worker and probation officer and subsequently about their transition into the community, their release conditions and available support services¹¹⁹.
262. As discussed later in my report, these practices form part of the New Zealand Government's 'Reducing Recidivism by 25%' initiative¹²⁰, which has resulted in a 10 per cent reduction in New Zealand's recidivism rate in two years.

263. In response to my draft report, Corrections Victoria advised that

[we] ... are interested in the outcomes of New Zealand's evaluation of their use of non-custodial officers as case managers, the outcomes of which may inform future policy decisions¹²¹.

Canada

264. In Canada, the responsibility for administering prison sentences of two or more years rests with the Correctional Service of Canada (CSC), a Canadian federal government agency¹²².
265. Rather than the Victorian model of one case manager per prisoner, each prisoner in Canada is assigned a case management team. According to information published by the CSC, the team works together to support the rehabilitation of the prisoner using a throughcare approach. It consists of the following members:
- a correctional officer
 - a parole officer
 - manager of assessment and intervention
 - an Aboriginal Liaison Officer if applicable
 - an Elder if applicable¹²³.
266. The CSC refers to its case management approach as a 'dynamic process', where the team's responsibilities include:
- an ongoing assessment of an offender's needs, and the development and implementation of a correctional plan and interventions to meet those needs
 - the provision of clear behavioural expectations for the offender to be met within specific timeframes, as well as a regular assessment of the offender's progress in relation to their correctional plan

117 Department of Corrections, New Zealand, *Job Description, Case Manager*, December 2012.

118 <www.corrections.govt.nz/about_us/working_with_us/careers/types_of_careers/prison_based_jobs/case_managers.html> viewed on 17 April 2015.

119 Controller and Auditor-General, *Department of Corrections: Managing offenders to reduce reoffending*, New Zealand, December 2013.

120 Department of Corrections, New Zealand, *RR25per cent - Reducing Re-offending, Strategy 2014-2017*.

121 Corrections Victoria response to Ombudsman's draft report, 31 July 2015.

122 Correctional Services Canada website <www.csc-scc.gc.ca/correctional-programs/002001-1000-eng.shtml> viewed on 7 May 2015.

123 *ibid*.

- encouraging the offender to demonstrate progress through responsible behaviour
- controls that are in place to ensure the offender's correctional plan is realistic and viable¹²⁴.

267. The CSC aims to streamline its case management processes and maximise its program capacity to ensure that prisoners have the earliest access to the programs required under their correctional plans.

268. The CSC states that it has achieved this by not restricting access to programs to the daytime operation of the prison. A typical weekday schedule for a prison in Canada includes providing recreation, self-help groups and cultural events in the evening, with final muster or inmate count at 10.30pm and prison lockdown at 11.00pm. By comparison, depending on the prison location or unit in Victoria, a prisoner may be locked down in their cell as early as 4.00pm or as late as 9:30pm.

269. A separate case management team is assigned for Canadian prisoners once they have returned to the community, to provide a network of support for prisoners post-release. These teams may consist of a parole officer, health care professionals and volunteers¹²⁵.

Prison officers as case managers - conflicting roles?

270. In my discussion paper, I raised concerns about conflict between the custodial and advocacy roles of prison officers tasked with case management. A number of submissions addressed this issue, from community agencies and former prisoners, as well as witnesses interviewed during my investigation.

271. There were two consistent themes in submissions on how Corrections Victoria could improve case management:

- introducing specialist case managers (non-custodial staff) at all prisons with case management skills and/or training
- increasing the training provided to prison officers to actively and appropriately undertake their case management role in the areas of effective communication and motivating and supporting prisoners.

272. The Victorian Alcohol and Drug Association, the peak body for alcohol and other drug services in Victoria, provided the following comments¹²⁶:

The entrenched animosity between prison office[r]s and prisoners greatly mitigates against the efficacy of prison officers taking on a 'case management' role which may require a level of trust and goodwill to nourish a positive and therapeutic relationship.

The power imbalance and the nature of the mandate of prison officers to prioritise the security and good order of the prison above and beyond the wellbeing of prisoners does not permit for a constructive and therapeutic relationship.

This is compounded by the likely scenario where prisoners are directed to move through the prison system, including between units within a single prison and also as their security rating improves, to other prisons, resulting in a single prisoner engaging with a number of case managers through their prison journey. The 'churn and spin' of prisoners elicited by the rapid expansion in the prison population only exacerbates the fluidity in transfers between prisons. Generally, the allocation of case managers corresponds to the unit [in] which the prisoner is residing, and their specific cell number (generally, prison officers are allocated prisoners to case manage from a group of cells within a specific unit). This model could be improved if more experienced 'case managers' were allocated [to] those prisoners with more complex issues, rather than the existing lottery based on cell location.

¹²⁴ Correctional Services Canada website <www.csc-scc.gc.ca/publications/005007-3011-eng.shtml> viewed on 7 May 2015.
¹²⁵ *ibid*.

¹²⁶ Victorian Alcohol and Drug Association, *Submission to Victorian Ombudsman investigation*, December 2014.

It should be noted that many prisoners present with high[ly] complex issues and therefore require expert support and case management. Ideally, given that case management is a complex role which requires a therapeutic and positive relationship, prison officers should not be undertaking this activity.

273. In their submission, Flat Out, a support and advocacy service for women who have had contact with Victoria's prison or criminal justice system said:

Prison officers should not be case managers. Prison officers are not qualified or trained as case managers and these roles are inherently conflicting.

Qualified and experienced community-based case managers who are not Corrections employees, and who have a good understanding of services and supports that exist outside the prison would be far better placed to facilitate the creation of real and legitimate pathways for people exiting prison. It is in the best interest of the broader community that imprisoned people have equitable access to case-management expertise to facilitate their access to essential services and supports¹²⁷.

274. Jesuit Social Services said:

Case Management is too often confused with the administrative process of managing a person's sentence. Effective case management requires building a stable relationship in order to support a person to identify and then address issues that they face; a process that is difficult to realise in a prison environment¹²⁸.

275. The Victorian Aboriginal Legal Service said:

Case management should come from a rehabilitative and advocacy based model, not from a custodial model. The fact that prison staff undertaking case management roles are prison staff first, then trained as case managers, would appear to contribute to the conflict in their role.

...we would support specialist case management staff performing the role rather than prison staff with some level of training. Again, Aboriginal and Torres Strait Islander prisoners should have access to case managers who are Aboriginal and or Torres Strait Islander people and/or case managers with appropriate training, cultural awareness and responsiveness. A traditional case management relationship is built on trust and the ability to freely communicate – it is imperative for the relationship to work that the prisoner feels comfortable with their case manager. This trust is undermined when there is frequent changing of case managers¹²⁹ ...

Offending behaviour programs

Prevalence and the need for treatment

276. For many prisoners, addressing issues associated with their offending behaviour is a core part of their rehabilitation whilst in prison.
277. In Victorian prisons, offending behaviour programs target offence specific and related factors influencing offending behaviour and aim to achieve positive behaviour change.

Requirements, guidelines and policy

278. Corrections Victoria's Correctional Management Standards¹³⁰ set the minimum standards for delivering offending behaviour programs. Prisons must:
- assess prisoners' risk of reoffending and criminogenic needs (the factors that influence a prisoner's criminal behaviour)

127 Flat Out Inc. and Centre for the Human Rights of Imprisoned People, *Submission to the Victorian Ombudsman Investigation into the rehabilitation and reintegration of prisoners in Victoria*, December 2014.

128 Jesuit Social Services, *Jesuit Social Services submission: Investigation into the rehabilitation and reintegration of prisoners in Victoria – Discussion Paper*, December 2014.

129 Victorian Aboriginal Legal Service, *Response from the Victorian Aboriginal Legal Service: Victorian Ombudsman Investigation into the rehabilitation and reintegration of prisoners in Victoria – Discussion Paper*, October 2014.

130 Corrections Victoria, Department of Justice, *Correctional Management Standards for Men's Prisons in Victoria*, July 2014 and *Corrections Victoria, Department of Justice, Standards for the Management of Women Prisoners in Victoria*, July 2014.

- provide a range of offending behaviour programs, at varying intensities, to sentenced and dual status¹³¹ prisoners, to address issues relating to their offending¹³²
- ensure that programs have been accredited and are delivered by adequately supervised, qualified and experienced staff
- provide all sentenced and dual status prisoners access to offending behaviour programs regardless of accommodation type or profile
- evaluate the effectiveness of programs.

Current programs and services

Prisoners on remand

279. Offending behaviour programs are largely only available to sentenced prisoners. Corrections Victoria limits program participation for unsentenced prisoners remanded during the legal process because:

- they are yet to be found guilty of an offence, and so programs targeting specific types of offending behaviour are deemed inappropriate
- there is often uncertainty around an unsentenced prisoner's period of incarceration (they may be released without much warning).

280. Remandees have access to a narrow range of programs to help them transition from the community into prison; manage their mood, emotions and anger; and provide them with skill development in areas such as problem-solving, communication and conflict management¹³³. Programs for remandees are voluntary and offered at the 'front-end' prisons¹³⁴.

281. While recognising the limitations on program participation by remandees, many submissions and witnesses to my investigation raised concerns about the adequacy of what is currently available, particularly given:

- the increasing number of prisoners on remand (in March 2015 remandees were 24 per cent of the prison population¹³⁵, compared to 18.5 per cent in 2011¹³⁶)
- the length of time prisoners are held on remand:
 - 59 per cent held for up to three months
 - around 32 per cent between 3 and 12 months
 - almost 9 per cent held for more than a year¹³⁷.

282. Remand numbers are particularly high for women and those under the age of 25. In March 2015, 34 per cent of women prisoners¹³⁸ and 38 per cent of young prisoners were on remand¹³⁹, compared to the total prison population percentage of 24 per cent.

283. In its submission to my investigation, the Victorian Council of Social Service (VCOSS) said:

On average, people on remand spend less than three months in prison, then return to the community, often taking unresolved behaviours and problems with them. Without appropriate rehabilitation and transitional support, they will often cycle through prison multiple times, for short periods before being released back into the community, to ongoing disadvantage and likely reoffending¹⁴⁰.

131 Prisoners who have been sentenced for some offences but are awaiting sentencing for other offences.

132 Appropriate to their level of risk of reoffending and criminogenic needs as determined by screening and assessment.

133 Corrections Victoria, *Offending Behaviour Programs Branch, Program Suite*, 26 May 2014.

134 Melbourne Assessment Prison, Metropolitan Remand Centre, Dame Phyllis Frost Centre and Port Phillip Prison.

135 Corrections Victoria, *Daily Prisoner and Police Cells Report for Tuesday 31 March 2015*.

136 Australian Bureau of Statistics, *4517.0 Prisoners in Australia, December 2014*, Table 14, Prisoners, state/territory by selected characteristics, 2004–2014.

137 Australian Bureau of Statistics, *4517.0 Prisoners in Australia, 2014*, Table 30, Unsentenced prisoners, time on remand by state/territory.

138 Corrections Victoria email response to Victorian Ombudsman enquiries, 24 April 2015.

139 Corrections Victoria email response to Victorian Ombudsman enquiries, 1 June 2015.

140 Victorian Council of Social Service, *VCOSS submission to the Victorian Ombudsman*, December 2014.

284. One prison officer at interview questioned the justification for not permitting remand prisoners to participate in many of the personal development programs available to sentenced prisoners. They said that prisoners at the Metropolitan Remand Centre ‘do things like [play] Monopoly, Scrabble and Playstation’, describing the lost opportunity for remandees to develop life skills which might reduce the likelihood of reoffending upon release.

285. This was also the view put by Flat Out in its submission, suggesting there should be no difference between remanded and sentenced prisoners for voluntary access to programs.

286. Programs for remandees are limited and delivery is inconsistent. According to data provided by Corrections Victoria, 82 remand programs were delivered to prisoners at the Melbourne Assessment Prison from July 2014 to June 2015¹⁴¹. The data indicates however, that only one remand program was delivered at the Metropolitan Remand Centre¹⁴², which predominantly houses unsentenced male prisoners, and none were delivered to unsentenced women at the Dame Phyllis Frost Centre.

287. In June 2015, Corrections Victoria advised my officers that in recognition of the considerable growth in the number of prisoners on remand and increasing demand for services, it recently reviewed its existing suite of programs and services available to remandees¹⁴³. Corrections Victoria advised that as a result of this review, it would now introduce the following changes to the programs and services offered to remandees:

- creating two streams for remand programs: an ‘adjustment’ stream, involving short programs which focus on adjusting to prison, and a ‘skill development’ stream of longer programs focussing on developing skills to change behaviour

- improving consistency across prison locations
- integrating remand programs with the transitional and reintegration service delivery model.

Sentenced prisoners

288. Corrections Victoria offers sentenced prisoners a much wider range of programs. These programs target offence-specific and other factors influencing offending behaviour, to engage prisoners in achieving positive behaviour change. Programs target areas such as violent behaviour/offending, substance use, sexual offending, domestic abuse¹⁴⁴, interpersonal relationships and managing grief and emotions¹⁴⁵. Prisoners also have access to personal development programs which promote health and wellbeing, as well as cultural programs¹⁴⁶.

289. Many programs are provided in-house by trained clinicians employed by Corrections Victoria, while others are outsourced to external agencies.

290. A prisoner’s risk of reoffending and their treatment needs determines their suitability for and access to offending behaviour programs. A prisoner’s security classification does not directly determine their eligibility; however it may affect the timing and location of the programs. The Correctional Management Standards require that prisons allow all sentenced prisoners, regardless of accommodation type or profile, access to offending behaviour programs¹⁴⁷.

291. Prisoners are initially screened for their suitability for offending behaviour programs which may lead to further clinical assessment, separate to but building on initial assessments completed on reception into custody.

141 Deputy Commissioner, Corrections Victoria email response to Victorian Ombudsman, 12 June 2015.

142 Seven prisoners participated in the program.

143 Corrections Victoria email response to Victorian Ombudsman enquiries, 1 June 2015.

144 Program targets men who are convicted of a domestic abuse offence against their partner or spouse.

145 Corrections Victoria, *Offending Behaviour Programs Branch, Program Suite*, 26 May 2014.

146 *ibid.*

147 Corrections Victoria, Department of Justice, *Correctional Management Standards for Men’s Prisons in Victoria*, July 2014.

292. Prisoners are screened and assessed through one of two pathways: the serious violent offenders¹⁴⁸ pathway or the general offenders¹⁴⁹ pathway.

293. The Offending Behaviour Programs Branch at Corrections Victoria is responsible for screening, assessing and treating both general and serious violent offenders. The Specialised Offender Assessment and Treatment Service¹⁵⁰ (SOATS) is responsible for oversight of sexual offenders, and violent and sexual offenders who have a cognitive disability¹⁵¹.

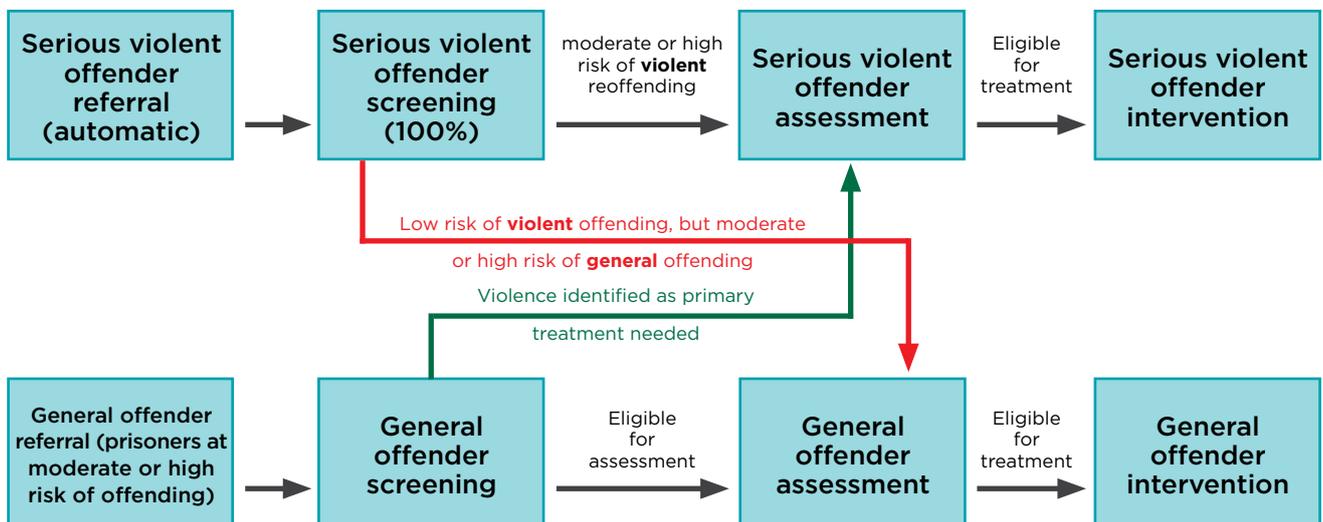
294. In March 2015, there was a total of 2,169 male and female prisoners classified as serious violent offenders and 2,128 general offenders¹⁵².

295. Figure 8 outlines the key stages in the offending behaviour program service delivery pathways for serious violent offenders and general offenders¹⁵³.

296. All prisoners classified as serious violent offenders must be screened for offending behaviour program suitability, with these possible outcomes:

- those at low risk of violent reoffending and low risk of general reoffending have no further assessment and intervention
- those at low risk of violent reoffending but moderate or high risk of general offending are diverted into the general offender pathway (see red arrow in Figure 8)
- prisoners at moderate or high risk of violent reoffending progress to a full serious violent offender assessment¹⁵⁴.

Figure 8: Offending behaviour program service delivery pathways



148 Prisoners are classified as a 'serious violent offender' if they have been convicted of an offence outlined in section 77(9)(a)-(e) of the *Corrections Act 1986*.

149 All other prisoners who are not deemed a 'serious violent offender' or 'sex offender'.

150 A business unit within the Sex Offender Management Branch, Offender Management Division of Corrections Victoria.

151 Includes prisoners who have a registered intellectual disability, acquired brain injury or low cognitive functioning.

152 Corrections Victoria response to Victorian Ombudsman's enquiries, 1 June 2015.

153 Department of Justice and Regulation, *Offending Behaviour Programs, Service Delivery Model*, April 2015.

154 *ibid.*

297. Corrections Victoria requires that 80 per cent of general offenders be screened for offending behaviour program suitability based on a moderate to high risk of general reoffending. A general offender may also be redirected to the serious violent offender pathway for an assessment if they have a violent history, but are not classified as a serious violent offender for their current sentence (see green arrow in Figure 8).

298. All prisoners, whether serious violent offenders or general offenders, may be deemed unsuitable for further assessment or intervention for a range of reasons, including:

- acute mental illness
- intellectual disability, ABI and low cognitive functioning
- English as a second language
- behavioural issues
- protection/management classifications
- denial of offending behaviour
- low motivation to change and/or engage in treatment¹⁵⁵.

299. Of the 2,291 prisoners referred for offending behaviour program screening and assessment between 1 July 2014 and 30 April 2015, 1,328 (58 per cent) were deemed eligible to participate in programs.

300. One option for prisoners deemed unsuitable for further assessment or intervention is treatment through the Individual Intervention Service Delivery model, which Corrections Victoria has recently reviewed. Prior to the review, there were no clear guidelines on when individual interventions should be made available to prisoners. As a result of the review, Corrections Victoria has now developed a new model, which outlines four types of individual interventions available to prisoners:

- preparatory treatment to prepare prisoners to engage in group treatment
- promotional treatment to support offenders to remain in a group program
- protective treatment to provide additional intervention to a group program to help address risk factors
- alternative pathway treatment to provide offence-specific intervention where a prisoner is deemed unsuitable for a group program.

Delays in accessing programs

301. The parole reforms, particularly the increased requirements around program participation before a prisoner can be considered for release, have had a significant impact on prisoners' timely access to programs.

302. Additional funding was announced by the Victorian Government to support the parole reforms, including the expansion of offending behaviour programs. However, evidence provided to my officers shows that there are significant waiting lists not only for program participation but also for screening and assessment to determine program suitability and treatment needs.

303. In the last two years, some prisoners who complained to my office expressed frustration at delays and inability to access programs, which are required before parole can be considered. The following case studies are examples of these complaints:

¹⁵⁵ Department of Justice and Regulation, *Offending Behaviour Programs, Service Delivery Model*, April 2015.

Case study: Prisoner A

In January 2014 Prisoner A at Barwon Prison complained to my office about a delay in being assessed for suitability to participate in offending behaviour programs, which he said the Adult Parole Board had required be completed by December 2013. Prisoner A had raised his concerns verbally to staff, however had been told there was a delay due to there being only two clinicians available to complete the assessments and deliver the programs at Barwon.

Case study: Prisoner B

In March 2015 Prisoner B complained to my office about delays in accessing the violence intervention program at Port Phillip Prison, which he was required to complete in order to be considered for parole. Prisoner B said he had been sentenced to 14 months in prison, with a minimum of five months, and was eligible for parole in December 2014. He said the program was only made available eight months into his sentence (three months past his earliest eligibility date for parole), and that the program took about five months to complete, meaning that he would have to serve out his entire maximum prison term. Prison staff advised him that the delay was due to a backlog in prisoners at Port Phillip Prison needing to complete the course.

Case study: Prisoner C

In May 2014 Prisoner C complained about a delay in accessing the violence intervention program at Barwon Prison, which he said he was required to complete to be considered for parole. He said he had been submitting referral forms for the program since November 2013 and at the time of his complaint, was 19 months into his parole period. Prisoner C expressed a desire to complete required programs and acknowledged the importance of them to address his offending behaviour. He noted that if he was not able to access the required programs, he would be released from prison at his sentence end date, without the supervision that he would be subject to if released on parole, and said 'I know that isn't a good thing for me or the community'.

304. My office also received a letter from a prisoner at Barwon Prison, enclosing a petition signed by 150 prisoners expressing concern regarding access to rehabilitation programs required for parole:

... conditions for parole have been tightened and prisoners are finding it difficult to access clinical service programs such as the Violence Intervention Program. Currently there are only two Violence Intervention Programs run yearly at Barwon, however a lot of prisoners are being denied parole as they have not completed the Violence Intervention Program, in some cases at no fault of the individual prisoner. Prisoners are not refusing to participate in the program, we simply cannot access the programs required.

305. A prison chaplain said that while they had noticed that programs were being made available earlier due to the parole reforms, the problem remained that there was not enough funding and places, resulting in delays. They said that some prisoners told the chaplains that they had been asking for 12 months or longer to get access to programs.

306. The submission from Flat Out noted:

A person's release date should not be delayed as a result of the system's failure to deliver required programs ... this amounts to extra punishment as a result of system shortcomings¹⁵⁶.

307. In July 2014, Corrections Victoria introduced the following key performance indicators around the offending behaviour program screening, assessment and intervention process:

- screening is to be completed within eight weeks of the referral being allocated to a clinician¹⁵⁷
- assessment is to be completed within eight weeks of the completed screening
- intervention is to commence within six months of the assessment¹⁵⁸.

308. Data provided by Corrections Victoria showed that in April 2015:

- 59 per cent of serious violent offenders and 80 per cent of eligible general offenders had not been screened within the required eight weeks
- 68 per cent of eligible serious violent offenders and 67 per cent of eligible general offenders had not been assessed within the required eight weeks

- 43 per cent of eligible serious violent offenders and 44 per cent of eligible general offenders had been waiting longer than the benchmark six months to start an intervention¹⁵⁹.

309. Data provided by Corrections Victoria in June 2015 also suggests minimal program delivery at many prison locations. For example, the data showed that with one month remaining in the 2014-15 financial year, only four programs had been delivered at the Dame Phyllis Frost Centre servicing a total of 29 prisoners. Similarly at Barwon Prison, the data showed that three programs were delivered in the year, with 25 prisoners participating.

310. In response to my draft report, Corrections Victoria said that 'participation in group programs should be counter balanced by some of the complexities of the profile of that location i.e. while program numbers are low, individual interventions may be high'.

311. When subsequently asked for data on individual intervention delivery by each prison location, the department advised that in 2014-15:

- 140 serious violent offender and 20 general offender prisoners participated in individual interventions (total of 160 prisoners)
- 1,483 individual sessions were delivered across the prison system (data for individual prison locations was requested but not provided).

312. My officers received evidence that recruiting and retaining clinicians to deliver offending behaviour programs are significant challenges in the Victorian prison system, both in metropolitan and rural locations.

¹⁵⁶ Flat Out Inc. and Centre for the Human Rights of Imprisoned People, *Submission to the Victorian Ombudsman Investigation into the rehabilitation and reintegration of prisoners in Victoria*, December 2014.

¹⁵⁷ The referral is to be allocated to a clinician within five days of the referral being accepted and processed.

¹⁵⁸ Department of Justice and Regulation, *Offending Behaviour Programs, Service Delivery Model*, April 2015.

¹⁵⁹ Who were deemed eligible and suitable to participate in an intervention(s) through the screening and assessment process.

313. This can exacerbate delays in prisoners' access to programs, and in some cases lead to the suspension of all programs for a period of time. For example, delivery of offending behaviour programs at the Dame Phyllis Frost Centre was suspended for a number of months in early 2014 due to insufficient clinical staff.

314. Additionally, my officers were informed during a visit to Fulham Correctional Centre in 2014 that no member of the Offending Behaviour Treatment team had more than 12 months experience at that location, and that the role of Senior Clinician (with responsibility for guidance and quality control) had been vacant for nearly 12 months.

315. When asked for up to date information on offending behaviour program clinician vacancies in May 2015, Corrections Victoria confirmed the number of positions assigned to each region; however, due to workforce changes in the Offending Behaviour Program Branch, it was unable to identify which positions were vacant.

Program effectiveness and accreditation

316. Substantial evidence suggests that offending behaviour programs do produce socially significant reductions in reoffending. However, as Professor Andrew Day of Deakin University noted, 'the challenges lie in ensuring that the right programmes are delivered to the right people at the right time'¹⁶⁰.

317. Conversely, the Western Australia Office of the Inspector of Custodial Services recently found that prisoners released from Western Australian prisons who had completed the wrong programs were more likely to return within two years than those who had completed none¹⁶¹.

318. Prisoners and other witnesses to my investigation raised concerns about program effectiveness, the structure and nature of some programs, and the negative experiences of prisoners in group programs:

- Prison chaplains told my officers that concerns had been expressed by prisoners about group programs. Prisoners said there was 'no way' they would be honest about 'their issues' in a group setting, but would be more than happy to be honest and open one-on-one.
- A prisoner wrote to my office raising concerns about the 'group based' nature of many programs. He said that he participated in a violence intervention program and ended up withdrawing after completing 33 of the 39 sessions. He said he believed the program was doing him 'more harm than good' and that discussions he was required to participate in around certain elements of the crime he committed had put him at risk of bullying and violence by other prisoners.
- A number of witnesses described programs as merely a 'ticking the box' process and questioned their value. According to Flat Out, prisoners had told them:

The required completion of 'cognitive skills' based programs inside prison often feels like a 'box-checking' exercise rather than a genuine investment in developing skills or rehabilitation. It was reported to Flat Out that such programs are often privileged and prioritised over other education or training programs. This creates a situation whereby inappropriate programs are forced onto people in order to meet the expectations of Corrections [Victoria] and the [Adult] Parole Board, without sufficient consultation with the imprisoned person. There should be no impediment to people's access to the programs and education that they identify themselves as needing.

¹⁶⁰ A. Day, *Crime and punishment and rehabilitation: a smarter approach*, The Conversation, 16 June 2015.

¹⁶¹ Office of the Inspector of Custodial Services Western Australia, *Recidivism rates and the impact of treatment programs*, September 2014.

319. I have also received complaints from prisoners about being required to do multiple similar programs, which they found to be ineffective. One example was a prisoner who complained to my office that he had completed six anger management programs while in prison, all of which he believed were ineffective.
320. There is significant international research and literature on 'what works' in regard to treatment programs. Corrections Victoria has recently introduced an evaluation framework¹⁶² and intervention accreditation model, by which it intends to examine and evaluate the effectiveness of its offending behaviour programs in line with recognised best practice. As such, my investigation has not examined the effectiveness of individual programs available in Victoria in great detail.
321. Under the *Evaluation Framework 2015-18*, the Australian Institute of Criminology has been engaged to evaluate core programs, including transition and reintegration programs, offending behaviour violence programs, sex offender programs, prison industries, education and training.
322. In addition, the intervention accreditation model involves panels reviewing program content and making recommendations to fully, partially, or refuse accreditation¹⁶³.
323. Until recently, data on participation, completion or effectiveness of programs had not been systematically collected or analysed by Corrections Victoria, despite these programs having been offered for many years.

324. A third strategy is the Corrections Victoria Intervention Management System (CVIMS), which now provides a central electronic repository for program and participant data. The CVIMS has resulted in a tighter framework for reporting and will enable Corrections Victoria to collect and analyse accurate data on program participation and completion, which was not previously available.

Alcohol and other drug programs

Prevalence and the need for treatment

325. In Victoria, a survey of prisoners found that over 75 per cent of men and at least 83 per cent of women in prisons reported previous illicit drug use¹⁶⁴.
326. There are strong links between problematic substance use and recidivism¹⁶⁵. AOD problems are highly prevalent in prison populations and are often a direct cause of offending and recidivism, as well as the source of physical and mental health problems¹⁶⁶. Literature indicates that effective AOD treatment interventions can considerably lower recidivism rates¹⁶⁷.

Requirements, guidelines and policy

327. Corrections Victoria's Correctional Management Standards¹⁶⁸ set minimum requirements for AOD treatment services. The standards state that AOD treatment services are to be provided which:

¹⁶² Department of Justice and Regulation, *Corrections Victoria Evaluation Framework 2015-2018*, December 2014.

¹⁶³ Corrections Victoria, *Corrections Victoria Accreditation Process - Revised*, 12 February 2014.

¹⁶⁴ Justice Health, *Quality Framework 2014, Alcohol and Other Drug Services*, August 2014.

¹⁶⁵ Office of the Inspector of Custodial Services Western Australia, *Recidivism rates and the impact of treatment programs*, September 2014.

¹⁶⁶ Caraniche, *Submission to Ombudsman Discussion Paper*, December 2014.

¹⁶⁷ *ibid.*

¹⁶⁸ Corrections Victoria, Department of Justice, *Correctional Management Standards for Men's Prisons in Victoria*, July 2014, and *Standards for the Management of Women Prisoners in Victoria*, July 2014.

- assist in reducing the demand for illicit drug use in prisons
- minimise the harm associated with substance use in prisons and upon release
- reduce the risk of relapse
- aim to reduce the risk of reoffending associated with substance use upon return to the community.

Current programs and services

328. Assessment for AOD treatment may be triggered:

- at initial assessment
- during offending behaviour program screening and assessment
- during Case Management Review Committee meetings
- by a urine sample positive for AOD use.

A prisoner may also self-refer to AOD treatment.

329. Justice Health¹⁶⁹ contracts an independent provider, Caraniche¹⁷⁰ to deliver AOD programs in all Victorian public prisons. In private prisons these programs are delivered in-house at Fulham Correctional Centre and are sub-contracted to Uniting Care ReGen at Port Phillip Prison.

Remand prisoners

330. Prisoners on remand have access to a range of short-term AOD health programs, which focus on harm reduction and relapse prevention.

331. Similar to offending behaviour programs, there have been limitations on the AOD programs that remandees can participate in. However, in response to my draft report, the department advised that 'Justice Health has increased AOD delivery for remandees and has made 24-hour health [AOD] programs available to remandees'.

Sentenced prisoners

332. Sentenced prisoners have access to a broader range of AOD programs. These programs, delivered by Caraniche, are divided into two streams:

- health stream programs: aim to help prisoners understand the risk and harms of substance abuse, promote healthier lifestyles and prepare prisoners for returning to the community
- criminogenic programs: longer group-based programs that target the relationship between substance use and offending¹⁷¹.

333. Programs vary in intensity and duration. The longer, more intensive programs target prisoners with a higher risk of reoffending and more significant drug and alcohol issues.

334. In its submission to my investigation, Caraniche highlighted that:

Unlike sex offender and violent offender treatment programs in which the offending behaviour is the direct treatment target, criminogenic AOD treatment addresses a broad range of offending behaviours and the specific relationship between them and substance use¹⁷².

¹⁶⁹ Justice Health is a business unit of the Department of Justice and Regulation and is responsible for delivering health services to people in Victoria's prisons.

¹⁷⁰ Caraniche is a company of psychologists, social workers and other health professionals.

¹⁷¹ Caraniche, *Submission to Ombudsman Discussion Paper*, December 2014.

¹⁷² Caraniche submission and documents provided at a meeting.

335. Program evaluation data from Caraniche shows that participants make significant gains from AOD treatment programs in mental health and wellbeing, addressing criminal thinking patterns and decision-making skills.

336. A range of programs are available in different locations including:

- a 130 hour intensive residential drug treatment program at Marngoneet Correctional Centre and Dame Phyllis Frost Centre
- individual counselling sessions
- AOD programs targeted at prisoners with both substance abuse and mental health problems, including depression, stress, anxiety and grief and loss
- AOD programs addressing substance abuse issues and women's histories of trauma, violence, grief, relationships and children
- transitional programs to help prisoners prepare for release who have substance abuse issues.

Changing trends in drug use

337. Witnesses told my officers that AOD programs need to be regularly adapted to address changing trends in drug use.

338. Several submissions to my investigation highlighted the challenges posed to the prison system by the increased use of methamphetamine, commonly known as 'ice', and the need for specific programs targeting the use of this drug.

339. Caraniche data shows that drug use patterns of prisoners participating in their programs are changing. In the last four years:

- heroin use has almost halved (32.7 per cent to 17.9 per cent)
- ice use has doubled (20 per cent to 40 per cent)

- violent offences committed by drug users have doubled (18.7 per cent to 36.7 per cent).

340. The data shows that in 2013-14:

- the most significant drug for male prisoners prior to their imprisonment was ice (49 per cent), followed by alcohol (23 per cent) and heroin (18 per cent)
- the most significant drug for women prisoners was heroin (45 per cent), followed by ice (33 per cent) and alcohol (12 per cent)¹⁷³.

341. In August 2015 the Victorian Government announced¹⁷⁴ a new pilot program aimed at prisoners identified as having a high risk of reoffending and a history of ice use. The program, to be trialled at the Marngoneet and Hopkins prisons, involves 44 hours of intensive treatment, including cognitive behaviour therapy, specifically designed to reduce reoffending among ice users. The announcement also referred to two other pilots that have recently been introduced:

- 24-hour program aimed at increasing prisoners' understanding of their ice use and the effect on their mental health
- six-hour harm-minimisation education program to help prisoners understand the effects of withdrawal and long-term use, as well as where to find support.

Marngoneet Correctional Centre

342. Marngoneet Correctional Centre was originally designed as the sole therapeutic and treatment focussed prison in Victoria, comprising three separate living areas (known as 'neighbourhoods'), housing male prisoners convicted of sexual offences, violent offences, and those with significant substance abuse issues¹⁷⁵. However, this model has changed as a result of pressures across the system.

173 While heroin remains the most significant drug for women, Caraniche advised that ice use and violence are increasing.

174 The Hon Daniel Andrews MP, Premier, *Media release - Ice-addict prison treatment aims to break link with crime*, 24 August 2015.

175 Deakin University, *Evaluation of the Marngoneet Correctional Centre, Final report*, 25 February 2013.

343. A number of witnesses raised concerns about the current operation of the residential drug program at Marngoneet. The Managing Director of Caraniche advised:

Whilst we run the residential program at Marngoneet and it's an intensive program, it doesn't follow the principles of ideal practice that we know are what's required to get best treatment outcomes. So it's a very compromised treatment approach that we have significant concerns about. It's not operating any way near in optimal conditions.

344. During my investigation it became clear that overcrowding has influenced the current operation of the residential drug program. The Forensic Services Manager at Caraniche advised:

When they developed Marngoneet, it was about building a state of the art programs prison based on a Therapeutic Community philosophy and operating model, a 300 bed prison with three neighbourhoods, violence, sex and drug and alcohol. But the issue was that the system had grown substantially and the moment that SMU's [Sentence Management Unit's] decisions about placement became security focused and stopped considering all of the other responsivity factors that are required to make an assessment about whether someone should go there (into a treatment prison), then the beginning of the culture starts to get eroded and then over time, other decisions have been made and Marngoneet is not operating like a TC [therapeutic community] at all, it's operating just like another prison really.

345. The Director of Justice Health also commented on changes at Marngoneet, telling my officers that due to overcrowding, prisoners had been placed in the residential drug treatment unit who were not undertaking the intensive drug treatment program, resulting in a change to the profile of the unit.

346. Similar concerns were noted in a 2013 evaluation report of Marngoneet, commissioned by Corrections Victoria. The report noted:

It is ... evident that the Marngoneet model has experienced considerable change since it was first implemented, with concerns expressed by some stakeholders (but by no means all) that this has undermined both the quality and integrity of the rehabilitation services that are offered. For some, the prison is evolving into a mainstream medium security prison in which programs are delivered, but in which the social therapy model has limited relevance¹⁷⁶.

347. Corrections Victoria has acknowledged Marngoneet's changing role in the Victorian prison system, noting that the original clinical service model was implemented prior to the department's decision to regionalise clinical services, which has meant access to treatment and programs has been expanded to a number of prisons¹⁷⁷.

Resourcing

348. Witnesses and submissions to my investigation spoke of there being a high demand and long waiting lists for AOD programs, as a result of the increase in prisoner numbers. This is reflected in the large volume of complaints received by my office from prisoners about delays in accessing AOD programs, which are often required for parole eligibility.

¹⁷⁶ *ibid*, page 152.

¹⁷⁷ Corrections Victoria, Strategic Policy and Planning Branch, *Key recommendations from the 2013 final report by Deakin University on the evaluation of Marngoneet*, prepared for the Victorian Ombudsman, June 2015.

349. My officers were unable to determine the full extent of the waiting lists for these programs. In response to a request for details of the waiting lists for AOD programs Corrections Victoria stated:

Justice Health is unable to provide wait list data. Justice Health does not routinely collect wait list data, and understands wait list data maintained by its AOD service provider is not reliable as an indicator of demand. Wait list protocols vary from site to site owing to local operational imperatives, and would need to be interpreted differently for each site. For example, some sites capture certain prisoners on their wait lists, and not others, some sites have multiple lists in which the same prisoner may appear multiple times, and do not indicate whether a prisoner is in fact suitable for AOD program participation, some waiting lists are a living record rather than a snapshot in time, etc.¹⁷⁸

350. To address the increased demand, funding for AOD programs has considerably increased in the last three years. At interview the Director, Justice Health advised that full-time equivalent staff for the delivery of AOD programs in public prisons has increased by 16, and funding will have increased by about \$3 million per annum since July 2012.

351. In addition, Justice Health has established an AOD quality framework, which aims to provide greater consistency of AOD services provided in both public and private prisons¹⁷⁹.

352. At interview the Director, Justice Health said that work is also currently underway to incorporate AOD program completion data into CVIMS. This should enable better data and analysis on the completion and impact of AOD programs. The Director anticipated that this will be operational by the end of 2015.

353. Other new approaches being developed by Justice Health and Caraniche include:

- a 'maintenance' program for prisoners who have completed an AOD criminogenic program
- an intensive criminogenic program, for prisoners housed at locations other than Marngoneet (where an intensive 130 hour program is available).

354. Historically, criminogenic AOD programs have only been delivered at medium and maximum security prisons, not minimum security locations, as these are intended to house prisoners towards the end of their sentence. Caraniche told my officers that these demographics are changing, with an increasing number of prisoners serving a significant portion of their sentence at minimum security prisons, particularly those on short sentences. As a result, criminogenic AOD programs were introduced at Langi Kal Kal Prison in July 2014, and at Beechworth and Dhurringile prisons in July 2015.

Mental health treatment and support

Prevalence and the need for treatment

355. The prison population has significantly higher rates of mental illness than the wider population¹⁸⁰. Prisoners are two to three times more likely than those in the community to have a mental illness and are ten to 15 times more likely to have a psychotic disorder¹⁸¹.

¹⁷⁸ Corrections Victoria, email response to Victorian Ombudsman enquiries, 14 April 2015.

¹⁷⁹ Justice Health, *Quality Framework 2014, Alcohol and Other Drug Services*, August 2014.

¹⁸⁰ Victorian Auditor-General, *Mental Health Strategies for the Justice System*, October 2014.

¹⁸¹ J.Ogloff, *Good mental health care in prisons must begin and end in the community*, The Conversation, 24 April 2015.

356. In Victoria, as at 31 March 2015:

- 40 per cent of the prison population (2,574 prisoners) were assessed as having a mental health condition¹⁸²
- 54 per cent of the prison population was identified as having a history of suicide attempts or self-harm¹⁸³.

357. The majority were assessed as having a stable psychiatric condition, with only a relatively small number of prisoners deemed as having a serious condition requiring immediate or intensive care.

358. The incidence of substance abuse is high in prisoners with mental illness. The Australia Institute identified that ‘the presence of mental illness can manifest in attempts to self-medicate, especially where an illness goes undiagnosed and untreated’¹⁸⁴. Additionally, mental health issues can arise from substance abuse.

359. Prisoners with mental health conditions often do not adapt well to prison¹⁸⁵ and so appropriate placement within the prison system is important. As highlighted in the Human Rights Law Centre submission, unsuitable prison placement has the potential to cause a prisoner’s condition to deteriorate further:

It is inappropriate that the mentally ill are often ‘managed’ by segregation, particularly given that such confinement – often for very long periods – can seriously exacerbate mental illness and cause significant psychological harm.

360. Similarly, failure to properly treat a prisoner’s mental health condition during their imprisonment can have adverse effects on their health and wellbeing and in turn, their rehabilitation and ability to effectively reintegrate into the community.

Requirements, guidelines and policy

361. Under Service Delivery Outcome 9, all prisoners entering the Victorian prison system, both sentenced and unsentenced, must have a medical screening within 24 hours. Prisoners are also seen by a psychiatric nurse, who will identify any previous treatment a prisoner has received in the community by checking the public mental health database.
362. If a prisoner is deemed at risk they undergo a further assessment by a mental health professional, within two hours¹⁸⁶.
363. An ‘at risk’ assessment may also be triggered by prison staff or clinicians at any time during a prisoner’s sentence, and prisoners may also self-refer or request to see medical staff.

Current programs and services

Remand prisoners

364. Prisoners on remand assessed as having a mental health condition are afforded the same support and treatment as sentenced prisoners.
365. Justice Health is responsible for managing and overseeing delivery of health services to prisoners in Victoria, including mental health services.
366. Prisoners with less serious conditions are generally treated by the primary health care provider, for example a General Practitioner, and referred to the contracted provider, Forensicare where necessary. Prisoners with more severe mental health conditions receive treatment through Forensicare.

¹⁸² Corrections Victoria response to Victorian Ombudsman enquiries, 24 April 2015.

¹⁸³ Corrections Victoria, email response to Victorian Ombudsman enquiries, 1 June 2015.

¹⁸⁴ David Baker, *Unlocking Care: Continuing mental health care for prisoners and their families*, The Australia Institute, December 2014.

¹⁸⁵ J.Ogloff, *Good mental health care in prisons must begin and end in the community*, The Conversation, 24 April 2015.

¹⁸⁶ Corrections Victoria, Service Delivery Outcome 10.

367. Specialised mental health beds are available for prisoners with severe conditions requiring intensive treatment; however, the number of beds across the system is limited. Male prisoners can be placed in the 16-bed Acute Assessment Unit¹⁸⁷ at the Melbourne Assessment Prison or the 30-bed psycho-social unit at Port Phillip Prison.

368. All male prisoners assessed as having a serious psychiatric condition, whether on remand or sentenced, are housed at the Melbourne Assessment Prison. As at 31 March 2015¹⁸⁸, there were 68 male prisoners with this rating. However, due to the limited number of beds in the Acute Assessment Unit, the majority were living with mainstream prisoners.

369. Female prisoners can be accommodated in the 20-bed Marmak Unit at the Dame Phyllis Frost Centre, a specialist mental health inpatient service. All female prisoners with the highest risk rating are housed at the Dame Phyllis Frost Centre. In March 2015, 21 women with the highest risk rating were in the Dame Phyllis Frost Centre, however only 13 were housed in the Marmak Unit¹⁸⁹.

370. Prisoners needing the most intensive level of support and requiring involuntary mental health treatment, both female and male, can be admitted to the Thomas Embling Hospital, a secure mental health service managed by Forensicare.

371. In private prisons, mental health services are delivered in-house at Fulham Correctional Centre and sub-contracted to St Vincent's Correctional Health Services at Port Phillip Prison.

372. Several agencies, including my office¹⁹⁰, have previously highlighted the inadequacy of the number of mental health beds and services available to prisoners in Victoria. A report by the Victorian Auditor-General¹⁹¹ found that the number of secure mental health beds has not kept pace with growing demand and wait times have increased significantly.

373. Thomas Embling Hospital is the only facility providing involuntary treatment to prisoners. It has a limited number of beds; there are significant wait times for prisoners to be transferred to the hospital for involuntary treatment which cannot be provided in prisons. The Auditor-General's report¹⁹² identified that the average time prisoners in the Acute Assessment Unit at the Melbourne Assessment Prison are waiting to be admitted for compulsory treatment has increased from 5.3 days in 2009-10 to 22.2 days in 2013-14. The report also said that in June 2014, over 50 per cent of patients in the Acute Assessment Unit at the Melbourne Assessment Prison were waiting for admission to Thomas Embling Hospital.

374. At interview, the CEO of Forensicare outlined the consequences of these delays, including:

- increased safety risks associated with such wait times, both to the prisoner and others
- possible further deterioration of the prisoner's mental health
- challenges for prison staff in managing the behaviour of the prisoner, who may be refusing to take medication.

187 The Acute Assessment Unit is a highly specialised inpatient unit for mentally ill prisoners who require a high level of psychiatric care.

188 Corrections Victoria response to Victorian Ombudsman enquiries, 24 April 2015.

189 *ibid.*

190 Victorian Ombudsman, *Investigation into deaths and harm in custody*, March 2014; Victorian Ombudsman, *Investigation into prisoner access to health care*, August 2011.

191 Victorian Auditor-General, *Mental Health Strategies for the Justice System*, October 2014.

192 *ibid.*

New strategies and funding

375. To address concerns about the inadequate number of mental health beds in the system, the Ravenhall Prison, opening in 2017, will include a 75-bed mental health unit, together with specialist mental health services for a further 100 prisoners.
376. Additionally, the 2015-16 State Budget allocated:
- \$9.5 million in capital funding over three years to build a new 8-bed high dependency unit at Thomas Embling Hospital
 - \$40.7 million in capital funding for a new 44-bed mental health facility at Dame Phyllis Frost Centre for female prisoners¹⁹³.
377. In early 2015, Forensicare introduced a mobile mental health service based at the Metropolitan Remand Centre, containing a multi-disciplinary team of psychologists, nurses, a social worker, occupational therapist and psychiatrists. The service provides treatment at other prisons when a prisoner is transferred from the Metropolitan Remand Centre to another location.
378. The mobile service is designed to enable remand prisoners who are held at the Melbourne Assessment Prison to move more quickly to the Metropolitan Remand Centre, where they are able to receive a more robust level of mental health care.

Education, skills and training

Current prisoner profiles and assessments

379. Of the 6,386 prisoners in Victoria on 31 March 2015, 246 had only completed secondary schooling¹⁹⁴.
380. In 2014, the Year 12 or equivalent completion rate for all Victorians aged 20-24 years was 89.1 per cent¹⁹⁵. In contrast, Corrections Victoria data shows that the Year 12 or equivalent completion rate of Victorian prisoners has varied between 5 and 7 per cent over the last decade¹⁹⁶.
381. In March 2015, 51.5 per cent of prisoners reported they were unemployed at the time they entered prison¹⁹⁷.
382. The education and training needs of prisoners is assessed at reception; however, this assessment is not compulsory for all prisoners. Corrections Victoria has confirmed that it plans to introduce compulsory assessments for language, literacy and numeracy for all prisoners in 2016.
383. The current assessment is completed using the Australian Core Skills Framework covering reading, writing, learning, numeracy and oral communication¹⁹⁸.

¹⁹³ The Hon Wade Noonan MP, Minister for Police, Minister for Corrections, *Victorian Budget 15-16 for Families - \$333 Million to Ease the Strain on our Corrections System*, 5 May 2015.

¹⁹⁴ Corrections Victoria, email response to Victorian Ombudsman enquiries, 24 April 2015.

¹⁹⁵ Department of Education and Training, *Summary Statistics for Victorian Schools*, July 2015.

¹⁹⁶ Corrections Victoria, *Review of recent literature on prison-based education, training and employment programs*, January 2014.

¹⁹⁷ Corrections Victoria, response to Victorian Ombudsman enquiries, 24 April 2015.

¹⁹⁸ Australian Government, Department of Industry and Science, *Australian Skills Framework 2012*.

384. Corrections Victoria research has found that overall, only 40 per cent of prisoners had sufficient literacy and numeracy skills to participate independently in the workforce. It noted that there were a number of prisoners that ‘cannot meet the basic literacy and numeracy required for even unskilled work...’¹⁹⁹.

Research

385. There is evidence that rates for re-arrest, re-conviction and re-incarceration are lower for prisoners who have participated in study whilst imprisoned, compared with those who have not²⁰⁰.

386. Victorian research in this area is limited, however a recent Western Australian study found that ‘... proportionately fewer repeat offences by former prisoners who studied in prison, compared with those who did not.’ In addition, the research found ‘Improving employability and reducing welfare dependence can ... reduce demand on the public purse, as well as promote more productive lives’²⁰¹.

387. Research by the Australian Institute of Health and Welfare made the link between unemployment at the time of offending and employment prospects on release:

The unemployment status of people entering prison may be indicative of the level of need for assistance with such issues upon release into the community. Employment has many benefits for individuals and their families and has been shown to be linked to decreased rates of reoffending and reimprisonment among former prisoners. Many of the factors related to being able to achieve sustained employment are also related to offending behaviour such as mental health issues, drug and alcohol misuse, low levels of education and poor socioeconomic status²⁰².

388. Research reports discuss a strong link between participation in prison-based education and training and post-release employment and, in some cases, an association with reduced risk of reoffending. One study of prisoner education and training²⁰³ found that:

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

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

- prisoners who participated in education programs were 43 per cent less likely to return to prison than those who did not
- prisoners who participated in education programs were 13 per cent more likely to have obtained employment post release²⁰⁴.

390. Corrections Victoria data suggests women are less likely to have been in full time employment at the time of offending and are likely to benefit from developing vocational skills to assist in finding flexible employment to meet their generally higher carer responsibilities²⁰⁵.

Requirements, guidelines and policy

391. Since 1978 every Australian state and territory has been involved in developing a set of guiding principles for correctional services, known as the Standard Guidelines for Corrections in Australia²⁰⁶.

199 Corrections Victoria, *Prisoner Employment Pathway Framework 2015-19*, 5 February 2015.

200 Dr M. Giles and Ms J. Whale, *Prisoner Education and Training, and other Characteristics*, Western Australia, 2013.

201 *ibid*.

202 Australian Institute of Health and Welfare, *The Health of Australia's Prisoners 2012*, 2013.

203 Dr M. Giles and Ms J. Whale, *Prisoner Education and Training and other Characteristics, Western Australia, July 2005 to June 2010*, 2013.

204 Corrections Victoria, *Review of recent literature on prison-based education, training and employment programs*, January 2014.

205 Corrections Victoria, *Education and Training Strategy (Prisons) 2012-2013*, June 2011.

206 Department of Justice, Victoria et al, *Standard Guidelines for Corrections in Australia*, revised 2012.

392. The current guidelines include the following principle:

[prisoners are] ... actively engaged to make positive behaviour change (inclusive of accessing intervention programmes, education, vocational education and work opportunities) with the aim of preparing them for their participation in and return to the community, as well as reducing reoffending behaviour²⁰⁷.

393. Corrections Victoria reflects this principle in its *Correctional Management Standards for Men's Prisons*²⁰⁸ and *Standards for the Management of Women Prisoners*²⁰⁹.

394. Management standards specify that a language, literacy and numeracy assessment will be offered to all prisoners who:

- at reception into prison, report being unemployed and having not completed year 12 or equivalent
- are Aboriginal and Torres Strait Islander
- are under the age of 25 years
- participate in vocational education and training.

395. The Deputy Commissioner's Instructions specify that participation in education and training is prioritised for those who fall within the following target groups:

- dual disadvantage (unemployed at reception with incomplete or no secondary education)
- Aboriginal and Torres Strait Islander prisoners.

If prisoners are serving a period of three months or more, additional priority groups are:

- young prisoners (under 25 years)
- women prisoners

- prisoners from culturally and linguistically diverse backgrounds
- prisoners with a disability²¹⁰.

396. Under section 47(1)(o) of the *Corrections Act 1986*, prisoners have a legislated right to access educational programs in prison. The *Corrections Victoria Education and Training Strategy*²¹¹ guides the funding, strategic direction and monitoring of education and training in all prisons. A revised strategy will commence in January 2016.

397. For prisoners participating in education, a vocational counselling session is undertaken. One purpose of this session is to develop a learning plan which sets out the education and training to be undertaken in prison and the employment aims of the prisoner for post-release. The learning plans are reviewed through the Case Management Review Committee process.

Current programs and services

Remand prisoners

398. Being on remand does not preclude a prisoner from accessing education programs; however, depending on the length of time on remand, a prisoner may not complete a full certificate program. In this section of the report, the current programs and services for remand prisoners can be taken as those available to sentenced prisoners.

Sentenced prisoners

399. In relation to education, skills and vocational training, prisoners in Victoria have the option to enrol or participate in the following, depending on their location and suitability:

- general skill development programs to address language, literacy and numeracy, base skills, basic computer skills and mandatory occupational health and safety

²⁰⁷ *ibid*

²⁰⁸ Corrections Victoria, Department of Justice, *Correctional Management Standards for Men's Prisons in Victoria*, July 2014.

²⁰⁹ Corrections Victoria, Department of Justice, *Standards for the Management of Women Prisoners in Victoria*, July 2014.

²¹⁰ Corrections Victoria, *Deputy Commissioner's Instruction 3.01, Education and Training*, 3 February 2015.

²¹¹ Corrections Victoria, *Education and Training Strategy (Prisons) 2012-2013*, June 2011.

- vocational education and training courses such as certificates in horticulture, construction, automotive and commercial cookery
- distance education to study off-campus through TAFE and university providers, self-funded by the prisoner
- industry participation, with certificates in areas like kitchen, laundry, asset maintenance and agriculture.

400. Five TAFE providers are contracted to deliver the general skill development programs and vocational education and training courses in prisons. The contracts and delivery are overseen by the General Manager, Corrections Victoria's Education, Training and Employment Branch.

401. The Department of Education managed the delivery of education by TAFEs in prisons from 1989 to 1 January 2012. From 2012, responsibility was transferred to Corrections Victoria with the same service providers in place.

402. There are 60 recognised general skills and vocational education and training courses recorded as available in Victorian prisons in 2015. Two of these are on offer at all prison locations; the remainder are spread across different prisons. However, as discussed later in my report, while the courses are listed as available, performance reports show that this does not guarantee a course will actually run.

403. Of the vocational and education and training programs, certificates in hospitality, kitchen operations and commercial cookery, and certificates in general education for adults are recorded as offered at all locations. The remaining courses are location specific and dependent on the TAFE provider. These courses range from cleaning operations to horticulture. Prisoners may also apply to study units that lead to a qualification, or undertake distance education through approved providers, for example university degrees.

404. As the TAFE modules studied are nationally approved subjects, they count towards any course that a prisoner continues once their sentence has ended. Any certificate awarded to a prisoner is awarded by the TAFE provider, not the prison, to minimise any inappropriate scrutiny or discrimination in seeking work.

405. Corrections Victoria aligns courses offered to industries with recognised skill shortages and areas where former prisoners would not be inhibited from secure employment. The *Deputy Commissioner's Instruction 3.01, Education and Training* states²¹²:

Corrections Victoria recognizes the opportunities for Prison Industries to play a central role in supporting the reduction of recidivism by developing skills relevant to the contemporary labour market.

...

The majority of Vocational Education & Training (VET) courses offered in prisons aligns to the community based skills shortages and labour market needs.

406. An analysis of the current skills shortages list for Victoria indicates that of the technical and trades worker occupations, there are skills shortages in 24 occupation areas. The vocational and education training programs offered in Victorian prisons provide pathways towards employment in five of these areas²¹³. For example, there is a reported state-wide shortage of hairdressers²¹⁴. A Certificate II in Hairdressing, which provides for employment as a salon assistant and as pathway to further training or an apprenticeship²¹⁵, is currently listed as a course available in all prison locations²¹⁶. Although interest from prisoners would have a bearing on course delivery, this course has not been scheduled at any location this calendar year.

²¹² Corrections Victoria, *Deputy Commissioner's Instruction 3.01, Education and Training*, 3 February 2015.

²¹³ Australian Government, Department of Employment, *Skill Shortage List Victoria*, 2014, February 2015.

²¹⁴ *ibid.*

²¹⁵ Commonwealth of Australia, Industry Skills Councils SIH2011 Certificate II in Hairdressing, Release 2, 2013.

²¹⁶ Corrections Victoria, response to Victorian Ombudsman request, performance review documents, quarter 1, 2014-15.

407. Corrections Victoria states in its *Prisoner Education and Training, Service Delivery Model* that it:

... expects [education/skill] service providers to provide it with advice about labour market employment needs in industries and services likely to employ former prisoners on a regular basis to inform the education and service mix in each prison²¹⁷.

Distance education and access to the internet

408. Prisoners wishing to do courses not available through the education provider at their prison location can apply to undertake distance education or off-campus study in higher education or Vocational Education Training (VET) courses if available²¹⁸. Prisoners approved to study through distance education must meet the tuition costs for the course. Prisoners also have no personal access to online resources for security reasons.

409. Prisoners studying distance education are supported by the Senior Education Officer at each location, who helps with the online submission of assessments and downloading internet course documents and papers. Prisoner students are therefore reliant on the Senior Education Officer to support their studies.

410. Traditional course delivery methods do not provide the opportunity for prisoners to develop computer and digital literacy skills, which are increasingly required to function both socially and in employment settings²¹⁹.

411. There is an increasing trend for online course delivery in Australia and it is likely that without internet access, prisoner education opportunities will remain limited²²⁰. A number of initiatives have been introduced in jurisdictions overseas, where the need to enhance prisoners' digital literacy has been addressed.

412. In the United Kingdom, prisoners can study through Open University on a secure network or 'virtual campus'. In 2013-14, 54 prisoner students obtained undergraduate degrees, four prisoners achieved post-graduate degrees and around 100 prisoners obtained higher education certificates and diplomas. Students are supported through telephone tutorials, assignments can be submitted online and students have access to audiovisual study materials²²¹. Prisoners are also linked to continued study post-release.

413. In the Australian Capital Territory, prisoners at the Alexander Maconochie Centre have controlled access to internet websites that contain legal resources and educational materials. In Tasmania, a secure network has been developed to assist prisoners in studying by distance education. The University of Southern Queensland is trialling the introduction of portable learning devices in prisons.

414. In its submission to my investigation, Liberty Victoria highlighted the gap in digital access in Victoria:

Liberty Victoria is concerned that preventing prisoners from developing this important aspect of literacy will have ramifications for their future education and employment prospects post release²²²...

217 Corrections Victoria, *Prisoner Education and Training, Service Delivery Model*, February 2015.

218 Corrections Victoria, *Deputy Commissioners Instruction 3.01, - Education and Training*, 2012.

219 A. Antonio and H. Farley, *Offline inmates denied education and skills that reduce reoffending*, 24 April 2015.

220 *ibid.*

221 <www.open.ac.uk> viewed on 28 April 2015.

222 Liberty Victoria, *Submission to the Victorian Ombudsman*, December 2014.

415. This point was made by others, including Dr Bronwyn Naylor:

Without internet access much distance education is – realistically – inaccessible; information taken for granted outside the prison is inaccessible; and the prisoner is woefully unprepared for life after prison where they have no knowledge of using the internet (including the many ways in which welfare and other services presuppose internet expertise and internet access). Other countries have no difficulty setting up appropriate filters and security; Victoria should be able to do this too²²³.

416. Although there are understandable security concerns in prisoners accessing the internet, these could be addressed by monitoring and controlling internet use, as has been done elsewhere.

417. In response to my draft report, Corrections Victoria advised that it was ‘not possible’ to provide restricted internet access to prisoners for education purposes and did not elaborate on its reasons. Corrections Victoria did however state:

The alternative is creating a secure intranet environment that gives much the same access and CV is already exploring these options²²⁴.

418. As universities and TAFEs offer more online courses, the impact on prisoners denied this method of teaching increases. This is set out in a 2014 research paper:

Universities and TAFE’s are moving content online and the way classes are taught and the way students learn is changing, with greater emphasis on collaboration and interactivity through online discussion groups, virtual classrooms, and social media such as Facebook, Twitter and You Tube. Although in theory these changes greatly benefit offsite and distance learners, for prisoners without internet it actually makes studying harder²²⁵.

419. If prisoners were given controlled access to online mainstream learning, they could continue their education post-release with minimal disruption.

420. It is not unreasonable to expect that there would be savings in the longer term if Corrections Victoria did not have to rely on TAFE staff to deliver education sessions in person at prison locations.

Service delivery outcomes and TAFE performance

421. Corrections Victoria sets Service Delivery Outcomes on education, skills and training to be met by each prison, which are reported quarterly.

422. The measured outcomes for education and training are:

- vocational education and training participation: measures the percentage of prisoners actively participating in education and training, defined as prisoners having attended an approved course at least once a month. This does not apply to the Melbourne Assessment Prison
- education and training unit of competency completions: ensures that enrolments in education and training courses result in successful completion. To maximise completions, prisons are required to plan enrolments using scheduled movements, including releases. The benchmarks for this outcome are set to allow for unscheduled movements but do not include prisoners studying through distance education or vocational training.

223 Dr Bronwyn Naylor, *Submission to the Victorian Ombudsman*, January 2015.

224 Corrections Victoria, response to draft report, 31 July 2015.

225 L. Harrison, ‘Prisoners and their access to the internet in the pursuit of education’, *Alternative Law Journal*, Volume 39:3, 2014.

423. Various reporting and quality requirements apply to the provision of education services. While the SDOs hold each prison accountable for performance in education and training, the performance of contracted TAFEs is measured against negotiated performance targets, which are different. This discrepancy means it is possible that a TAFE may meet its individual performance measures while the prison location may be found to have failed to meet its SDO targets. In addition, prisons are assessed against benchmarks for the financial year, while TAFE performance is measured against a calendar year.

424. At the time of writing, Corrections Victoria was retendering for the provision of education and training programs.

Service delivery outcomes for prisons

425. My officers obtained the first three quarterly SDO reports for all prisons for the 2014-15 financial year. The benchmark for vocational education and training is active participation for at least one day per month. Of the data my officers saw, 11 out of 14 prisons failed to meet the benchmark for at least one month, and Barwon Prison failed to meet any monthly target²²⁶.

426. With respect to the benchmarks for education and training completions, nine prisons reported at least one month where this benchmark was not met. Marngoneet Correctional Centre has failed each of its quarterly targets for the financial year to March 2015.

TAFE performance measurement

427. As noted above, while the prisons' SDOs are measured across the financial year, the performance of the TAFE is measured per calendar year.

428. My officers reviewed the first quarter performance results for 2015 for each TAFE provider by location. In four locations, the Aboriginal and Torres Strait Islander specific cultural engagement course²²⁷ had no teaching hours delivered in the first quarter of 2015. In addition, three locations did not deliver any teaching hours for the certificate levels of Aboriginal or Torres Strait Islander Cultural Arts.

429. The first quarter results also indicated that only one prison was able to deliver teaching hours in all its courses planned for that period.

430. In the 2013-14 financial year, TAFE providers in nine of the 14 prisons in Victoria had penalties applied for failing to:

- ensure the required percentage of Aboriginal and Torres Strait Islander prisoners were enrolled in courses in six prisons
- ensure the required percentage of disadvantaged prisoners were enrolled in eight prisons
- meet average class size requirements in two prisons
- submit reporting data in two prisons
- ensure the required number of units were completed by students (three prisons).

431. From inspections at five prison locations, my officers observed marked inconsistencies in the standard of education facilities and learning tools, depending on the provider.

432. The tendering process that Corrections Victoria will undertake in early 2016 for the delivery of education programs provides an opportunity to improve the quality of education and training programs in all prisons.

²²⁶ Corrections Victoria, *Service Delivery Outcome Results (both private and public prisons)*, July 2014-March 2015.

²²⁷ *Mumgu-dhal tyama-tiyt*, translating to 'message stick of knowledge'.

433. The evidence from my investigation shows the quality of education available to each prisoner depends on their location and the priorities of the contracted provider, and is not necessarily related to a prisoners individual learning needs.

434. Further, the evidence shows that the targeted priority groups for education enrolments, as specified in the Deputy Commissioners Instructions, are not consistently engaged.

435. My officers reviewed the 2014-15 first quarter enrolment percentages for each prison of enrolment of Aboriginal and Torres Strait Islander prisoners and those defined by Corrections Victoria as having dual disadvantage: prisoners who have not completed Year 12 and were unemployed prior to prison. The percentages vary widely from nine to 87 per cent enrolment of Aboriginal and Torres Strait Islander prisoners, and 14 to 55 per cent for dual disadvantage prisoners. Table 8 shows these enrolments per location for the first quarter of this year²²⁸.

Waiting lists for courses

436. My investigation found that there are issues with access to courses and lengthy waiting lists, although there are variations across prison locations (refer to Table 9).

437. Of the public prisons, waiting lists varied from two waiting to undertake courses at Barwon Prison to 311 prisoners waiting at the Metropolitan Remand Centre²²⁹. In the private prisons, waiting lists for courses were 238 prisoners at Fulham Correctional Centre and 265 prisoners at Port Phillip Prison.

438. In addition, in January 2015, there were 48 prisoners across all prisons on waiting lists to undertake distance education²³⁰.

Future developments

439. Corrections Victoria has advised that it plans to implement a revised service delivery model for prisoner education and training to be implemented in January 2016, to coincide with the tender for service providers.

440. When I started my investigation, there was less incentive for prisoners to pursue full time study, as pay for people in education was less than for work in prison industries. Corrections Victoria has now taken steps to ensure pay parity for prisoners undertaking full time study.

Industry Skills Centre Program

441. To support the development of skills, Corrections Victoria provides the Industry Skills Centre Program to prisoners at eight prisons. The program is designed to provide on-the-job training and develop employment skills, with additional pre- and post-release support and employment placement options.

442. The program is funded to support a minimum of 120 prisoners across eight prisons. The post-release support and job placement component of the program is under contract to Group Training Association Victoria.

443. A December 2014 review²³¹ of the program identified a number of concerns with its management and outcomes including:

- all places in the program were rarely filled
- an attrition rate of 43 per cent of those who start the program
- withdrawals due to prison transfers and the impact on participant numbers
- communication failures between key staff
- inconsistent record keeping²³².

228 Corrections Victoria, response to Victorian Ombudsman request, Performance review documents, quarter 1, 2014-15.

229 Corrections Victoria, fact sheet prepared for Victorian Ombudsman, 16 January 2015.

230 Corrections Victoria data report prepared for Victorian Ombudsman, 24 April 2015.

231 Centre for Innovative Practice, Edith Cowan University, *Evaluation of Industry Skills Centre Program Victoria Prisons: Final Report*, December 2014.

232 *ibid.*

Location	Aboriginal and Torres Strait Islander enrolments	Dual disadvantage	Both Aboriginal and Torres Strait Islander and dual disadvantage
Barwon Prison	41%	24%	45%
Beechworth Correctional Centre	40%	34%	0%
Dame Phyllis Frost Centre	61%	55%	61%
Dhurringile Prison	28%	29%	23%
Fulham Correctional Centre	66%	38%	61%
Hopkins Correctional Centre	87%	34%	74%
Langi Kal Kal Prison	33%	38%	36%
Loddon Prison	61%	43%	66%
Melbourne Assessment Prison	24%	14%	23%
Marngoneet Correctional Centre	9%	15%	10%
Middleton (Loddon)	67%	34%	60%
Metropolitan Remand Centre	40%	26%	40%
Port Phillip Prison	32%	30%	37%
Tarngower Prison	75%	46%	67%

Data source: Corrections Victoria.

Prison location	Total waiting lists for courses
Dame Phyllis Frost Centre	18
Metropolitan Remand Centre	311
Langi Kal Kal	150
Hopkins Correctional Centre	37
Beechworth Correctional Centre	157
Dhurringile Prison	148
Marngoneet Correctional Centre	171
Barwon Prison	2
Loddon Prison	160
Tarngower Prison	5
Middleton (Loddon)	132
Port Phillip Prison	265
Fulham Correctional Centre	238
Total	1,784

Data source: Corrections Victoria.

444. The review identified a reduction in recidivism for prisoners who had participated in the program, reporting a 19 per cent recidivism rate for participants in the program compared to a group which had not participated with an estimated 28 per cent. Seventeen in 88 prisoners who participated in the program did not return to prison within two years²³³.

Indigenous education and training

445. In 2011, Corrections Victoria implemented an Aboriginal and Torres Strait Islander strategy, to increase participation of Aboriginal and Torres Strait Islander prisoners in education programs and strengthen employment options post-release²³⁴. Corrections Victoria set targets of 60 per cent participation in education and a minimum of 10 job placements per year, which was then increased to 25.

446. Funding for the strategy ceased in June 2014. In October 2014, Corrections Victoria reviewed the strategy²³⁵ finding:

- targets for job placements of prisoners were not met. From November 2011 to June 2012, two prisoner job placements were achieved; from July 2012 to June 2014, 14 job placements were achieved
- the target of 60 per cent participation in education was not achieved, although participation levels did fluctuate from a low of 48 per cent through to 59 per cent between 2011 and 2014.

447. As noted above, of the prisons that offer the two Indigenous certificate programs, limited hours have been taught in the first quarter of 2015.

²³³ *ibid.*

²³⁴ Corrections Victoria, *Koori Education, Training and Employment Strategy 2011-2013*, Meerta Meerta, July 2011.

²³⁵ Corrections Victoria, *Review of the Koori Education, Training and Employment Strategy*, January 2015.

Prisoner groups with particular needs

The Victorian prison population is made up of people from considerable disadvantage and there are distinct groups of prisoners who can experience acute and chronic disadvantage.

These groups include Aboriginal or Torres Strait Islander prisoners, prisoners with a cognitive disability, women prisoners and young prisoners aged under 25.

When systems come under stress, the most vulnerable groups often bear a disproportionate amount of the burden.

The Victorian prison system is having to deal with rapidly increasing numbers. Groups with special needs may be left behind as the needs of the many outweigh the requirements of the few.

Key facts:

- 114% increase in the number of Aboriginal and Torres Strait prisoners in Victorian prisons in the last 10 years
- at least 42% of male prisoners and 33% of female prisoners have an acquired brain injury compared with 2% of the general population
- the number of women imprisoned in Victoria increased by 58 per cent between 2008 and 2013, more than double that of the male prison population
- 52.7% of prisoners under 25 return to prison within two years.

448. As discussed earlier, Victoria's prisoners are in general, people who experience significant disadvantage. There are however certain groups with particular needs who often have complex and multiple layers of disadvantage including:

- Aboriginal or Torres Strait Islander prisoners
- prisoners with a cognitive disability
- women prisoners
- young adult prisoners (under the age of 25)²³⁶.

449. A common observation is that when systems come under stress, the most vulnerable groups seem to bear a disproportionate burden. Jesuit Social Services confirmed this view:

It has become clear from our experience working in the corrections system that the needs of vulnerable people are not always met. This is particularly the case when the system is under pressure, as it is at present. The demands of managing a growing prison population have resulted in the needs of vulnerable people being neglected.

450. This section examines the needs of these groups, the support and programs available to them and examines whether their needs are being met by the current system.

²³⁶ Victorian Council of Social Service, *Submission to Victorian Ombudsman*, December 2014; Jesuit Social Services, *Submission to Victorian Ombudsman*, December 2014.

Aboriginal and Torres Strait Islander prisoners

Over-representation

451. In the last census in 2011, Aboriginal and Torres Strait Islander people were 2.5 per cent of Australia's total population, and in June 2014 were 27 per cent of the total Australian prison population²³⁷.
452. Aboriginal and Torres Strait Islander people account for 0.7 per cent of the state's overall population²³⁸ however they make up 7.8 per cent of the state's overall prison population²³⁹. Between 2004 and 2014 the Aboriginal and Torres Strait Islander prison population in Victoria more than doubled, from 670.8 prisoners per 100,000 adult population to 1,435.5 in 2014²⁴⁰. This increase of 114 per cent is greater than any other Australian state or territory over the same period. By contrast the rate of non-Indigenous prisoners per 100,000 adult population in Victoria was 129.8 in 2014²⁴¹.
453. The only other jurisdiction in Australia to have a similar increase in its ratio of Aboriginal and Torres Strait Islander prisoners was the Northern Territory at 104 per cent²⁴². However, the percentage of Aboriginal and Torres Strait Islander people in the Northern Territory's overall population is considerably higher than Victoria's, at 26.8 per cent²⁴³.
454. In Victoria, Aboriginal and Torres Strait Islander people are 11 times more likely to be incarcerated than the state's general population²⁴⁴, and nationally the figure is 13 times²⁴⁵.
455. Released Aboriginal and Torres Strait Islander prisoners are also more likely to reoffend and to return to prison than the rest of the prisoner population. According to ABS statistics released last year on *Prisoners in Australia*, 67 per cent of Victoria's Aboriginal and Torres Strait Islander prisoner population had previously served a term of imprisonment²⁴⁶. Nationally, 77 per cent of Aboriginal and Torres Strait Islander prisoners have previously been incarcerated compared to 52 per cent of non-Indigenous prisoners²⁴⁷.
456. According to Corrections Victoria, the recidivism rate of Victoria's Aboriginal and Torres Strait Islander prisoner population in the 2013-2014 financial year was 55 per cent²⁴⁸. This means that more than half the Aboriginal and Torres Strait Islander prisoner population in 2013-14 had served a term of imprisonment in the preceding two years.
457. A number of studies have considered the reasons for the level of over-representation of Aboriginal and Torres Strait Islander people in prisons. These include the 1991 Royal Commission into Aboriginal Deaths in Custody²⁴⁹ and a 2010 report by the Select Committee on Regional and Remote Indigenous Communities²⁵⁰. They identified that the measures of disadvantage common in the general prisoner population are significantly more prevalent for Aboriginal and Torres Strait Islander prisoners.

237 Australian Bureau of Statistics, *Prisoners in Australia, 2014*, December 2014, Table 13 and Australian Bureau of Statistics, *Census of Population and Housing - Counts of Aboriginal and Torres Strait Islander Australians, 2011*, June 2012, Table 3a.

238 Australian Bureau of Statistics, *Census of Population and Housing - Counts of Aboriginal and Torres Strait Islander Australians, 2011*, June 2012, Table 3a.

239 Australian Bureau of Statistics, *Prisoners in Australia, 2014*, December 2014, Table 13.

240 *Ibid.*, Table 17.

241 *Ibid.*

242 *Ibid.*

243 Australian Bureau of Statistics, *Census of Population and Housing - Counts of Aboriginal and Torres Strait Islander Australians, 2011*, June 2012, Table 3a.

244 Australian Bureau of Statistics, *Prisoners in Australia, 2014*, December 2014, Table 17.

245 *Ibid.*

246 *Ibid.*, Table 28.

247 *Ibid.*

248 Corrections Victoria, Information Management and Evaluation Branch, *Review of the Koori Education, Training and Employment Strategy*, January 2015, page 11.

249 The Royal Commission into Aboriginal Deaths in Custody was established in response to significant public concern about frequent and inadequately explained deaths of Aboriginal people in state and territory correctional facilities.

250 The Senate Select Committee on Regional and Remote Indigenous Communities, *Indigenous Australians, Incarceration and the Criminal Justice System*, 2010.

458. The Royal Commission found that:

... the more fundamental causes for the over-representation of Aboriginal people in custody are not to be found in the criminal justice system but in those factors which bring Aboriginal people into conflict with the criminal justice system in the first place.

...

... the most significant contributing factor is the disadvantaged and unequal position in which Aboriginal people find themselves in the society – socially, economically and culturally²⁵¹.

459. In its discussion paper, *Indigenous Australians, Incarceration and the Criminal Justice System*, the Select Committee on Regional and Remote Indigenous Communities suggests that part of the cause of over-representation in prison lies in the response of the justice system to Aboriginal and Torres Strait Islander people²⁵². Specifically, it suggests that Aboriginal and Torres Strait Islander people come into contact with the justice system at a much higher rate because they are disproportionately affected by:

- policing agendas, such as zero-tolerance policing, powers to move people on and search on the spot, due to their traditional practice of gathering and socialising in public space, which increases their visibility to police, and subsequently the justice system

- increased severities in bail, where bail is often refused or, if granted, conditions make it difficult to ensure compliance
- the lowering of sentencing thresholds in instances where Aboriginal and Torres Strait Islander people have a prior criminal record
- tougher crime policies in general²⁵³.

460. There is extensive data showing high levels of disadvantage including:

- of the 19 per cent of Aboriginal and Torres Strait Islander people who consume alcohol, the intake is twice that of non-Indigenous people²⁵⁴
- nearly one in every three Aboriginal and Torres Strait Islander people reported high levels of psychological distress, particularly among victims of violence, discrimination or removal from families²⁵⁵
- only 21 per cent of all Aboriginal and Torres Strait Islander people between the ages of 15 and 64 have completed Year 12 or equivalent²⁵⁶
- 17 per cent are unemployed²⁵⁷
- 23 per cent of Aboriginal and Torres Strait Islander people accessed specialist homelessness services in the 2013-2014 financial year²⁵⁸.

251 *The Royal Commission into Aboriginal Deaths in Custody*, 1991, volume 1, paragraph 1.71.

252 The Senate Select Committee on Regional and Remote Indigenous Communities, *Indigenous Australians, Incarceration and the Criminal Justice System*, 2010, pages 36–39.

253 *ibid.*

254 Australian Bureau of Statistics, *Australian Aboriginal and Torres Strait Islander Health Survey: Nutrition Results – Food and Nutrients, 2012-13*, March 2015. <www.abs.gov.au/ausstats/abs@.nsf/Lookup/4727.0.55.005main+features12012-13> viewed on 29 April 2015.

255 Australian Bureau of Statistics, *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples, Oct 2010*, October 2010. <www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/4704.0Mediaper cent20Release1Octper cent202010?opendocument&tabname=Summary&prodno=4704.0&issue=Octper cent202010&num=&view> viewed on 29 April 2015.

256 Australian Bureau of Statistics, *National Aboriginal and Torres Strait Islander Social Survey, 2008, October 2009*. <www.abs.gov.au/AUSSTATS/abs@.nsf/Latestproducts/4714.0Mediaper cent20Release12008?opendocument&tabname=Summary&prodno=4714.0&issue=2008&num=&view> viewed on 29 April 2015.

257 *ibid.*

258 Australian Institute of Health and Welfare, *Specialist Homelessness Services 2013-2014*, 2014, page 8.

-
461. In a research brief from the Indigenous Justice Clearinghouse, these disadvantages and inequalities are considered risk factors in the offending of Aboriginal and Torres Strait Islander people and their subsequent level of representation in prisons²⁵⁹.
462. According to Corrections Victoria, the recent growth in the Aboriginal and Torres Strait Islander prisoner population in Victoria has been driven largely by an increase in remand and parole cancellations²⁶⁰. In its 2015 *Review of the Koori Education, Training and Employment Strategy*, Corrections Victoria noted the 'number of Koori prisoners in Victorian prisons increased by 32 per cent over the past 16 months'²⁶¹:

As at October 2014 there were 512 Koori prisoners, compared to 388 in June 2013, with over one third (36 per cent) of the Koori prison population located in two prisons, Port Phillip Prison (maximum security) and Fulham Correctional Centre (medium security) ... Over half the male Koori prisoners received under sentence in 2013-2014 came into prison as a result of their parole being cancelled²⁶².

Particular needs

463. The distinct cultural rights of Aboriginal and Torres Strait Islander people are recognised in the Victorian *Charter of Human Rights and Responsibilities Act 2006*²⁶³. In managing Aboriginal and Torres Strait Islander prisoners, Corrections Victoria must comply as far as reasonable with the Charter and consider it when making decisions about Aboriginal and Torres Strait Islander prisoners²⁶⁴.
464. In its submission, the Victorian Aboriginal Legal Services (VALS) said that there is a need to ensure that the issues facing Aboriginal and Torres Strait Islander prisoners are carefully considered in the planning and delivery of programs and services, not only in prisons, but also in the community after they are released²⁶⁵. It also said that Aboriginal and Torres Strait Islander cultural practices and observances are on par with religious observances²⁶⁶ and should be respected in a similar way.
465. One Aboriginal Wellbeing Officer (AWO) working in a prison was of the view that many of Aboriginal and Torres Strait Islander people they work with have come away from or lost a sense of their culture and identity. Given this, the AWO said that time spent in prison should focus on coming back to culture and identity through tailored programs and services.

259 T. Allard, Indigenous Justice Clearinghouse, *Understanding and Preventing Indigenous Offending*, 2010.

260 Corrections Victoria Information Management and Evaluation Branch, *Review of the Koori Education, Training and Employment Strategy*, January 2015, page 10.

261 *ibid.*

262 *ibid.*

263 *Charter of Human Right and Responsibilities Act 2006* section 19.

264 Corrections Victoria, *Deputy Commissioner's Instruction No: 2.07 Aboriginal and Torres Strait Islander Prisoners*, December 2012.

265 Victorian Aboriginal Legal Service, *Response from the Victorian Aboriginal Legal Service: Victorian Ombudsman Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria - Discussion Paper*, December 2014.

266 *ibid.*

466. In its submission VALS emphasised the need for literacy and numeracy testing, given that low levels of education attainment of Aboriginal and Torres Strait Islander people can undermine any training and training²⁶⁷. I have been advised that compulsory language, learning and numeracy testing will be introduced across all Victorian prisons in 2016.

467. VALS also stated that to encourage learning amongst Aboriginal and Torres Strait Islander prisoners, the physical location where programs are delivered needs to be considered²⁶⁸. VALS said that many Aboriginal and Torres Strait Islander prisoners may have been alienated from traditional schooling and placing them back in a classroom type setting might discourage them from taking part²⁶⁹.

468. A number of AWOs and Aboriginal Liaison Officers (ALOs) also raised concerns about the availability of space within the prison for the delivery of programs and other related activities, noting that such space is now more frequently being used for the delivery of other mainstream programs, such as the Quit smoking courses.

469. Additionally these AWOs and ALOs also identified the importance of addressing the medical needs of Aboriginal and Torres Strait Islander people, as poor physical and/or mental health can affect delivery of programs and services.

470. In his 2012 speech, *Mental Illness and Cognitive Disability in Aboriginal and Torres Strait Islander Prisoners – a Human Rights Approach*, Mr Michael Gooda, Aboriginal and Torres Strait Islander Social Justice Commissioner said:

It seems that Aboriginal and Torres Strait Islander prisoners are more likely than non-Indigenous prisoners to experience:

- mental health problems,
- substance use problems,
- hearing loss and
- ill health.

471. The Commissioner went on to say:

... it doesn't take a qualified medical professional to know that Aboriginal and Torres Strait Islander people might struggle to deal with the myriad of issues we face as individuals and as communities, and that's without being incarcerated²⁷⁰.

Requirements, guidelines and policies

472. The following corrections guidelines set minimum requirements in the management of prisoners including recognition of the needs of Aboriginal and Torres Strait Islander prisoners:

- Standard Guidelines for Corrections in Australia²⁷¹
- Correctional Management Standards for Men's Prisons in Victoria²⁷²
- Standards for the Management of Women Prisoners in Victoria²⁷³.

267 Victorian Aboriginal Legal Service, *Response from the Victorian Aboriginal Legal Service: Victorian Ombudsman Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria – Discussion Paper*, December 2014.

268 *ibid.*

269 *ibid.*

270 Speech delivered by M Gooda, Aboriginal and Torres Strait Islander Social Justice Commissioner, *Mental Illness and Cognitive Disability in Aboriginal and Torres Strait Islander Prisoners – A Human Rights Approach*, Cairns, Queensland, 23 August 2012.

271 Department of Justice et al, *Standard Guidelines for Corrections in Australia*, 2012.

272 Corrections Victoria, *Correctional Management Standards for Men's Prisons in Victoria*, July 2014.

273 Corrections Victoria, *Standards for the Management of Women Prisoners in Victoria*, July 2014.

473. In addition, the Commissioner's Requirements and the Deputy Commissioner's Instructions (DCIs) apply a set of specific standards for the management of prisoners in each prison in Victoria. The instructions state that prisons are required to provide Aboriginal and Torres Strait Islander prisoners with access to an AWO or an ALO, as well as specific programs that reflect their culture and link into community services²⁷⁴.

474. Some extra programs and initiatives for Aboriginal and Torres Strait Islander people are set out in the Aboriginal Justice Agreement, which I discuss later in this report.

Current programs and services

Aboriginal Wellbeing Officers, Aboriginal Liaison Officers and Indigenous Service Officers

475. On 31 March 2015 there were 384 sentenced Aboriginal and Torres Strait Islander prisoners and 130 un-sentenced in Victorian prisons²⁷⁵.

476. In a submission to my investigation, VCOSS said:

Aboriginal people, including former prisoners, have confirmed the essential role of Aboriginal Wellbeing Officers in the prison system²⁷⁶.

477. The role of the AWO/ALO is to provide ongoing welfare, advocacy and support to Aboriginal and Torres Strait Islander prisoners. They also provide such services to prisoners whose partners and/or children are Aboriginal and Torres Strait Islander people.

478. The distinction between an AWO and an ALO is that an AWO is a designated position for Aboriginal and Torres Strait Islander people only, under section 12 of the *Equal Opportunity Act 2010*²⁷⁷. There is no such requirement for ALOs and so these officers do not have to be Aboriginal and Torres Strait Islander people themselves²⁷⁸.

479. The duties of an AWO/ALO include:

- provide information, support and assistance to Aboriginal and Torres Strait Islander prisoners as needed
- meet with Aboriginal and Torres Strait Islander prisoners within 24 hours of their admission to a prison to provide them with information about cultural programs and engagements and facilitate referrals as needed
- assist in the development and facilitation of Aboriginal and Torres Strait Islander specific programs and services and sit in on their delivery
- liaise with:
 - prison management and staff to streamline services and transition for Aboriginal and Torres Strait Islander prisoners
 - Aboriginal and Torres Strait Islander peer prison workers
- assist in case management including attending Case Management Review Committee meetings
- assist Aboriginal and Torres Strait Islander prisoners in their preparation for release, including 'accommodation, social contracts, finances, contact with children, as well as facilitating referrals'²⁷⁹.

274 Corrections Victoria, *Deputy Commissioner's Instruction No: 2.07 Aboriginal and Torres Strait Islander Prisoners*, December 2012.

275 Corrections Victoria, email response to Victorian Ombudsman enquiries, 1 June 2015.

276 Victorian Council of Social Service, *Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria*, VCOSS Submission to the Victorian Ombudsman, December 2014.

277 Corrections Victoria, *Corrections Victoria, Koori Candidates, 2014-2015* <www.correctionsjobs.vic.gov.au/koori-recruitment/> viewed on 27 June 2015.

278 *ibid.*

279 G4S, *Jobs in Security, Transport and Prison Facilities - G4S Careers Centre Australia and New Zealand, Aboriginal Wellbeing Officer/Aboriginal Liaison Officer*, April 2012 <www.jobs.g4s.com.au/jobs/Aboriginal-Wellbeing-Officer-Aboriginal-Liaison-Officer_4167/> viewed on 3 April 2015.

480. VCOSS also stated that:

A crucial element of the role is the development of trust between prisoners and wellbeing officers²⁸⁰.

481. Relationships between prisoners and AWOs/ALOs require frequent contact. One AWO reported to my investigation that it can take up to six months on average for the prisoners to trust the AWO/ALO. While some AWOs/ALOs have the time to see each Aboriginal and Torres Strait Islander prisoner every day, others told my officers that they feel that they are just covering the basics and do not have the time to do much more.

482. When I commenced my investigation in 2014 the role of providing support to Aboriginal and Torres Strait Islander prisoners across Victoria was performed by a mix of AWOs and ALOs.

483. One AWO/ALO informed my officers that contrary to what appeared to be a common view that only an Aboriginal and Torres Strait Islander person could perform the role, it might not be necessary, as long as the individual in the role has appropriate cultural sensitivity.

484. However, in its submission to my investigation on this point, VCOSS said:

Aboriginal workers that understand, respect and share the cultural background of Aboriginal prisoners will in many cases build trust more easily. Aboriginal offenders with long histories of discrimination and marginalisation may be unlikely to speak freely with non-Aboriginal people²⁸¹.

...

We recommend caution in employing non-Aboriginal people in these positions²⁸².

485. Both VCOSS and VALS recommended consultation with the Regional Aboriginal Justice Advisory Committees in employing ALOs to ensure that the individuals selected are appropriately connected to the community and can provide adequate cultural support to prisoners²⁸³.

486. In late 2014, my investigation identified that the AWO/ALO roles across a number of prisons had been vacant for extended periods of time. In June 2015, Corrections Victoria informed my office that the issue of vacancies in the AWO/ALO roles had been addressed and that all the positions have now been filled²⁸⁴. Corrections Victoria advised that there is a total of 11 AWOs/ALOs in 13 prisons, both public and private, requiring the following locations to share an AWO/ALO:

- Hopkins Correctional Centre with Langi Kal Kal Prison
- Dhurringile Prison with Beechworth Correctional Centre
- Loddon Prison and/or Middleton Annex (depending on their availability) with Tarrengower Prison²⁸⁵.

²⁸⁰Victorian Council of Social Service, *Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria*, VCOSS Submission to the Victorian Ombudsman, December 2014.

²⁸¹ *ibid.*

²⁸² *ibid.*

²⁸³Victorian Council of Social Service, *Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria*, VCOSS Submission to the Victorian Ombudsman, December 2014; Victorian Aboriginal Legal Service, *Response from the Victorian Aboriginal Legal Service: Victorian Ombudsman Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria – Discussion Paper*, December 2014.

²⁸⁴Corrections Victoria, email response to Victorian Ombudsman enquiries, 29 May and 3 June 2015.

²⁸⁵Corrections Victoria, email response to Victorian Ombudsman enquiries, 3 and 6 June 2015.

Table 10: Aboriginal and Torres Strait Islander prisoner demographic data by prison location on 31 March 2015

Prison location	Sentenced	Unsentenced	Total
Hopkins Correctional Centre	34	0	34
Barwon Prison	38	0	38
Beechworth Correctional Centre	3	0	3
Dhurringile Prison	17	0	17
Fulham Correctional Centre	66	0	66
Judy Lazarus Transition Centre	1	0	1
Langi Kal Kal Prison	17	0	17
Loddon Prison	40	0	40
Middleton Annex	15	0	15
Marngoneet Correctional Centre	50	0	50
Melbourne Assessment Prison	4	19	23
Metropolitan Remand Centre	7	61	68
Port Phillip Prison	67	32	99
Dame Phyllis Frost Centre	21	18	39
Tarrengower Prison	4	0	4
Total	384	130	514

Data source: Corrections Victoria.

487. Table 10 shows that on 31 March 2015, the one ALO at Port Phillip Prison was responsible for assisting 99 Aboriginal and Torres Strait Islander offenders. Table 10 shows an average of 46 Aboriginal and Torres Strait Islander prisoners per AWO/ALO.

488. While recognising the differences in roles, this is almost triple what is considered an average caseload for a prison officer with case management duties²⁸⁶.

489. One AWO/ALO reported to my investigation that in the second half of last year they were responsible for:

- one prisoner in the management unit
- another in a youth unit
- 30 per cent in various protection units
- the rest in various mainstream units
- approximately 15 non-Indigenous prisoners with Aboriginal and Torres Strait Islander partners and children.

490. The AWO/ALO told my investigation that as a result, it can be difficult to see each prisoner on a regular basis.

²⁸⁶ Corrections Victoria, email response to Victorian Ombudsman enquiries, 14 April 2015.

-
491. Another AWO/ALO reported that their workload was only just manageable with an Aboriginal and Torres Strait Islander prisoner population of approximately 20, although they said they never have time to attend Case Management Review Committee meetings.
492. Several AWOs/ALOs also suggested that the demands of the role far outweigh the support that is offered. Four AWOs/ALOs independently spoke of the overwhelming pressure on them in having to report to so many, including Aboriginal and Torres Strait Islander prisoners, family and friends of non-Indigenous prisoners who are Aboriginal or Torres Strait Islander, their local communities, prison management, Corrections Victoria and the department. They also said that there was very little support offered from within their own prisons or departmental units.
493. Two AWOs/ALOs said that the 'burn out' rate is high. One stated that they felt as though prison management had very little understanding of their role, and three said that while they have some contact with the Aboriginal Programs Unit at Corrections Victoria, they have little or no contact with the Koori Justice Unit at the department.
494. The same AWOs/ALOs said that they had felt better supported when there was a 'one stop shop' in the Indigenous Policy Support Unit at the department which has since been restructured. It would organise for AWOs/ALOs to meet regularly throughout the year to talk through any issues, and they were able to call on for assistance and support, including funding and art supplies.
495. In response to my draft report, Corrections Victoria stated:
- Quarterly staff meetings still occur with all AWOs, ACCOs [Aboriginal Community Corrections Officers] and other identified positions. Staff are also able to attend the department's Koori Staff Network.
496. In its submission to my investigation, VALS called for:
- An increase in the number of identified positions for Aboriginal Wellbeing and Aboriginal Liaison Officers, consistent with the rates of Aboriginal and Torres Strait Islander incarceration²⁸⁷.
- ...
- ... Ultimately, it is about supporting the prisoner through the process of imprisonment to put them in the best position of continued rehabilitation upon release²⁸⁸.
497. Additional to the AWO/ALO role, the DCI relating to Aboriginal and Torres Strait Islander prisoners requires that each prison nominate and appoint prison officers to the role of Indigenous Services Officers (ISOs) to carry out responsibilities associated with Aboriginal and Torres Strait Islander prisoners²⁸⁹.
498. The DCI states:
- ISOs need not be Aboriginal and Torres Strait Islander themselves however a knowledge of, and interest in, Aboriginal culture and improved justice outcomes for Indigenous prisoners is required. General Managers will ensure that they have a sufficient number and spread of ISOs to provide for the needs of Indigenous prisoners²⁹⁰.
499. The ISOs are required to work closely with the AWOs/ALOs and at times when the AWO/ALO is too busy to fulfil all their duties and/or away for prolonged periods of time, the ISO may be called upon to 'fill in' for the AWO/ALO.

²⁸⁷ Victorian Aboriginal Legal Service, *Response from the Victorian Aboriginal Legal Service: Victorian Ombudsman Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria – Discussion Paper*, December 2014.

²⁸⁸ *ibid.*

²⁸⁹ Corrections Victoria, *Deputy Commissioner's Instruction No: 2.07 Aboriginal and Torres Strait Islander Prisoners*, December 2012.

²⁹⁰ *ibid.*

Table 11: List of cultural programs tailored to Aboriginal and Torres Strait Islander prisoners

Program name	Program outline
Aboriginal Cultural Immersion Program	A week-long intensive program that encourages prisoners to reconnect with their culture, strengthen their identity, and build the confidence to re-examine their responsibilities to themselves, others and the community.
Marumali	A week-long intensive program focusing on long-standing trauma and loss associated with the issues of the Stolen Generation.
Koorie Faces	A program targeted at parents which aims to strengthen family ties by building on prisoners' confidence as parents and carers.
Dardi Munwuro	A men's behavioural change program focusing on family violence, cultural identity, leadership and the role of an Aboriginal man in the family.
Men's Yarning Circle	An Aboriginal Men's Group Program which provides prisoners with an opportunity to discuss issues they are experiencing in a culturally sensitive environment.

Cultural programs

500. According to information provided by Corrections South Australia, cultural support and culturally appropriate programs are critical in preventing reoffending, as well as improving outcomes for all Aboriginal and Torres Strait Islander prisoners²⁹¹.

501. As Table 11 shows, Corrections Victoria currently offers five voluntary programs²⁹² tailored to Aboriginal and Torres Strait Islander people in prison, whether sentenced or unsentenced²⁹³.

502. A 2013 evaluation by the Commonwealth Attorney General's Department of the Aboriginal Cultural Immersion program and the Marumali program found that they were well designed and that participants were positive about their involvement²⁹⁴.

503. However, several shortcomings were identified, including:

- programs were designed to encourage participation in further programs, but Corrections Victoria did not have capacity to monitor participation to evaluate this
- programs were not run frequently enough to include all prisoners who wanted to participate
- funding constraints meant that programs were not run in prisons for extended periods of time, for example the Marumali program was not run at any prison during the 2008-09 and 2010-11 financial years
- additional cultural programs were needed to address Aboriginal and Torres Strait Islander people's needs in education, parenting, relationships, family violence and drug and alcohol issues

291 South Australia Department for Correctional Services, *Aboriginal Services, 2010* <www.corrections.sa.gov.au/aboriginal-services> viewed 13 May 2015.

292 Corrections Victoria, *Offending Behaviour Programs Branch: Program Suite*, May 2014.

293 Corrections Victoria, email response to Victorian Ombudsman enquiries, 29 May 2015.

294 Attorney General's Department, *Evaluation of the Indigenous Justice Programs. Project B: Offender Support and Reintegration*, January 2013.

- external providers had limited capacity to advocate for participants, and connect with other programs and services delivered in and out of prison²⁹⁵.

504. In response to my draft report, Corrections Victoria stated:

On 1 April 2015 referrals to Aboriginal Cultural Programs were integrated within the Corrections Victoria Intervention Management System (CVIMS). CVIMS is the database for prisoner participation in Offending Behaviour Programs, Specialised Offender Assessment and Treatment Services and Aboriginal Cultural Programs.

...

The streamlined approach to referrals for Aboriginal Cultural Programs will enable demand for programs to be monitored on an ongoing basis.

...

There are currently 109 Aboriginal prisoners identified for Aboriginal Cultural Programs.

All cultural programs commencing after 1 April 2015 are being monitored through CVIMS, which will provide data around prisoner uptake, participation and completion²⁹⁶.

505. Information from Corrections Victoria in May 2015 shows that in the 2014-15 financial year²⁹⁷:

- the Dardi Munwurro program had not been run at any prison
- Port Phillip Prison, and Fulham Correctional Centre which have the highest Aboriginal and Torres Strait Islander sentenced prisoner populations ran two programs each

- most other prison locations had run only one program, with the exception of the Dame Phyllis Frost Centre which had run three²⁹⁸.

506. Several of the AWOs/ALOs who spoke to my officers said that with the exception of the yarning circles, programs for Aboriginal and Torres Strait Islander prisoners are not run frequently or consistently enough.

507. One AWO/ALO raised issues about the inability of prisoners to complete programs, stating that one program was unexpectedly cut short.

508. In its response to my draft report, Corrections Victoria stated:

The duration of the program was reduced from 5 days to 2 days to enable it to be offered to prisoners on remand. It was an abridged version of the program that ran to accommodate both sentenced and unsentenced prisoners into the program.

509. Another issue identified by the Aboriginal and Torres Strait Islander prisoners was that programs are predominantly run in the first half of the financial year, leaving them with little cultural engagement in the second half. Additionally, the AWOs/ALOs suggested that there is not enough variety in the programs, with one AWO providing an example of a prisoner who participated in the same program several times during a seven year sentence. The AWO/ALO expressed concern about the benefit of programs if they are repeatedly undertaken with no change in the content.

510. Aboriginal and Torres Strait Islander prisoners can also participate in mainstream programs available to the rest of the prison population. This includes offending behaviour programs which are required if a prisoner wishes to be considered for parole.

²⁹⁵ *ibid.*

²⁹⁶ Corrections Victoria, email response to the Victorian Ombudsman, 11 August 2015.

²⁹⁷ Corrections Victoria, email response to Victorian Ombudsman enquiries, 29 May 2015.

²⁹⁸ Corrections Victoria, email to Victorian Ombudsman, 29 May 2015. The Aboriginal Cultural Immersion program was run once at Metropolitan Remand Centre and Hopkins Correctional Centre; the Koorie Faces program was run once at Marngoneet Correctional Centre, Langi Kal Kal Prison and Dhurringile Prison; the Marumali program was run once at Barwon Prison and Loddon Prison; and Dame Phyllis Frost Centre has seen the Aboriginal Cultural Immersion program and two sessions of the Koorie Faces.

511. However, as was identified in the VCOSS submission:

Aboriginal people report feeling distrust and shame that prevents them from effectively engaging with mainstream programs and services in prison²⁹⁹.

512. In an effort to address this issue Corrections Victoria has developed a 'cultural wrap around' model in facilitating offending behaviour programs for Aboriginal and Torres Strait Islander prisoners³⁰⁰. This involves coupling each offending behaviour program with three supplementary sessions before, during and after the offending behaviour program to further support Aboriginal and Torres Strait Islander prisoners³⁰¹.

513. Corrections Victoria informed my officers that this model was piloted at Loddon prison in September 2014, and that scoping is underway to facilitate the model at Marngoneet Correctional Centre with a view to a full roll out³⁰².

514. An *Aboriginal Social and Emotional Wellbeing Plan* was implemented in March 2015 as a partnership between Corrections Victoria and Justice Health, focusing on improving the mental health and wellbeing of Aboriginal and Torres Strait Islander prisoners during and after their sentences³⁰³. The priority areas and objectives of the plan are outlined in Table 12³⁰⁴.

Table 12: Priority areas and objectives of the Aboriginal Social and Emotional Wellbeing Plan

Priority area	Objectives
Prevention and health promotion	<ul style="list-style-type: none"> improve access to community support agencies and programs that focus on culture, building resilience and health promotion connect them to Country to strengthen their spirituality assist them in their understanding and knowledge of mental health to promote prevention and early intervention
Culturally capable workforce	<ul style="list-style-type: none"> increase the cultural capacity of prison staff increase the number of Aboriginal and Torres Strait Islander health professionals in prisons
Culturally safe and responsive service	<ul style="list-style-type: none"> embed cultural values in design and delivery of programs and health services improve communication and support at time of admission to encourage engagement in programs and services improve mental health outcomes through early and accurate assessments
Continuity of care	<ul style="list-style-type: none"> build partnerships with community organisations to improve the transition from prison include culture into mainstream programs improve responsiveness and participation in voluntary cultural programs
Working from and building an evidence base	<ul style="list-style-type: none"> improve the identification of Aboriginal and Torres Strait Islander prisoners improve data collection on the uptake, experience and outcomes of engagement in programs and health services

299 Victorian Council of Social Service, *Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria*, VCOSS Submission to the Victorian Ombudsman, December 2014.

300 Corrections Victoria, email response to Victorian Ombudsman enquiries, 29 June 2015.

301 *ibid.*

302 *ibid.*

303 Corrections Victoria, *Aboriginal Social and Emotional Wellbeing Plan*, March 2015.

304 *ibid.*

Art programs

515. As part of the *Aboriginal Social and Emotional Wellbeing Plan*, a commitment has been made by Corrections Victoria to continue the Indigenous Arts in Prisons and Community Program, as a cultural engagement³⁰⁵.
516. The program was piloted in 2011 for an 18 month period and focused on reconnecting Aboriginal and Torres Strait Islander prisoners to their culture while they were in prison, and building on sustainable post-release pathways by connecting them to the art industry³⁰⁶. The evaluation of the program conducted in 2012 stated:
- Vital to the project was connecting these individuals to community arts networks and professional arts industry contact to support their transition back to community life³⁰⁷.
517. The evaluation found that the interviewed participants were positive about their experience of the program³⁰⁸. The participants identified that the program had been effective in a number of ways including:
- building a sense of wellbeing, confidence and trust
 - reconnecting to culture
 - increased skills and post-release career opportunities
 - improved participation in other prison programs
 - increased understanding of Aboriginal and Torres Strait Islander culture among prison staff and the wider community
 - improving relationships with family and the wider community³⁰⁹.
518. The evaluation also found that the program would benefit from more participants, resources and links with TAFE courses³¹⁰.
519. Although my investigation found that participation in the programs continues to be positive, the AWOs/ALOs and prisoners my officers spoke to identified some issues that need addressing, particularly the provision of art supplies and ownership of the art once complete.
520. Canvases and art supplies are funded by the program, however many AWOs/ALOs reported having to buy the supplies at their own expense without any reimbursement, or directing prisoners to the prison canteen to purchase their own supplies. On 29 January 2015, the Victorian Government committed \$758,000 to the continuation of this program³¹¹.
521. In response to my draft report, Corrections Victoria stated:
- There is no requirement for staff [to] buy supplies at their own expense. Separate funding for each location is provided for the purpose of purchasing supplies outside of the TORCH program. If for practical reasons they do purchase supplies there is a departmental expenses claim process to have such purchases reimbursed.
522. In its submission to my office, VALS said that there is uncertainty about the ownership of prisoner art once produced and who retains it when the prisoner is released³¹². Currently art is regarded as the property of the prison not the prisoner. VALS said that if art continues to be taken from the prisoners once they are released it can undermine its rehabilitative effect³¹³.

³⁰⁵ Corrections Victoria, *Aboriginal Social and Emotional Wellbeing Plan*, March 2015. <www.justice.vic.gov.au/home/your+rights/aboriginal+justice+agreement/aboriginal+social+and+emotional+wellbeing+plan> viewed on 5 August 2015.

³⁰⁶ The Torch Project, *The Torch Evaluation Statewide Indigenous Arts Officer in Prisons & Community Program*, September 2012.

³⁰⁷ *ibid.*

³⁰⁸ *ibid.*

³⁰⁹ *ibid.*

³¹⁰ *ibid.*

³¹¹ Minister for Corrections, *Media Release – Minister Funds Jobs Hope for Indigenous Offenders*, January 2015 <www.premier.vic.gov.au/minister-funds-jobs-hope-for-indigenous-offenders> viewed on 10 May 2015.

³¹² Victorian Aboriginal Legal Service, *Response from the Victorian Aboriginal Legal Service: Victorian Ombudsman Investigation into the Rehabilitation and Reintegration of Prisoners in Victoria – Discussion Paper*, December 2014.

³¹³ *ibid.*

523. Two AWOs/ALOs also independently reported that trafficking of art supplies and finished art between prisoners has emerged as an issue. To resolve this, one prison was registering the canvases to the prisoners.

The Aboriginal Justice Agreement

524. The Royal Commission into Aboriginal Deaths in Custody found that:

... changes to the operations of the criminal justice system alone will not have a significant impact on the number of Aboriginal persons entering into custody³¹⁴ ...

525. In 1997 in response to the review of the implementation of the recommendations made by the Royal Commission, the Victorian Government went into partnership with peak Aboriginal and Torres Strait Islander community organisations to establish the Aboriginal Justice Agreement (AJA)³¹⁵.

526. The Aboriginal Justice Forum oversees the development, implementation and monitoring of the AJA in Victoria. The Forum brings together senior representatives of the Victorian Government and members of the Aboriginal and Torres Strait Islander community³¹⁶.

527. The AJA provides a framework for the Victorian Government to address the over-representation of Aboriginal and Torres Strait Islander people in prison by improving access, use and efficacy of justice-related programs and services³¹⁷.

528. The focus of the AJA has been to prevent young Aboriginal and Torres Strait Islander people from coming into contact with the justice system in the first instance, and if they have, to divert them from any more serious contact. The AJA also aims to reduce reoffending and recidivism by those already in the justice system³¹⁸.

529. The AJA has been implemented in three stages³¹⁹:

- the first AJA, known as AJA1 started in 2000 and laid the foundations by developing partnerships, infrastructure and initiatives with the Aboriginal and Torres Strait Islander community³²⁰
- AJA2 in 2006 focused on preventing Aboriginal and Torres Strait Islander youth progressing into the justice system, reducing reoffending and changing the justice system's approach to Aboriginal and Torres Strait Islander prisoners³²¹
- AJA3 started in 2013 and continues to work on improving justice outcomes for Aboriginal and Torres Strait Islander people and reducing their over-representation in the justice system³²².

530. An independent evaluation of the AJA2 undertaken by Nous Group in 2011-12 found that:

- while the over-representation of Aboriginal and Torres Strait Islander people in prison had increased since the commencement of the AJA, over-representation would have increased more significantly without the AJA2 based on the projected figures before the AJA2

314 *The Royal Commission into Aboriginal Deaths in Custody*, 1991, volume 4, chapter 26.

315 Department of Justice and Regulation, *Aboriginal Justice Agreement*, October 2014 <www.justice.vic.gov.au/home/your+rights/aboriginal+justice+agreement/> viewed on 20 July 2015.

316 Department of Justice and Regulation, Koori Justice Unit, *Understanding the Victorian Aboriginal Justice Agreement (AJA), A Partnership Between the Victorian Government and Koori Community*, 2013 <<http://assets.justice.vic.gov.au/justice/resources/eb158b32-dc66-46d9-abe9-8f0755eb3734/understandingaja-2013b.pdf>> viewed on 20 July 2015.

317 *ibid.*

318 Department of Justice and Regulation, *Victorian Aboriginal Justice Agreement Phase 3 (AJA3): A partnership between the Victorian Government and Koori Community*, March 2013.

319 Department of Justice and Regulation, *Victorian Aboriginal Justice Agreement*, March 2015.

320 *ibid.*

321 *ibid.*

322 *ibid.*

- there were some positive outcomes against all the objectives of the AJA2 but more still had to be done³²³.

531. AJA3 is currently being rolled out with six key strategic objectives to be implemented by 2018³²⁴. The AJA3 identifies areas where Corrections Victoria can work collaboratively with other departments and agencies to address the underlying causes of Aboriginal and Torres Strait Islander people's contact with the justice system, including³²⁵:

- prevention with the Department of Health and Human Services to strengthen family dynamics
- diversion with Victoria Police in the appointment of Police Aboriginal Liaison Officers
- increasing services to support compliance with Community Corrections Orders
- expanding the Koori Community Safety Grants Program which targets inter-family conflicts
- improving employment outcomes by embedding Aboriginal and Torres Strait Islander issues in all policies and procedures
- improving local justice outcomes and increasing community safety through place-based approaches to crime and violence in areas such as Lake Tyers and Mildura.

Cognitive disability

532. The term 'cognitive disability' is used to refer to prisoners with an intellectual disability or an ABI.
533. According to VCOSS and many others, prisoners with a cognitive disability are a highly vulnerable cohort at high risk of reoffending and returning to prison³²⁶.
534. Many prisoners with a cognitive disability have poor communication and living skills³²⁷, as well as other challenges including homelessness, poor family and social networks, lack of employment, substance use and mental illness which can further complicate support needs³²⁸.
535. Research has shown that people with a cognitive disability face greater difficulties in dealing with the criminal justice system than other groups, which can lead to a cycle of recidivism. A report prepared for the Victorian Coalition of ABI Service Providers Inc. (VCASP)³²⁹ notes that these people:

... may have limited understanding of their legal rights, lack confidence and be easily intimidated, respond impulsively without thinking strategically through the issues, have trouble controlling their emotions, or have difficulty communicating. The 'system' may fail to identify that the person has a cognitive impairment, may be prejudiced or fail to provide a fair and reasonable response with respect to dealing with disability issues, be unable to arrange affordable legal services as needed, or not provide adequately trained staff with knowledge and appropriate procedures for dealing effectively with persons with cognitive impairment.

³²³ Nous Group, *Evaluation of the Aboriginal Justice Agreement - Phase 2 Final Report*, May 2012.

³²⁴ Department of Justice and Regulation, *Victorian Aboriginal Justice Agreement*, March 2015.

³²⁵ Department of Justice and Regulation, *Victorian Aboriginal Justice Agreement Phase 3 (AJA3): A partnership between the Victorian Government and Koori Community*, March 2013.

³²⁶ Victorian Council of Social Service, *Submission to Victorian Ombudsman, Investigation into the rehabilitation and reintegration of prisoners in Victoria*, December 2014.

³²⁷ Department of Justice, *Embracing the Challenges: Corrections Victoria Disability Framework 2013-2015*.

³²⁸ Baldry, Clarence, Dowse and Troller, 'Reducing Vulnerability to Harm in Adults With Cognitive Disabilities in the Australian Criminal Justice System', *Journal of Policy and Practice in Intellectual Disabilities*, Volume 10, Number 3, pages 222-229, September 2013.

³²⁹ Diverge Consulting Inc, *Issues and inequities facing people with acquired brain injury in the criminal justice system, prepared for the Victorian Coalition of ABI Service Providers Inc.*, September 2012.

536. It is also important to note that the presentations, behaviours and needs of people with an ABI can vary significantly. A psychologist specialising in ABI highlighted that ‘the cases are so unique, they don’t come with a predictable profile’.

537. Research on the prevalence of cognitive disability in prison populations, in Australia and internationally, indicates that such people are over-represented in the justice system, both as victims and offenders³³⁰. A 2011 study³³¹ of a sample of prisoners showed that 42 per cent of male prisoners and 33 per cent of female prisoners had an ABI, compared to 2 per cent of the general Australian population.

538. As Table 13 illustrates, the study showed that of those with an ABI, the majority are diagnosed with a mild ABI.

539. The study also found that alcohol and other drug use were the most common risk factors for developing an ABI in both male and female prisoners, whereas in the general population traumatic head injury is the most common cause of ABI.

Table 13: Severity of acquired brain injury for male and female prisoners

	Males	Females
Mild	55%	72%
Moderate	39%	21%
Severe	6%	7%

540. At the time of my investigation, Corrections Victoria was unable to provide any data on the prevalence of ABI in the prison system, advising that it does not systematically record the confirmed or unconfirmed ABI status of prisoners. It advised that an ABI ‘flag’³³² was only introduced in late 2013, and noted the difficulty in establishing an accurate number of prisoners with an ABI due to the complexity in diagnosis.

541. People with an intellectual disability are less prevalent in Victorian prisons than those with an ABI. In March 2015 prisoners with a registered intellectual disability comprised 3 per cent of the total prisoner population, compared to an estimated 1 per cent in the general Victorian population. Of this:

- 25 per cent were under the age of 25
- 23 per cent were Aboriginal or Torres Strait Islander
- 96 per cent were men and 4 per cent women.

Identifying needs

542. A 2011 Victorian study into ABI in prisons³³³ notes that:

The very nature of brain injury presents challenges to the systematic identification of ABI in a correctional environment. No individual test can measure all aspects of brain functioning; hence no single measure has yet been found that will universally differentiate brain impaired from non-brain impaired individuals. Indeed diagnosis is often complicated by high levels of reported alcohol and substance use, particularly among offender populations.

³³⁰ S. Brown, and G. Kelly, *Reducing Vulnerability to Harm in Adults With Cognitive Disabilities in the Australian Criminal Justice System*; McCausland, Baldry, Johnson and Cohen, *People with mental health disorders and cognitive impairment in the criminal justice system: Cost-benefit analysis of early support and diversion*, August 2013.

³³¹ Department of Justice, *Acquired Brain Injury in the Victorian Prison System*. Corrections Victoria Research Paper Series, Paper No. 04, April 2011.

³³² The ABI ‘flag’ allows prison staff to identify prisoners with an ABI in the E-Justice information system.

³³³ Department of Justice, *Acquired Brain Injury in the Victorian Prison System*. Corrections Victoria Research Paper Series, Paper No. 04, April 2011.

-
543. The Clinical and Integration Services Manager at Port Phillip Prison echoed this, saying that many prisoners with an ABI related to substance abuse are probably unaware of their impairment and that it may not necessarily be picked up:
- They wouldn't have anyone pointing out ... the way that they're reasoning, the way they're behaving, is probably different, and they're probably sensing some difference but not really knowing what it is ... really until they 'pop up' as causing an issue ... they might fly under the radar.
544. In Victoria at present, prisoners are not routinely screened for an ABI at reception. As a result, the responsibility for identifying a prisoner can fall to a number of different prison staff members, not just specialists. Staff are required to refer prisoners for a screening where they 'suspect' a cognitive impairment based on a prisoner's behaviour or interactions, or where a prisoner discloses that they have an ABI.
545. Historically, correctional agencies have not identified ABI as an issue of specific concern and there has been limited understanding of its prevalence or impact in the correctional system³³⁴. Witnesses told my investigation that the identification of a prisoner's cognitive impairment or intellectual disability at the earliest stage is crucial to understand how to address communication, placement, treatment and support needs. However, identification and assessment presents particular challenges, especially with ABI.
546. If a prisoner has an intellectual disability registered with the Department of Health and Human Services (DHHS) prior to their incarceration, information may be provided to Corrections Victoria or the prison at reception.
547. The Correctional Management Standards require that prison General Managers refer prisoners to DHHS 'whose behaviours, histories, mannerisms or thought processes indicate an intellectual disability' and who have not previously been identified or previously registered as having an intellectual disability³³⁵.
548. This can present challenges in the prison environment, as DHHS' assessment can take a number of months, meaning that prisoners on shorter sentences may not undergo this process during their term of imprisonment.
549. Corrections Victoria has developed a cognitive screening tool for prisoners who appear to be cognitively impaired³³⁶. Corrections Victoria advised that the tool may be administered by case managers or clinicians at various stages during a prisoner's term of imprisonment but not necessarily at reception.
550. Evidence provided to my investigation indicates that there is a lack of consistency in how prisoners with a possible cognitive impairment or disability are identified in the prison system.

³³⁴ *ibid.*

³³⁵ Corrections Victoria, Department of Justice, *Correctional Management Standards for Men's Prisons in Victoria*, July 2014 and *Corrections Victoria, Department of Justice, Standards for the Management of Women Prisoners in Victoria*, July 2014.

³³⁶ The tool was developed through a company called arbias Ltd, a not-for-profit company that provides specialist services for people with an ABI.

551. A psychologist involved in a study³³⁷ looking at the experiences of people with ABI in the criminal justice system raised concerns about the difficulties in prison staff identifying signs of a disability, saying that:

One of the most common things that was coming from people within the prisons was that the prisoners are reliant on somebody among the staff picking up the difficulty, and then having enough decision-making confidence to refer the person to appropriate disability-responsible staff, otherwise ... the person gets missed. And that's tough for prison staff, because given the prevalence of disability in prison they kind of operate a disability ward but they're not disability providers.

552. The study found that the high number of prisoners with an ABI has made detection, assessment and referral to disability/assessment services an unlikely outcome for many.

553. A prison chaplain who spoke to my officers described the current process for identifying and assessing prisoners with a cognitive disability as 'haphazard'.

554. In 2011 the Acquired Brain Injury Correctional Service Program was piloted, and its success led to the creation of an ongoing ABI clinician position responsible for screening, identifying and advising on prisoners with a potential ABI. Corrections Victoria's Disability Framework describes the program as 'innovative' and outlines that over an 18 month period, the ABI clinician:

- conducted 751 offender screenings
- identified 123 offenders with an ABI
- provided 362 primary/secondary consultations³³⁸.

555. A paper written by the former ABI clinician³³⁹ describes the complex profile of this cohort, indicating the need for a specialist response:

... what has emerged in the first 18 months of the ABI program is the presence of co-morbidities, including mental health and substance use issues in addition to the prisoner/offender's cognitive impairment.

556. Corrections Victoria has since abolished the position of the ABI clinician and responsibility for these functions now sits with the Specialised Offender Assessment Treatment Services.

557. Concerns about the impact of the abolition of this position were raised by a number of witnesses. The Clinical Services and Integration Manager at Port Phillip Prison told my investigation:

I think that's been a big issue over the years, is this idea of someone getting flagged for an ABI ... how does an actual assessment occur. It used to be, Corrections some years ago had a dedicated clinician and they used to be really an invaluable kind of resource because they would do the screenings, they would then refer off to arbias, or organisations like that, and then they would find funds to be able to fund those assessments. With that clinician leaving a couple of years ago, there's been a real gap I think.

558. A psychologist specialising in ABI work said that in the past, staff working at the reception prisons with expertise in cognitive disability had told him that the prisons are like 'a river flowing through and their job is to try to catch as many as they can as they go past, and get them appropriately identified for services'. He said now that there's nobody in that specialised role, 'they just flow through'.

³³⁷ S. Brown, and G. Kelly, *Issues and inequities facing people with acquired brain injury in the criminal justice system*, Diverge Consulting Inc, prepared for the Victorian Coalition of ABI Service Providers Inc (VCASP), September 2012.

³³⁸ Corrections Victoria, *Embracing the Challenges: Corrections Victoria Disability Framework 2013-2015*, 2013.

³³⁹ J. Famularo, 'Corrections Victoria: ensuring responsive practices for offenders with complex needs', *Journal of Learning Disabilities and Offending Behaviour*, Vol. 2, No. 3, 2011, pages 136-139.

559. Similarly, the Executive Officer of a community organisation that works with people with an ABI, told my investigation that:

The concern now is that there is not an ABI clinician there ... to do that 'catching' as people are coming in through the door ... we've already got these quite high figures ... and we're talking about people who are repeat offenders frequently as well, that's just going to escalate. The likelihood is it's just going to escalate because ... people are less likely to get 'caught', less likely to be found, assessed and then have actual responses developed that are going to be appropriate to support their needs ... With the loss of that role ... we've lost specialisation and the capacity to respond to a specialist need.

560. Failure to identify and assess a prisoner's ABI or intellectual disability can lead to a lack of adequate specialised support, mismanagement of their behaviour and potentially to unreasonable punishment. The Executive Officer said that behaviour commonly associated with ABI can often be interpreted or labelled by prison staff as 'antagonistic', 'non-compliant' or 'difficult', and the perception is often that 'this person's just a pain'. She stated that if the ABI is identified, prison staff are more likely to have an understanding of the reasons a prisoner is behaving in a particular way, and identify better ways to communicate with them and deal with that behaviour, which will produce completely different outcomes.

561. A review by Professor James Ogloff³⁴⁰ also highlighted consequences when a prisoner's ABI is not identified:

Although it was not initially considered to be a major focus of the review, the Review Team was struck by the rate of cases of prisoners with evidence of Acquired Brain Injury. These cases were uniformly difficult and resulted in prisoners being identified as being behaviourally problematic by prison staff (sometimes excessively so), with almost no recognition of the fact that many of the behaviours presented were the product of a brain injury.

Generally speaking, it was usually the case that once prison staff did understand that the prisoners had a mental illness or acquired brain injury, at least their attributions of the prisoners' behaviours seems to have varied in a positive way. They were often left, nonetheless, with difficulties managing the prisoners' behaviours.

562. My officers examined the screening processes in Victorian prisons for prisoners with an ABI or intellectual disability during the 2014 *Investigation into Deaths and Harm in Custody*³⁴¹. In the report, my predecessor commented on the importance of a robust, measurable assessment process to identify prisoners with an ABI or intellectual disability and noted that while a screening tool had been developed:

- there was no prescribed use for the screening tool
- Corrections Victoria had not collected any data from staff about its use
- there were no policies or procedures guiding staff about how to consistently apply the tool.

563. The investigation concluded that more needed to be done to ensure early detection and appropriate management of prisoners with a cognitive disability and made a number of recommendations to address this, including that procedures be established in each prison on the use of the ABI screening tool, and that training on intellectual disability and ABI be delivered to all prison officers.

Providing support

564. For those prisoners who are identified and assessed as having an intellectual disability or ABI, *Corrections Victoria's Disability Framework 2013-15*³⁴² guides the treatment and support available to this cohort. The framework aims to ensure prisoners with a disability are managed in a manner that ensures their safety and security, but also promotes engagement with programs and services to reduce reoffending.

340J. Ogloff, *Review of the Mental Health and Psychosocial Needs of Prisoners Detained in Restrictive Environments, Final Report*, Prepared for Justice Health and Corrections Victoria, September 2008.

341 Victorian Ombudsman, *Investigation into Deaths and Harm in Custody*, March 2014.

342 Corrections Victoria, *Embracing the Challenges: Corrections Victoria Disability Framework 2013-2015*, 2013.

565. The support and programs available to a prisoner with a disability are largely dependent on the severity of the disability, whether they have a registered disability and the prisoner's placement within the prison system. Prisoners with a registered intellectual disability may be seen by a DHHS case worker while in prison, although registration is voluntary.

566. At present there are limited specialised placement options for prisoners with a cognitive disability. The Marlborough Unit at Port Phillip Prison is the largest specialised unit for cognitively disabled prisoners, comprising 35 beds.

567. At interview the Coordinator of the Marlborough Unit said that most of the prisoners housed in the unit have an intellectual disability, however there were also some with an ABI or both. Due to the limited number of beds in the unit, the Coordinator said that it is usually those prisoners who are vulnerable and not coping in the mainstream prison population who are in Marlborough.

568. The Clinical and Integration Services Manager at Port Phillip Prison described the typical presentations and support needs of the prisoners housed in the unit, saying:

What you traditionally see in the unit ... are at the really extreme vulnerable end. So they lack a lot of the adaptive coping skills around ... hygiene, budgeting their money, being able to protect themselves from being stood over in the mainstream population ... a lot of their behavioural issues are around impulse ... driven stuff ... so their outbursts are quite extreme, so if they're doing that in a mainstream kind of unit, they're pretty much highlighted straight away ... there's self-harming behaviour, real poor emotional regulation, so if things are going wrong for them, even if it's small, it can become a really big issue.

569. The Coordinator added that many of the prisoners housed in the unit have dual disability and mental illness and most:

- are either completely or partially illiterate
- have some form of substance abuse
- have never been employed.

570. The unit provides a range of programs, activities and support to prisoners housed there, including:

- a mentoring program³⁴³
- adapted offending behaviour programs³⁴⁴
- a range of life skills, personal development and recreational activities
- tailored education courses
- a horticulture program, where prisoners grow plants and vegetables, which are then donated to the community (local schools for example).

571. The Coordinator of the unit and the Clinical and Integration Services Manager at Port Phillip spoke to my officers about the inadequacy of the number of beds to meet demand. The coordinator said that in Port Phillip Prison alone, they usually have around 85-95 prisoners with a registered intellectual disability at any one time, and 'when you count the other guys with ABIs plus the borderline guys we're working with, we're working with a huge number'.

³⁴³ The program involves three mainstream prisoner mentors residing in the unit and providing support to the prisoners with a disability housed there.

³⁴⁴ These form part of the 'Joint Treatment Program' delivered by Port Phillip Prison, in partnership with the Disability Forensic and Assessment Treatment Service and Corrections Victoria.

-
572. She said that the prison tries to keep most of the other prisoners with a cognitive disability who are not housed in the unit together in one mainstream unit with some mentors to provide support similar to that available in Marlborough. She said that she encourages these prisoners to go to Marlborough during the day to participate in activities and programs.
573. Limited disability support is also available at Loddon Prison, which has two specialist clinical staff and a mentoring program to support up to 25 prisoners with an intellectual disability.
574. More recently Corrections Victoria has recognised the need for a pathway for prisoners with a cognitive disability to transition from maximum to minimum security where eligible, and as a result Dhurringile Prison now supports a small number of these prisoners.
575. Each prison has a staff member assigned as 'Disability Portfolio Holder' whose role is to assist prisoners with a disability at that location and provide a central point of contact for disability matters. Portfolio holders attend network forums on a quarterly basis to share knowledge and experience.
- Resourcing issues and staff training**
576. The Correctional Management Standards for Men's and Women's Prisons in Victoria³⁴⁵ require that prisons place prisoners with a cognitive impairment 'in an accommodation area that provides adequate safety and security for all prisoners'.
577. Despite this, my officers found that there remains an inadequate number of specialised beds to house this vulnerable cohort of prisoners. The lack of specialised placement available to prisoners with a disability results not only in inadequate support and treatment to address their complex needs, but is also potentially a safety issue.
578. One prison chaplain outlined concerns about a prisoner he thought was particularly vulnerable and whose disability was not being adequately recognised by prison staff. He described the prisoner, a 23 year old refugee, as having a functioning age of seven and an IQ of 59. He said that the prisoner had been transferred to different units on multiple occasions and while he had been told that the prisoner's intellectual disability was recorded in his file, the chaplain's observations were that staff were not aware of it, and as such, did not know how to respond to the prisoner's special needs and behaviour. He said that the prisoner often ended up in 'the slot' (solitary confinement) for misbehaviour.
579. A number of witnesses including prison chaplains, raised issues about the training provided to staff in dealing with prisoners with a cognitive disability, particularly given the important role they have in identifying behaviour that could indicate an impairment or disability. A number of prison chaplains told my investigation that staff were 'set up to fail' if they were not adequately trained, and that this only results in both the prisoner and staff member getting frustrated, leading to a potentially volatile situation.

³⁴⁵Corrections Victoria, *Correctional Management Standards for Men's Prisons in Victoria*, July 2014 and *Standards for the Management of Women Prisoners in Victoria*, July 2014.

580. Jesuit Social Services highlighted this concern in its submission:

While efforts have been made to make the justice system more responsive to disability, particularly through the *Corrections Disability Framework*, the reality is that significant issues remain around identifying and supporting prisoners with a disability. Of particular concern for Jesuit Social Services are the significant number of people with acquired brain injury in the justice system and skills of staff ... to communicate with and provide support for them.

581. When questioned about the training on cognitive disability provided to prison staff, Corrections Victoria advised that the SOATS provides a session to new prison recruits on disability, and Disability Portfolio Holders may receive ongoing training through their attendance at quarterly forums. It advised that ABI specific training was also previously provided when Corrections Victoria employed an ABI clinician however this role no longer exists³⁴⁶.

582. In response to my draft report, the department clarified that SOATS:

... have incorporated ABI specific training to their DSP [Disability Support Pathway] training and this is delivered as part of various DSP packages to a range of groups including new recruits ... [and] custodial supervisors. External Specialists in the area of ABI ... have been contracted to provide specialist training.

583. Staff permanently rostered in the Marlborough Unit are required to complete a minimum number of hours of specialist training per year³⁴⁷. There are no similar Service Delivery Outcomes relating to disability training for prison staff outside the unit.

Women

584. There were 420 women in Victorian prisons on 30 June 2015³⁴⁸, 7 per cent of the overall prison population. Between 2008 and 2013 the number of women imprisoned in Victoria increased by 58 per cent, more than double that of the male prison population³⁴⁹.

585. There has been an 81.9 per cent increase in the number of women imprisoned who were first time offenders, and a more than 50 per cent increase in the number of Vietnamese born female prisoners over the same period. The rate of growth is almost 13 per cent faster than the previous year³⁵⁰.

586. Women are on average serving shorter sentences than men. According to Corrections Victoria, 32.5 per cent are serving a prison sentence of less than one year, and 82.9 per cent are serving a term less than 5 years³⁵¹. As noted earlier, there is also a higher proportion of women on remand. On 31 March 2015, 34 per cent of women prisoners were on remand, compared to 24 per cent of the total prison population. This means that many women have limited or no access to programs.

³⁴⁶ Corrections Victoria, email response to Victorian Ombudsman enquiries, 15 May 2015.

³⁴⁷ Corrections Victoria, *Private Prison Service Delivery Outcome (SDO) Definitions*, July 2014 (SDO 25 - Disability Training).

³⁴⁸ Corrections Victoria, *Daily Prisoner and Police Cells Report for Tuesday 30 June 2015*.

³⁴⁹ The South Australian Centre for Economic Studies, Adelaide and Flinders Universities, *Evaluation of the Targeted Women's Correctional Response, Final Report*, commissioned by Corrections Victoria, Department of Justice, October 2014.

³⁵⁰ *ibid*.

³⁵¹ Corrections Victoria, *Key statistics on the Victorian prison system 2009-10 to 2013-14*, Table 5: Historical Trends all prisoners as at 30 June 2014, page 11.

587. As described by the Human Rights Law Centre, women's needs for rehabilitation and reintegration programs differ distinctly from those of men³⁵². A number of submissions to my investigation supported this view. While research on the backgrounds of female offenders in Victoria is limited, national research conducted in 2004 by the Australian Institute of Criminology found that 87 per cent female prisoners were victims of sexual, physical or emotional abuse, with the majority being victims of multiple forms of abuse³⁵³.

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

It is the case that very few women held in custody are serious violent offenders and that generally they are categorised as 'low risk offenders'. Many are single parents with dependent children. They experience multiple disadvantages with high levels of poverty, low levels of educational attainment and poor employment histories. Many offenders have a history of sexual and physical abuse and violence is common among female prisoners. Female prisoners are much more likely than their male counterparts to have sought help for mental or emotional problems prior to incarceration and more female prisoners have drug dependencies at that time³⁵⁴.

589. The report also noted that women are more likely than men to have:

- committed their offences under the influence of drugs and/or to support drug use, with a 117.1 per cent increase in women imprisoned for drug offences between 2008 and 2013

- been diagnosed with a mental illness, including depression
- experienced childhood sexual abuse and multiple violent relationships
- dependent care responsibilities, yet are less likely than men to have a partner to look after their children while in prison.

590. Due to the greater likelihood of having parental and other carer responsibilities, the imprisonment of women can have wide impact on their family, particularly children, and communities³⁵⁵.

Support and programs available in prison

591. Women prisoners in Victoria may serve their sentence at one of two prisons:

- the Dame Phyllis Frost Centre in Deer Park, a maximum security prison with provision for medium security units
- Tarrengower Prison in regional Victoria, a minimum security prison.

592. In recognition of the specific forms of disadvantage facing women prisoners and the extensive literature showing that women prisoners have particular needs, Corrections Victoria has delivered targeted programs for women prisoners since 2005-06.

593. Services were delivered through the *Better Pathways Strategy* from 2005 to 2012, which was then renamed the *Targeted Women's Correctional Response* (the targeted response).

594. The targeted response provides a 'high-level blueprint' which aims to strengthen the gender specific response to women prisoners.

352 Victorian Human Rights Law Centre, *Investigation into the rehabilitation and reintegration of prisoners, Submission to Victorian Ombudsman*, January 2015.

353 H. Johnson, Australian Institute of Criminology, *Drugs and Crime: A Study of Incarcerated Female Offenders*, Research and Public Policy Series No. 63, 2004.

354 The South Australian Centre for Economic Studies, Adelaide and Flinders Universities, *Evaluation of the Targeted Women's Correctional Response, Final Report*, commissioned by Corrections Victoria, Department of Justice, October 2014.

355 L. Bartels and A. Gaffney, *Good practice in women's prisons: A literature review*. Australian Institute of Criminology, 2011.

595. Programs within the targeted response aim to address the specific needs of women and the reasons for their offending, including substance and gambling problems, mental health, family violence and sexual trauma.

596. The core programs include:

- an intensive mental health service (Marrmak Unit)
- family violence and sexual assault counselling
- multicultural services
- a mentoring program
- transition support including housing.

597. Corrections Victoria recognises the high proportion of women who are parents or primary care givers, and the importance of maintaining these relationships from a rehabilitative and reintegration perspective. The Mothers and Children's Program provides for children up to preschool age to reside with their mother in custody if appropriate assessments have been completed.

598. Women are eligible for this program if:

- they were the primary carer of their child at the time they entered prison
- their child is under school age
- they are pregnant³⁵⁶.

599. The Corrections Victoria *Standards for the Management of Women Prisoners in Victoria* also sets requirements for programs which target specific needs:

- program content should acknowledge the distinct criminogenic needs of women prisoners, relating to issues such as family, self-esteem and experience of victimisation

- program delivery should take account of specific factors for women such as the importance of relationships, addressing multiple needs simultaneously and women's roles as caregivers³⁵⁷.

600. Women prisoners have access to a range of offending behaviour programs, however until recently, these were only available at the Dame Phyllis Frost Centre, and only four were delivered in 2014-15. Corrections Victoria advised that these programs will now also be offered at Tarrengower Prison.

601. As noted in the discussion paper, prior to my investigation there was no program delivered to women prisoners to address issues associated with violent offending. A new program has now been developed and was delivered for the first time in 2015 with 9 prisoners participating. A violence risk assessment tool for women prisoners has also been introduced.

602. Caraniche also delivers alcohol and drug programs at both of the women's prisons.

603. Female prisoners with severe mental health illnesses have access to the Marrmak Unit at Dame Phyllis, a 20 bed specialist treatment unit providing inpatient and outpatient services with the key objective of reducing the risk of reoffending in that cohort, and reducing the number of women admitted to Thomas Embling Hospital.

604. As noted earlier, funding was recently announced for a new 44-bed mental health facility at Dame Phyllis Frost Centre.

³⁵⁶ Corrections Victoria, *Mothers and Children Program*, brochure, 2014.

³⁵⁷ Corrections Victoria, *Standards for the Management of Women Prisoners in Victoria*, July 2014.

Evaluation

605. A recent evaluation completed by the South Australian Centre for Economic Studies in October 2014³⁵⁸, focussed on the overall economic impact of the targeted response and sought to quantify its tangible costs and benefits³⁵⁹.
606. This evaluation found a positive cost benefit, as well as other non-monetary benefits such as reduced assaults within prisons and women being able to keep custody of young children in prison.
607. It also found that since the introduction of the targeted response, recidivism rates have fallen by between 9 and 11 per cent.

Young adult prisoners

608. Prisoners in Victorian adult prisons aged under 25 comprise 12 per cent of the prison population or 751 prisoners as at 31 March 2015. Policy work done by the then Department of Justice identified that they have different needs in regard to rehabilitation³⁶⁰.
609. As noted earlier, there is a high number of young prisoners on remand. On 31 March 2015, 282 young prisoners or 38 per cent were on remand. This compares to 24 per cent of the total prison population on remand.

610. Just as the overall prison population is increasing, so is the percentage of young people imprisoned. Between 2008 and 2013, the number of women aged between 17 and 24 imprisoned in Victoria rose by 163.2 per cent, at an average of 21.4 per cent per year. This is more than double the growth of the total female prisoner population over the same period³⁶¹.
611. Research has shown that the younger the offender, the more likely they are to return to prison. With each additional prison term an offender serves, the likelihood of them returning to prison increases³⁶².
612. In 2014-15 the recidivism rate for prisoners in Victoria under 25 years of age was 52.7 per cent³⁶³, more than 8 per cent higher than the rate of 44.1 per cent for the general population.
613. It has also been recognised that as prisoners get older, the influence of rehabilitative programs, including education and training, declines. As such, interventions targeted towards young offenders provide a significant opportunity to break the cycle of reoffending before it becomes entrenched³⁶⁴.
614. Corrections Victoria has acknowledged this opportunity and noted that:

As young offenders are generally neither fully developed nor entrenched within the criminal justice system, interventions have the potential to impact upon them to help foster their desistance from crime. Conversely, the potential exists for a great deal of harm to be done to young offenders if ineffective or unsuitable interventions are applied³⁶⁵.

358 The evaluation did not include programs delivered to women prisoners through Justice Health (mental health and substance abuse).

359 The South Australian Centre for Economic Studies, Adelaide and Flinders Universities, *op cit*.

360 Department of Justice, *Corrections Victoria's Young Offenders Policy Framework*, July 2014.

361 The South Australian Centre for Economic Studies, Adelaide and Flinders Universities, *op cit*.

362 Government of Western Australia, Office of the Inspector of Custodial Services, *Recidivism rates and the impact of treatment programs*, September 2014.

363 Department of Justice and Regulation, email to the Victorian Ombudsman, 21 August 2015.

364 Government of Western Australia, Office of the Inspector of Custodial Services, *Recidivism rates and the impact of treatment programs*, September 2014 and J. Payne, *Recidivism in Australia: findings and future research*, Australian Institute of Criminology, Research and Public Policy Series No. 80, 2007.

365 Corrections Victoria, *Young Offenders Policy Framework*, July 2014.

615. In its *Young Offenders Policy Framework*, Corrections Victoria refers to research that has shown that like many older prisoners, young offenders are likely to have faced a number of challenging circumstances including:

- family dislocation through parents' or peers' involvement with the justice system
- exposure to trauma or neglect
- experience of psychiatric illnesses that go untreated
- alcohol and substance abuse
- homelessness
- malnutrition
- limited developmental and cognitive maturity
- poor educational outcomes
- limited employment opportunities³⁶⁶.

616. Research has also shown that young people are more susceptible to peer influence at this stage of their mental and emotional development³⁶⁷. This point was highlighted by Youthlaw (a community legal organisation focusing on the legal and human rights of young people) in its submission to my investigation:

Brain development science suggests that most people do not reach full maturity until the age of 25. The prison system needs to take into account the effect that developmental maturity can have on their behaviour and recognise the vulnerability of young offenders in terms of environment, social, individual and health related issues.

617. In the context of the prison environment, Youthlaw also highlighted that young prisoners are at significant risk of post-traumatic stress disorder arising from the conditions of their detention, and at high risk of rape and assault from older prisoners.

618. This issue was echoed by the Youth Development Officer at Port Phillip Prison, who described the heightened vulnerability of this cohort, particularly with self-harm and suicide, bullying, 'grooming' and other negative influences from older prisoners. She said this is based on a combination of factors:

Especially for young men, when they hit rock bottom they go 'my life is over, I might as well give up, I can go no further down, I might as well die', and they lack the resilience and the ability to pick themselves up and keep going, because especially if they're in the older units, older prisoners will hook onto that and then even further downplay self-esteem, confidence.

619. The officer described some of the similarities in the attributes of young prisoners and those with an intellectual disability:

Intellectually disabled prisoners lack the ability to make decisions because of their cognitive abilities, low cognitive abilities. Some of these guys are cognitively delayed, they're not disabled, they're delayed, so they similarly lack the ability to make well thought out decisions ... and they're very impulsive, 'I want it all and I want it now', and then later on they'll think about the consequences. So in some ways they are similar. In some ways they are very different. But I think definitely, being young, makes them vulnerable. Their maturity level, their cognitive abilities, their emotional level and their physical appearance may also add to that. Their education level and their emotional intelligence add to it. So depending on where they're at, there's a whole lot of other factors ... their support in the community, whether they've used drugs or alcohol, their mental health issues, all of those things then come into it as well.

620. Corrections Victoria's *Young Offenders Policy Framework* acknowledges that the complexity of this cohort of prisoners means that a mainstream adult response will not meet the different, individual needs of each young offender³⁶⁸.

³⁶⁶ Corrections Victoria, *Young Offenders Policy Framework*, July 2014.

³⁶⁷ K. Richards, *What makes juvenile offenders different from adult offenders?* Australian Institute of Criminology, Trends & issues in crime and criminal justice no. 409, February 2011.

³⁶⁸ Corrections Victoria, *Young Offenders Policy Framework*, July 2014.

Not all young offenders end up in adult prison

621. In recognition of the distinctive needs and demographics of young offenders, there is greater emphasis on diversion options for this cohort and more resources are devoted to the rehabilitation of detainees in youth justice facilities compared to young adults in prison³⁶⁹.
622. Victoria's 'dual track' system allows mainstream adult courts to sentence a young offender under the age of 21 years to serve a custodial sentence in a youth justice facility instead of an adult prison. The aim of the dual track system is to prevent vulnerable young people from entering the adult prison system at an early age.
623. The youth justice system in Victoria is managed separately to the adult prison system and is the responsibility of the Department of Health and Human Services, not Corrections Victoria or the Department of Justice and Regulation. The youth justice system and associated facilities have therefore not been included in the scope of my investigation.
624. Young offenders aged over 18 and under 21 often receive less severe sentences than adult offenders because they are considered less culpable due to their immaturity. In many cases when sentencing, courts recognise that the rehabilitation of a young offender is considered the most important sentencing purpose³⁷⁰.
625. A study by the Sentencing Advisory Council³⁷¹ found that about half young offenders aged between 18 and 21 given a custodial sentence were sentenced to a youth justice facility and half to an adult prison.

Placement and support available

626. The management of young offenders sentenced to a term of imprisonment in an adult prison is guided by the Corrections *Victoria Young Offenders Policy Framework*, which identifies the needs of young prisoners and sets out the guiding principles and priority areas for responding to this cohort.
627. Access to support and specific programs tailored to young prisoners is dependent on placement within the prison system, which may be at any of the state's prisons.
628. On 31 March 2015, there were 751 young offenders in Victorian prisons, and one 35-bed youth unit for young male offenders housed in adult prison providing specialist support. Young male prisoners housed outside this unit do not have access to youth specific programs or support.
629. Despite the recent increase in the number of women prisoners aged between 17-24 referred to earlier, there is currently no specific youth unit or separate accommodation in the Victorian prison system for young female prisoners. As a result, women prisoners aged between 18-25 years are placed in the general adult population.
630. The Penhyn youth unit is located at Port Phillip Prison and is designed as a suicide and self-harm prevention unit for young male prisoners serving their first term of imprisonment, who are deemed to be particularly vulnerable. Eligibility criteria are also based on a prisoner's willingness to participate in rehabilitative programs and abide by the unit rules.

³⁶⁹ Sentencing Advisory Council, *Changes to Sentencing Practice: Young Adult Offenders Report*, April 2015.

³⁷⁰ *ibid.*

³⁷¹ Sentencing Advisory Council, *Sentencing Children and Young People in Victoria*, April 2012.

631. The unit provides a range of tailored programs which other young prisoners do not have access to. These programs cover education, offending behaviour, personal development, leisure and recreation and employment.

632. The unit is led by a Youth Development Officer who supports and works with the prisoners housed in the unit.

633. The unit has rules that prisoners must abide by, which do not apply elsewhere in the prison system. These include mandatory participation in programs, education/training and employment while on remand and after sentencing. This differs from the mainstream prison population, where a prisoner is only required to work or participate in programs if they have been sentenced.

634. Other key distinguishing features of the unit include:

- a mentoring program
- a t-shirt printing social enterprise managed by prisoners in the unit
- family 'visits' through Skype
- linkages to pre-release programs with employment and post-release support.

635. At interview with my officers, the Youth Development Officer spoke of the benefits of the unit:

Because of the principles we operate by, in terms of responsibility and leadership, consequences, making well thought out, balanced decisions ... caring about each other, caring about their community, caring about their victim ... understanding empathy ... all of those things ... the longer you can keep someone on that path ... on a day-to-day basis, the more then that becomes entrenched into their behaviour, rather than being influenced negatively by older prisoners who are going to drag them down a path they don't want to go.

636. An evaluation of the unit by Monash University in 2012³⁷² found that:

- prisoners placed in the unit for more than 60 days had lower recidivism rates compared to the comparison groups in the study (32.5 per cent compared to 41 per cent)
- compared to the two mainstream comparison groups, the unit is safer, has a more rehabilitative orientation, is viewed positively by prisoners and operates in a manner consistent with best practice principles.

637. The evaluation made recommendations including that:

- replication of the unit be considered for other Victorian prisons, including medium and minimum security locations, to provide a more consistent and effective approach to the management of young prisoners across the state
- links between prison based programs and transition support be strengthened, including options for prisoners in youth units to have continuity of care up to the point of release in the community
- consideration be given to developing the youth unit model for repeat offenders who are not eligible for the current youth unit.

638. At interview the Youth Development Officer expressed support for the expansion of the Penhyn Unit model, and the creation of an additional youth unit for repeat offenders.

³⁷² C. Trotter, S. Turner, C. Pereira and P. Evans, Monash Criminal Justice Research Consortium, *Evaluation of Port Phillip Prison Youth Unit 2012*.

-
639. In its submission to my investigation Youthlaw expressed support for the unit, describing it as the preferred location for young prisoners. It however noted that due to the limited number of beds, the unit was 'constantly full', meaning that many young prisoners assessed as vulnerable by staff cannot be accommodated in the unit. To address this, Youthlaw asserted that 'more youth specific units are needed as a matter of urgency'.
640. The 68-bed Nalu unit at Fulham Correctional Centre was established in 2002 and was initially designed to provide a community transition program for young offenders who had a history of problematic substance abuse. The unit is minimum security and allows prisoners to participate in an intensive program of community reparation, leadership/team work challenges and preparation for reintegration into the community.
641. When the unit first opened, it exclusively housed young prisoners under the age of 25, however due to demand for beds, the unit now houses prisoners of all ages, with a continued focus on transitional support and reintegration.
642. Notwithstanding the change in demographics of prisoners housed in the unit, it is clear that the unit still has positive outcomes for young prisoners through the programs and support it provides.
643. Following the release of my discussion paper in October 2014, a former prisoner wrote to my office describing the positive rehabilitation experience he had in the Nalu Unit.

Case study: positive rehabilitation experience at Nalu

At the age of 21, Mr X was sentenced to two and a half years in prison for a driving offence. This was his first term of imprisonment. He described himself as 'just a normal kid, who made a few pretty poor decisions' and said he 'was not ready for prison'.

He initially spent three weeks at the Melbourne Assessment Prison before being transferred to Fulham Correctional Centre, and eventually moved to the Nalu Unit two months later.

Mr X participated in the 16 week adventure challenge program run by the unit, which he describes as 'the most beneficial program to [his] rehabilitation'. He said it involved prison-based classroom style sessions, day excursions and overnight expeditions, involving young prisoners and prisoner mentors.

He said that he and the other prisoners who participated in the program 'managed to bond and share the same experiences ... [and] built strong connections with each other'. He said they 'learnt skills, both basic and sophisticated at times, that [he] was able to adapt to life after prison', and that 'it was an in-house support network, but a positive one'.

Mr X said that the program assisted him and many other prisoners to make drastic positive changes. He also spoke of the opportunities he was provided to work in the community and the significant role this played in his rehabilitation and reintegration.

Mr X is now out of prison and manages a company providing leadership and development programs for young people.

Transition, pre- and post-release support

The more support a prisoner has on their release into the community, the better their chances of staying out of prison. Currently just over half of prisoners will return to prison at some point after release, and 44% within 2 years.

Victoria's only dedicated facility for helping prisoners transition back into the community has shown a much lower reoffending rate than the prison population as a whole.

Homelessness is a particular issue for female prisoners on release, but there is no dedicated transition facility for women. Some prisoners have been provided with camping swags on release because there was no other option.

Prisoners often face a catch 22 where they are unable to get parole without having housing to go to on release, but cannot secure housing without having a parole date.

Key facts:

- 22% of male prisoners and 44% of female prisoners are homeless after a period of supported accommodation on release
- about 20% of prisoners get any post-release support
- prisoners are 12 times more likely to die in the first four weeks after their release
- recidivism rate for Judy Lazarus Transition Centre prisoners is 10.4% compared to 44.1% for the overall prison population.

The challenge of reintegrating back into the community

644. The recidivism rate in Victoria is 44.1 per cent and the overall rate of return to prison for those previously sentenced is 51 per cent³⁷³. In addition there are a significant number of people who spend time in prison on remand.

645. In Victoria, the average time spent in prison is three years³⁷⁴. In 2013-14, there were 4,498 sentenced prisoners and 1,998 unsentenced prisoners discharged from Victorian prisons. For the period 1 July 2014 to 3 June 2015, 4,962 sentenced prisoners and 3,296 unsentenced prisoners were discharged³⁷⁵.

646. It is well understood that people exiting prison are less likely to reoffend if they are assisted to prepare for their release and have access to information and support on their return to the community. In 2014 Corrections Victoria said:

Extended periods in prison can impact on an individual's capacity for independent living. Prisons are highly controlled environments and as such many prisoners experience significant challenges in returning to the community. This can increase their risk of reoffending.

...

These challenges are compounded by the social disadvantage and complex needs experienced by many prisoners, including drug and alcohol use, mental illness, acquired brain injury, homelessness and unemployment. Supporting prisoners through the transition from prison to the community, both inside prisons and once released, can reduce the risk of reoffending as prisoners are better able to adapt to societal norms and are assisted to access practical support to address their transitional needs. This in turn contributes to community safety³⁷⁶.

³⁷³ Australian Bureau of Statistics, *Prisoners in Australia, 2014*, ABS cat. no. 4517.0, December 2014.

³⁷⁴ *ibid.*

³⁷⁵ Corrections Victoria, email response to Victorian Ombudsman, 15 May 2015.

³⁷⁶ Corrections Victoria, *Prison Pre-release Program: specifications*, 14 July 2014.

647. The data and research available on outcomes for those who have left prison in Victoria is limited. There has been no comprehensive review of the post-release experience which could better inform planning and support programs for transition and release.

648. Studies have been conducted in other Australian jurisdictions. A 2013 study of the experiences of people recently released from prison in New South Wales found that most participants encountered a number of difficulties when trying to reintegrate into the community including:

- the risk and temptation to reoffend due to difficulties in fitting back into society and a lack of accommodation options
- disconnection from society, institutionalisation and lack of basic living and coping skills
- feeling isolated from friends and community support networks
- being exposed to bad influences, making reoffending an easy option
- having previous legal and criminal problems surface unexpectedly
- for women, feeling unsafe and vulnerable to abuse or harassment
- difficulty finding employment
- difficulties associated with alcohol or substance addiction³⁷⁷.

649. One former prisoner described the transition:

... it's scary having to come back out here and do as you think whereas in prison, you'll do as your told so it's like, what do I do, it's too scary to do that, I don't know, I don't know the first step on how to do that, so it's easier just to go back [to prison] where its more familiar.

650. In its submission, the InterChurch Criminal Justice Taskforce described the everyday challenges that prisoners returning to the community might face:

Many prisoners, especially those who have spent a long time in prison, have significant, often traumatic, re-entry challenges requiring comprehensive support. Many do not have everyday skills that are too easily taken for granted, such as paying bills, buying food, banking or finding work. Recently introduced technologies, such as computers in various forms, mobile phones, electronic transport ticketing [Myki] etc will be unfamiliar³⁷⁸.

651. While Corrections Victoria funds post-release support for specific prisoners for a defined period of time, the needs of the majority of prisoners are met through accessing non-government organisations, the public health system and the support of family and friends.

652. One submission to my investigation from a community service organisation summarised the reintegration needs of prisoners as:

Many people leaving prison have little or no access to family or friends, accommodation or employment. These are the greatest areas of need. While there are programs offered by government, communities, churches and the private sector to address these areas of need, supply falls far short of the need in every area³⁷⁹.

653. In this chapter, I consider the needs for employment and housing on release, and the particular needs of women and those with disabilities. I also consider the issues facing those requiring mental health or alcohol and other drug support and the heightened risk of death after release.

³⁷⁷ L. Schetzer and StreetCare, *Beyond the Prison gates: the experiences of people recently released from prison into homelessness and housing crisis*, July 2013.

³⁷⁸ InterChurch Criminal Justice Taskforce, *Submission to Ombudsman's Investigation into the rehabilitation and reintegration of prisoners in Victoria*, December 2014.

³⁷⁹ *ibid*.

Housing and risk of homelessness

654. Access to stable and affordable housing is a challenge for many in the Victorian community. My office receives a consistent stream of complaints from Victorians in housing crisis, unable to access affordable and adequate housing. Those leaving prison face the same challenges as other members of the community in the scarcity of private and public rental properties, affordability, extensive waiting lists and the risk of recurring homelessness.
655. Submissions and witnesses to my investigation referred to secure housing as crucial and that without it access to other areas of support are less likely to be established or maintained and the risk of recidivism increased³⁸⁰.
656. Throughout my investigation, a range of people in the sector including prison chaplains, clinicians, former prisoners, prison officers and management raised the issue of access to suitable housing, saying that the shortage was critical and required urgent attention.
657. While there is limited data on the link between homelessness and imprisonment in Victoria, national research³⁸¹ has found that 35 per cent of prisoners were homeless prior to entering prison.
658. Reports provided to Corrections Victoria by two agencies that provided post-release support programs in 2013-2014, indicated that 22 per cent of men and 44 per cent of women were homeless even after intensive support³⁸². These numbers are likely to be higher for those not provided with intensive support.

659. The most recent report detailing national prisoner health indicators³⁸³, also found that 43 per cent of prisoners discharged said they were going to be homeless on release. This report also describes the link between homelessness and imprisonment:

Homelessness and imprisonment are related in a number of ways, both prior to imprisonment and after release. Housing is an important indicator of stability post-release. Former prisoners in unstable housing circumstances are more likely than other former prisoners to return to prison, and those who are homeless are significantly more likely to be re-incarcerated.

660. One former prisoner said:

I was homeless before I went in there [to prison] so I had already been living in the shelters and on the streets ... I probably would have ended up back in prison because that was the only other place I could go besides back to the street ... it's nice in jail because I had nowhere to live, I had no food and that [the prison] was a safe secure place for me to be. I would have done something stupid so that I could go back there [to prison]. I had no other options.

661. A 2015 research report from the University of Melbourne detailed the findings of a longitudinal survey tracking the experiences of a national sample of individuals exposed to homelessness and housing insecurity. The report found the prevalence of homelessness is much higher amongst a number of groups, including those recently incarcerated³⁸⁴.

380 Law Institute of Victoria, *Submission to Victorian Ombudsman*, December 2014; InterChurch Criminal Justice Taskforce, *Submission to Ombudsman's Investigation into the rehabilitation and reintegration of prisoners in Victoria*, December 2014; VACRO, *Submission to the Victorian Ombudsman*, December 2014; Jesuit Social Services, *Submission to the Victorian Ombudsman*, December 2014.

381 Australian Institute of Health and Welfare, *The Health of Australia's Prisoners 2012*, page 27.

382 Corrections Victoria Intensive Transitional Support Programs, *Quarterly Correctional Reports, Financial year 2013-14*.

383 Australian Institute of Health and Welfare, *The Health of Australia's Prisoners 2012*.

384 A. Bevitt, A. Chigavazira, N. Herault, G. Johnson, J. Moschion, R. Scutella, Y.P. Tseng, M. Wooden, and G. Kalb, *Journeys Home, Research Report no. 06*, May 2015.

662. The University of Melbourne report also found that the prevalence of homelessness was about double for those who had contact with the criminal justice system during the survey period (41.5 per cent), than those who had not (20 per cent). The report concluded that criminality is closely linked with homelessness and highlighted the possibility of 'high levels of churning between the criminal justice system and homeless service systems'.

663. In its submission the Law Institute of Victoria said:

The LIV is gravely concerned that prisoners are unable to obtain appropriate housing post-release. LIV members note a high level of homelessness amongst former prisoner clients ... The LIV submits that there are serious issues with Aboriginal and Torres Strait Islander prisoners finding accommodation post-release. The LIV submits that more specific housing and services for Aboriginal Torres Strait Islander prisoner post-release is gravely needed.

Implications for parole

664. Lack of housing options can have a detrimental effect on a prisoner's eligibility for parole.

665. The Adult Parole Board of Victoria requires that a prisoner must have arrangements in place for suitable and stable accommodation before a parole date can be set³⁸⁵. For the majority of prisoners, accommodation is difficult to secure without a release date. For women wanting to reunite with their children after release there is the added difficulty in trying to secure suitably sized accommodation.

666. As one prison chaplain described it, '... it's a Catch 22, they can't get parole without housing and cannot get housing without a parole date'. The chaplain also described that some prisoners acknowledge they need the structure and supervision of parole, but there is a sense of hopelessness because they can't find housing and so cannot get parole.

Housing options for released prisoners

667. Apart from a small proportion of housing stock that is designated for released prisoners only, the options for prisoners are the same as those available to any member of the community:

- crisis or emergency housing (short term options)
- community housing (managed by community housing organisations including some rooming houses)
- private rooming houses or boarding houses
- caravan parks
- public housing
- private rental
- family and friends.

Difficulties in securing public housing and private rental

668. The latest Department of Health and Human Services data shows there were 34,464 applicants on the *Public Housing Waiting List* in June 2015³⁸⁶. Of those, 9,978 applicants were considered to be the highest priority (considered homeless, with a disability, significant support needs or with special housing needs) and classified as awaiting Early Housing. The remaining are considered as awaiting General Housing and on current trends are likely to be on the list for many years.

385 Adult Parole Board of Victoria, *Fact Sheet 1 - General Guide to Parole*, July 2014.

386 <www.dhs.vic.gov.au/about-the-department/documents-and-resources/research,-data-and-statistics/public-housing-waiting-and-transfer-list> viewed on 25 April 2015.

669. Those areas with shorter waiting lists also tend to be the regions with lower employment opportunities and are often some distance from a variety of established community supports including Community Corrections offices.

670. Should an applicant for public housing who receives the Centrelink NewStart Allowance choose to apply for and ultimately move to an area with a shorter housing waiting list but higher unemployment, there is the potential for their income support to be suspended by Centrelink for 26 weeks³⁸⁷. For prisoners released on a Community Corrections Order or parole requiring close proximity to their regional correctional office, their housing options may also be restricted.

671. Prisoners are able to submit an application for general public housing in prison, however with the average sentence length of 3 years, and a waiting list of in excess of 34,000 this is very unlikely to provide housing security on release and the reality is that other alternatives are required to avoid immediate homelessness on release.

672. The private rental market is an alternative, however there is evidence that this too is increasingly difficult to obtain in Victoria. People without a strong rental history or current employment are at a distinct disadvantage.

673. Affordability is another challenge. The median private rental price of a one bedroom apartment in outer Melbourne is \$345.00 per week³⁸⁸. The standard allowance for an adult job seeker on NewStart without dependents is \$255.25 per week plus standard rent assistance of \$63.20. Consequently, affordable rental accommodation is difficult to obtain and maintain for those on fixed incomes, including former prisoners³⁸⁹.

674. The remaining options provide little permanency or stability.

Support provided by Corrections Victoria

675. Dedicated housing for prisoners post-release is met through the Corrections Housing Pathway Initiative (the initiative) which is funded by DHHS, as well as the Corrections Victoria Housing Program³⁹⁰.

676. The initiative started in 2001 and currently has 41 properties managed by community agencies and used for up to twelve months as prisoners transition back to the community. The initiative also employs specialist workers³⁹¹ across all prison locations who advocate for housing places on behalf of soon to be released prisoners. In June 2015, there were 8.5 staff in these roles across all Victorian prisons, the same number as when the initiative was introduced in 2001³⁹².

677. Corrections Victoria has acknowledged to my office that there are a number of issues with the initiative including:

- the memorandum of understanding between the DHHS and Corrections Victoria regarding the initiative is not recorded and is presumed lost
- that properties are withheld by the managing community agencies due to a lack of confidence in the support offered to prisoners during their tenancy³⁹³.

678. My investigation was told that due to limited alternate housing options, tenancies in these properties will often exceed the nominal twelve month limit which reduces the turnover to other released prisoners.

387 Centrelink website <www.centrelink.gov.au> viewed on 26 April 2015.

388 Real Estate Institute of Victoria website <www.reiv.com.au> viewed on 25 April 2015.

389 Centrelink website <www.centrelink.gov.au> viewed on 25 April 2015.

390 Department of Justice and Regulation, *Corrections Victoria Housing Initiatives*, response to Victorian Ombudsman, June 2015.

391 Prison Exit Initial Assessment and Planning Workers.

392 Department of Justice and Regulation, *Corrections Victoria Housing Initiatives*, response to Victorian Ombudsman, June 2015.

393 *ibid.*

679. In addition, the Corrections Victoria Housing Program currently provides supported housing for prisoners through:

- 40 properties purchased by Corrections Victoria and managed by registered housing agencies
- nomination rights for priority access to seven properties managed by the registered housing agencies
- funds (known as brokerage funds) of a total of \$20,000 per month from Corrections Victoria to support prisoners in accessing the private rental market.

680. The properties designated for prisoners through the two programs would at best provide supported transitional housing for 1.7 per cent of released prisoners, leaving the overwhelming majority of prisoners to source housing through other means³⁹⁴.

Limited other housing options

681. One young woman interviewed by my officers told of having been released from prison too late in the day to attend any housing support agencies and without referral details. The young woman described the first night out of prison, sleeping rough in Flagstaff Gardens, Melbourne as follows:

You don't really get to sleep that much, because you know, I was like a single girl out there and it was like you'd nod off but then you'd have to stay awake and you were cold and you just wanted the night to hurry up ... it was June ... it was cold ... and I only had like, they put you in clothes you came in with you know and I had put on a lot of weight so nothing much would fit and I had no socks, no jacket ...

...

... when they let me out ... it was like five o'clock in the afternoon and I explained to them that I've got nothing, there's no one here to support me, how am I supposed to catch the train to anywhere when that would be committing an offence and wrecking my intensive correction order and so they said go and see the Salvo's. By the time I had got there it was closed so I had no other option but to tough it out until the next day ...

682. Many prisoners unable to secure alternative housing seek temporary accommodation in rooming houses, which are often challenging environments for people looking to reintegrate successfully. A number of submissions and witnesses to my investigation advised that exposure to violence and substance abuse can be prevalent in such accommodation and that this presents difficulties for men and women trying to avoid a return to offending behaviour.

683. One prison chaplain told my investigation of a prisoner who, having had issues with alcohol and aware of the negative influences of rooming houses, resorted to self-harm in order to remain longer in prison when told his release would be to a rooming house as the only accommodation available to him.

684. Another witness, an employer of a former prisoner, described the lengths that one person had taken to avoid a rooming house:

... when she was released from prison, they put her in a half-way house ... a rooming house, which was full of addicts and criminals and was not safe. And she'd spent her custodial sentence getting clean and she knew being surrounded by users and alcoholics, it would be three days, she gave herself before she'd be back there again and once she was using again, she'd be in crime again and her whole time of incarceration would have been for nothing. So she took herself to live under a bridge because it was a safer place for her to live. Now that's awful isn't it? ...

³⁹⁴Based on latest prisoner release figures.

685. In its submission to my investigation, the InterChurch Criminal Justice Taskforce proposed the following in relation to addressing the issue of provision of adequate housing on release:

Housing is crucial. Innovative programs are needed to provide this. A whole of Government approach, to which industry and social enterprise should be invited to contribute, could develop a flagship housing program that could blaze a trail for other housing-deprived sections of the community³⁹⁵.

686. Aboriginal Housing Victoria with funding from Corrections Victoria and the DHHS have started work on two purpose built and managed accommodation sites for Aboriginal and Torres Strait Islander people. In its submission to my investigation the Victorian Aboriginal Legal Service said:

... these sites will be established with proximity to support services and public transport in mind, as well as specific cultural connections and visits from legal and other services to facilitate and strengthen the individual's release into the community and undertaking of programs³⁹⁶.

687. My investigation was informed of the distribution of camping swags as a last resort at one prison in 2014. Some community housing providers are also providing them when no other suitable accommodation can be found. One prison chaplain confirmed this to my officers saying he was aware that those who are given swags sleep in parks in the city, having no other option.

688. The Victorian Association for the Care and Resettlement of Offenders (VACRO) confirmed to my officers it had given released prisoners swags:

VACRO was forced to offer swags with survival back packs to various clients during 2014, given the lack of crisis accommodation and suitable housing and reluctance by clients to place themselves in situations where potential triggers could lead to drug use and breach of parole³⁹⁷.

689. As one staff member of a community service organisation advised my officers in relation to the impact of lack of housing options:

Unfortunately for the guys coming out, they are the bottom of the priority list, when you have women and children coming out, they're first, and then also there is a lack of one bedroom units that might be suitable accommodation for these guys. They may also be banned because of past behaviours from these housing and homelessness access points. Every door is shutting on them and they are left to being on the streets some of them. A homeless swag might be an option, in terms of shelter for them, which doesn't help, when you're looking forward to coming out, to change, you've done the programs and you're ready to come out. The reality hits that you might not have a house or roof over your head. Prison at that point looks like a pretty good option – clean bed, three meals a day, you go to work [in prison] and come home at night, you're with your mates and apart from the violence and a few other things, it's not a bad option rather than being homeless. If you don't have your basic needs – a home – being met then ... you will go to drugs and alcohol. If you don't have a house then you rely on your old social circles or connections to couch surf, then you are falling straight back into your default habits again and off you go.

³⁹⁵ InterChurch Criminal Justice Taskforce, *Submission to Ombudsman's Investigation into the rehabilitation and reintegration of prisoners in Victoria*, December 2014.

³⁹⁶ Victorian Aboriginal Legal Service, *Response from the Victorian Aboriginal Legal Service: Victorian Ombudsman Investigation into the rehabilitation and reintegration of prisoners in Victoria – Discussion Paper*, December 2014.

³⁹⁷ VACRO, *Submission to the Victorian Ombudsman*, December 2014.

690. Limited housing options are not confined to Melbourne. One former provider of post-release support reported that in Bendigo, Victoria's third biggest regional city with a population in excess of 100,000, the proprietor of the city's two biggest emergency accommodation providers had stopped offering emergency accommodation following local council regulation changes. In conjunction with the closure of the most affordable caravan park in the city, this means there are no emergency housing options for those released into the Bendigo area³⁹⁸.

691. The Private Rental Access Program run by the Salvation Army started as a pilot program and has since received ongoing funding. The program is supported by one staff member who works with family violence survivors and housing agencies, providing case management and access to brokerage funds to find a property but also to secure it, provide furniture and provide necessary follow up support for up to 12 months. The case management support is integral to the program's success. A review of the initial years of the program found that its case management model:

... provides the necessary link between housing and support services which is essential to effective homelessness responses ...

and that:

by creating partnerships within the community sector and then building a bridge to the private [rental] market, the [program] has created a supportive environment for service users while delivering an unprecedented level of access to private rental properties³⁹⁹.

692. A review of the program suggests that there is a 'strong basis for expanding the ... model to other target groups who currently experience difficulty accessing the private rental market'⁴⁰⁰.

Women prisoners

693. Although women make up a small percentage of the total Victorian prison population, they have distinct reintegration needs and many have been victims of emotional, physical or sexual violence⁴⁰¹.

694. In Victoria there is no medium security prison or a transition centre for women, and so there are fewer options for a staged transition through security levels to assist with preparation for release.

695. One study of women exiting prison in Victoria conducted between 2011 and 2013 found that:

- substance abuse, mental health problems, victimisation, social isolation, unstable housing and poor engagement with employment or vocational activity continued to characterise the lives of women post-release
- the most significant factor affecting return to prison outcomes was unstable housing
- women who reported being homeless at any point after leaving prison were more than twice as likely to have returned to prison over the period of the study
- access to programs post-release was associated with lower return to prison outcomes⁴⁰².

³⁹⁸ Stepping Up, quarterly *Link Out report to Corrections Victoria Oct-Dec 2013*.

³⁹⁹ S. Coutts, A. D'Arcy, L. Harris, I. Janicijevic, *Private Rental Access Program: Debunking the Myth of the Private Rental Market*, April 2009.

⁴⁰⁰ *ibid.*

⁴⁰¹ Jesuit Social Services, Submission to the Victorian Ombudsman, December 2014.

⁴⁰² The South Australian Centre for Economic Studies, Adelaide and Flinders Universities, *op cit.*

696. As noted earlier in my report, women are twice as likely to be homeless after release from prison⁴⁰³. A 2010 inquiry by the Parliamentary Drugs and Crime Prevention Committee⁴⁰⁴ found that the overwhelming problem for women associated with the criminal justice system was a lack of housing and accommodation options. The parliamentary inquiry received considerable evidence highlighting the relationship between lack of housing, women's offending and reoffending.

697. These challenges were acknowledged by senior staff at a women's prison who told my investigation of four prisoners who had been approved for release on parole in the next month but were unlikely to leave the prison on the scheduled date due to a lack of secure housing. The staff expressed concern that one of the prisoners may lose custody of her child as a result. In another example housing had been secured for the prisoner in Wodonga, however her son was attending school in Melbourne.

698. Several community organisations and witnesses told my investigation that there is an additional risk for women who are unable to find suitable housing and may have no other choice but to return to violent and abusive relationships. For example, Jesuit Social Services, in its submission said:

We also note the very real difficulties people experience as they transition from prison back to community and struggle to navigate health, housing and welfare services that often lack the resources and expertise to meet their needs. This gap is most acute for women exiting prison who very frequently return to living environments in which they are at risk of violence, because there are no appropriate and affordable housing options. When combined with social isolation and stigma this creates a recipe for reoffending, not only for women but for all people leaving prison⁴⁰⁵.

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

It is well known that women are disproportionately affected by post-release homelessness and that the majority have dependent children. Imprisonment exacerbates multiple challenges – including mental health instability, inaccessible secure long-term accommodation and a limited likelihood of post-release employment – that significantly affect women and their children. Those problems often disrupt family reunions and the return of children to their mother's custody. The result is that imprisonment can have devastating long-term impacts on women's lives and the lives of their family members⁴⁰⁶.

Prisoners with a disability

700. In addition to the support provided to prisoners with a disability during their sentence, post-release support is critical.

701. The 2011 study into ABIs in the Victorian prison system⁴⁰⁷ noted that while prisoners with a mild or moderate ABI may function relatively well in prison, issues linked to their ABI are likely to become apparent following their release. It highlighted that:

This can impact on their ability to meet parole conditions and, without appropriate support, may also increase the likelihood of further offending. Thus, identifying mild and moderate ABI among prisoners is relevant in ensuring post-release referral and support even though they may not require specialist responses while in prison.

702. The InterChurch Criminal Justice Taskforce noted in its submission that prisoners with a disability may require formal supports on their release and that these should be implemented immediately⁴⁰⁸.

403 Corrections Victoria Intensive Transitional Support Programs, *Quarterly Correctional Reports, Financial year 2013-14*.

404 Drugs and Crime Prevention Committee, Parliament of Victoria, *Inquiry into the impact of drug-related offending on female prisoner numbers*, Interim Report, October 2010.

405 Jesuit Social Services, Submission to Victorian Ombudsman, December 2014.

406 M. Segrave, A. Eriksson and E. Russell, *State of Imprisonment: Victoria is leading the nation backwards*, The Conversation, 13 April 2015.

407 Department of Justice, *Acquired Brain Injury in the Victorian Prison System*, Corrections Victoria Research Paper Series, Paper No. 04, April 2011.

408 InterChurch Criminal Justice Taskforce, *Submission to Ombudsman's Investigation into the rehabilitation and reintegration of prisoners in Victoria*, December 2014.

-
703. Prisoners who are registered with DHHS as having an intellectual disability are allocated a DHHS worker on release who is able to assist with securing accommodation, employment and other supports. Prisoners who have an ABI may receive no service. Similarly those prisoners who have not completed the registration process are not eligible for support to assist with release planning⁴⁰⁹.
704. The InterChurch Criminal Justice Taskforce also noted that the gradual state-wide roll out of the National Disability Insurance Scheme (NDIS) will provide much needed services to people with significant and permanent disability, however NDIS will not be available to prisoners. It suggested that formal protocols need to be formed with the National Disability Insurance Agency to establish a process for linking prisoners within the target group into the scheme and said:
- This will require processes for determining eligibility and assessment while in prison, and establishing packages of support to commence upon release. It is incumbent on the corrections system to ensure that these arrangements are made in a timely way.
705. In a paper published in the *Journal of Learning Disabilities and Offending Behaviour*⁴¹⁰, a former ABI clinician reported a case study of a 50-year-old male prisoner diagnosed with intellectual disability, ABI and mental health issues, who was serving an 18-year sentence following a conviction for murder. The former clinician reported that he was released from prison on parole on 12 October 2009, which was subsequently cancelled less than three weeks after his release due to loss of his accommodation, and he was returned to prison. Prior to his return to custody, the former prisoner had become homeless and had no social supports or accommodation options.
706. A paper by the Victorian Coalition for ABI Service Providers into issues facing people with ABI in the criminal justice system⁴¹¹ notes the complexities involved in providing transitional support to former prisoners with an ABI, due to the lack of diagnosis in many cases, and the difficulties in establishing a diagnosis even when former prisoners are referred to services in the community.
707. The Coordinator of the Marlborough Unit told my officers that some prisoners reoffend when they are released and return to prison because the Marlborough Unit 'is the community where all their needs are met', whereas there is very little in the community to provide that same level of support.
708. She described the support this cohort needs in the community as 'really intensive' and said that 'it's not about de-skilling them, but if you leave them to their own devices, they wander off the path'. She further said that many of these prisoners need long term support and housing placements, and to prevent reoffending, they really need what is provided in the Marlborough Unit once they are released.

Alcohol and other drug treatment

709. Treatment and support for those with AOD issues are important both in the lead up to and the period following a prisoner's release from prison.

409 S. Brown, and G. Kelly, *Issues and inequities facing people with acquired brain injury in the criminal justice system*, Diverge Consulting Inc, prepared for the Victorian Coalition of ABI Service Providers Inc (VCASP), September 2012.

410 J. Famularo, 'Corrections Victoria: ensuring responsive practices for offenders with complex needs', *Journal of Learning Disabilities and Offending Behaviour*, Vol. 2, No. 3, 2011.

411 S. Brown, and G. Kelly, *op cit*.

710. Corrections Victoria's standards for men and women require that AOD treatment services assist a prisoner's reintegration by:

- minimising harms associated with substance use upon release
- reducing their risk of relapse upon release
- reducing their risk of reoffending associated with substance use upon release⁴¹².

711. Prisoners are at particular risk of drug overdose after release from prison⁴¹³. Data from the Coroners Court of Victoria indicates that between 2000 and 2010, 120 former prisoners died from drug overdose, an average of one death each month. The former prisoners included in this summary had died:

- within two months of release from prison or
- whilst still in the care of Corrections Victoria following release from prison, for example while on parole⁴¹⁴.

712. An assessment of a prisoner's AOD issues prior to their release from prison is appropriate in order to determine what treatment and support if any, they need on release⁴¹⁵.

713. The relationship between AOD and other challenges was noted by Caraniche in its submission:

Many of the problems of social integration experienced by offenders (eg: homelessness, unemployment and isolation from family) are in turn a product of, or exacerbated by, their AOD use⁴¹⁶.

714. In its submission the Victorian Custody Reference Group pointed to the importance of referring prisoners directly or providing information on how to access AOD rehabilitation and treatment clinics in the community after their release⁴¹⁷.

715. This is reflected in the management standards, which require that prisons provide links to community based AOD programs that can offer ongoing support to prisoners after release back to the community⁴¹⁸.

716. Corrections Victoria provides pre-release AOD harm minimisation education to prisoners through a component of the Corrections Victoria Reintegration Pathway, which is discussed later in this chapter. In addition, some prisoners receive support after release.

717. Other post-release AOD treatment and support is primarily provided through a number of community service organisations. Caraniche noted that the services available to former prisoners are limited, as AOD community services generally do not have the capacity to support high risk clients such as former prisoners. My officers were also told of extensive waiting lists for these services which include:

412 Corrections Victoria, Department of Justice, *Correctional Management Standards for Men's Prisons in Victoria*, July 2014 and Department of Justice, *Standards for the Management of Women Prisoners in Victoria*, July 2014.

413 Coroners Court of Victoria, Coroners Prevention Unit, *Overdose deaths of people recently released from prison and/or in the care of Corrections Victoria, 2000-2010, Data summary*, October 2013; Victorian Alcohol and Drug Association, *Reducing the harm of prison: Dealing with alcohol and other drugs within the prison system*, October 2013.

414 Coroners Court of Victoria, Coroners Prevention Unit, *op cit*.

415 Victorian Alcohol and Drug Association, submission to Ombudsman's investigation into prisoner rehabilitation and reintegration, December 2014.

416 *ibid*.

417 Victorian Custody Reference Group, *Submission to the Victorian Ombudsman*, December 2014.

418 Corrections Victoria, Department of Justice, *Correctional Management Standards for Men's Prisons in Victoria*, July 2014 and Department of Justice, *Standards for the Management of Women Prisoners in Victoria*, July 2014.

- the Australian Community Support Organisation (ACSO) Community Offender Advice and Treatment Services (COATS) brokerage service coordinates access to AOD counselling through community AOD agencies across Victoria for former prisoners on their release to the community⁴¹⁹
- ACSO COATS also delivers the 'StepOut' program, which assists prisoners released from prison on straight release (i.e. without parole) to access free and confidential AOD counselling services in the community.

718. In June 2015, ACSO advised my office that at any one time, it has about 500-600 clients on the waiting list for AOD treatment in the community, and in the period October 2014 to June 2015, there was an average of 200 former prisoners on the waiting list for their StepOut program. While the average days on the waiting list for StepOut was 14 days, some program areas had significantly greater wait times and waiting lists. For example there was:

- an average wait time of 45 days for the AOD residential rehabilitation program
- an average wait time of 51 days for the Koori Community AOD program
- 139 former prisoners on the waiting list for standard AOD counselling.

719. Through pilot funding from DHHS, Caraniche has recently developed the High Risk Offenders Alcohol and Drug Service (HiRoads), a specialist forensic AOD service to address the treatment needs of released prisoners with a history of serious violent or sexual offences and a high risk of recidivism and relapse into substance abuse⁴²⁰.

720. While there are some AOD support and treatment services available to prisoners post-release, concerns were raised by a number of witnesses about the capacity of these services to meet demand, coordination between agencies and a lack of throughcare, leaving many released prisoners without support.

721. The Forensic Services Manager at Caraniche described the comprehensive system of AOD programs available in prisons and contrasted this with that available in the community, stating that 'we've got no equivalency in the community at all'.

722. In its submission, Flat Out Inc highlighted the particular shortage of services in regional areas:

There is a dire need for more community based alcohol and drug treatment services across all regional areas. A lack of suitable treatment services increases the risk of women being re-criminalised and returning to prison.

723. The Managing Director of Caraniche described the current approach to AOD post-release support as 'siloes and fragmented' and questioned 'whose problem is it? Where does it belong?' The Managing Director stated:

I think we're all recognising that the transition space in reintegrating people into the community is really important, its pivotal to them actually being able to rebuild their lives, and to cease offending ... but there's just lots of stuff going on and how that all comes together I think and what the experience of the offender is as they navigate their way through those systems and processes and those different, funding models and different focusses, I think is going to be an interesting question. So lots of activity, lots of focus, but in many ways ... it still feels quite fragmented, and just quite chopped up.

⁴¹⁹ Caraniche, *Submission to Ombudsman Discussion Paper*, December 2014.

⁴²⁰ Caraniche, *High Risk Offenders Alcohol & Drug Service (HiRoads)*, undated brochure.

724. Caraniche advised my officers that best practice is 'seamless support and care', yet Victoria has not trialled a 'proper throughcare model'. It highlighted the need for 'through the gate' AOD programs, where programs can start in prison and continue after release supported by intensive case management.

Mental health support

725. If mental health care provided in prison is not continued post-release, an offender's mental health may deteriorate, undoing any improvements achieved while in prison. This then becomes an issue for the community⁴²¹. This is a particular consideration for the high percentage of prisoners on remand, many of whom receive a relatively short sentence⁴²².

726. The Justice Health Quality Framework requires all prison health providers to undertake discharge planning for prisoners requiring ongoing healthcare in preparation for their release. On release prisoners receive a discharge summary which includes their medical history, summary of treatment and progress, and referrals to support services where required, such as community health services, Area Mental Health Services and pharmacy providers.

727. The prison mental health care provider Forensicare highlighted that linking a former prisoner to a community mental health service on release however can be difficult particularly when they do not have a permanent address or housing, which is the case for an overwhelming number former prisoners.

728. The benefits of a throughcare approach to mental health treatment for prisoners have been identified by a number of agencies. A submission from the Australia Institute⁴²³ outlined new research which shows that mental health deteriorates in the year following release, stressing the importance of throughcare in addressing the mental health needs of prisoners:

Providing continued care from prison into the community is known as 'throughcare'. The continuation of health services helps overcome some of the barriers people face re-connecting with services in the community and may contribute to a reversal of the decline in mental health following release.

729. The submission highlights:

- interest in throughcare has resulted in a move towards the integration of prison and community health services
- a majority of jurisdictions – excluding Victoria, Queensland and Western Australia – now have an integrated health service, providing the foundation for developing throughcare services
- that the disconnection between 'inside' and 'outside' mental health services and the need for integration has been identified in Australia and internationally.

730. The Australia Institute proposes that policy to integrate prison-based health services with public health should be pursued, allowing continuation of care from prison into the community.

421 D. Baker, The Australia Institute, *Unlocking care: Continuing mental health care for prisoners and their families*, December 2014.

422 J. Ogloff, *Good mental health care in prisons must begin and end in the community*, The Conversation, 24 April 2015.

423 D. Baker, The Australia Institute, *Unlocking care: Continuing mental health care for prisoners and their families*, December 2014.

-
731. Jesuit Social Services expressed similar views in its 2014 report *Strengthening prisoner transition to create a safer Victoria*⁴²⁴. This report recommended that the Victorian Government ‘put in place processes to enable a seamless transition between health, disability, and alcohol and drug services in and out of custody’, including working with the Commonwealth Government and community services to ensure access to services through Medicare and the NDIS.
732. Professor James Ogloff notes in his article, ‘Good mental health care in prisons must begin and end in the community’, that all too often prisoners with mental health conditions are released from prison without appropriate follow up care, and without the psychiatric medication necessary to maintain their mental health⁴²⁵.
733. At interview Forensicare outlined the need for greater co-ordination between custodial and community care. The CEO of Forensicare said:
- ... there is a level of demand the public mental health system is already struggling to meet and prisoners in transition from custody are in that same big area of demand ... [In] public mental health, there can be a tendency to say ‘Justice should fix it’ or ‘Corrections should fund more’. There needs to be more coordination between the Department of Health and the Department of Justice.
734. There are a limited number of dedicated mental health support programs specifically for prisoners transitioning from prison to the community.
735. Forensicare runs the Community Integration Program (CIP), which aims to:
- identify prisoners approaching release who have significant mental health needs
 - engage with them prior to release to identify ongoing health requirements
 - work with them post-release to establish links with the mental health service in the community that will take over their treatment.
736. Funding provided to the CIP means that it is only available to 100 prisoners per year and is limited to those at the Melbourne Assessment Prison or the Dame Phyllis Frost Centre.
737. The CIP is also limited to providing short-term support, usually about six weeks prior to and six weeks following release. Forensicare advised that it would be desirable to have a longer and more intense period of engagement post-release.
738. The program has recently been evaluated; however, the final report and findings were yet to be finalised at the time of completing my investigation.
739. The *Service Plan for Forensic Mental Health Services Final Report*⁴²⁶ prepared for the then Department of Health identified an increasing demand for forensic mental health services and identified that the main factors driving the need for service development:
- current ‘access-block’ within existing forensic mental health services, due not only to general population growth, but the disproportionate growth in prisoner population and the high prevalence of mental illness of people entering the criminal justice system
 - increasing recognition that servicing the unmet mental health need in the criminal justice system creates benefits at the individual level as well as generating broader efficiencies at the public health level.

424 Jesuit Social Services, *Strengthening prisoner transition to create a safer Victoria*, June 2014.

425 J. Ogloff, *Good mental health care in prisons must begin and end in the community*, *The Conversation*, 24 April 2015.

426 Donald Cant Watts Corke, *Service Plan for Forensic Mental Health Services, Final Report*, June 2014.

740. Key recommendations of the service plan included:

- increasing the number of forensic mental health beds by developing a medium security unit, and increasing high security bed numbers
- expanding transition and community-based mental health services for former prisoners.

Risk of death post-release

741. There are approximately 450 deaths of former prisoners in Australia each year, with most being preventable. One in five deaths in the first year after release is from drug overdose. Suicide accounts for a similar number. Poor health and external injury appear to account for the remainder⁴²⁷.

742. Service providers state that they struggle to support clients with complex or crisis driven needs in the post-release environment. For those agencies contracted to provide post-release support, there is a requirement for critical incidents to be reported to Corrections Victoria. The types of incidents reported through a community service agency in the first three months of 2014⁴²⁸ are set out in Table 14.

743. These clients were in a post-release support program or were supported through Community Corrections Services. These figures prompt concern about the safety and wellbeing of those prisoners reintegrating to the community without such program support.

744. National research has found that the annual number of deaths among recently released prisoners is far greater than deaths in custody, highlighting the extreme vulnerability of former prisoners upon their return to the community. Of the people released from prison in 2007-08, a 2011⁴²⁹ study estimated that between 380 and 527 died within one year of release, with a disproportionate number dying in the first four weeks. The study notes that these findings are consistent with the increasing volume of literature that establishes the elevated risk of death in ex-prisoners, particularly in the first few weeks after release and often due to drug-related causes.

745. A 2013 study found that young people are at even greater risk of death after release from prison and that the majority of these deaths are preventable⁴³⁰.

746. Those who have served a prison sentence are 12 times more likely to die in the first four weeks after their release than their peers in the community. In the first year, they are six times more at risk of death and then remain three times more at risk of death over the 15 years following release⁴³¹.

427 Inga Ting, 'Life outside jail proves fatal', *Sydney Morning Herald*, 9 June 2014.

428 VACRO, *Quarterly Operational Report for Link Out*, Jan-March 2014, page 8.

429 S. Kinner et al, 'Counting the cost: estimating the number of deaths among recently released prisoners in Australia', *Medical Journal of Australia*, Volume 195, Number 2, 18 July 2011.

430 K. Dooren, S. Kinner and S. Forsyth, 'Risk of death for young ex-prisoners in the year following release from adult prison', *Australian and New Zealand Journal of Public Health*, Vol. 37, No. 4, 2013.

431 Inga Ting, 'Life outside jail proves fatal', *Sydney Morning Herald*, 9 June 2014.

Table 14: Incidents regarding former prisoners January–March 2014

Name	Date of incident	Incident reason
Mr A	17 January 2014	Deceased from unknown cause
Mr B	19 January 2014	Induced coma resulting from drug overdose
Mr C	21 January 2014	Mental health concerns
Mr D	28 January 2014	Deceased from asthma attack
Mr E	28 January 2014	Safety concerns for client and client's family
Mr F	5 February 2014	Reported risk of drug overdose or self-harm
Mr G	22 February 2014	Behaviours posing significant risk to the community
Mr H	25 February 2014	Hospitalisation
Mr I	28 February 2014	Risk of suicide and risk to community safety
Mr J	8 March 2014	Deceased from overdose
Mr K	11 March 2014	Hospitalisation from drug overdose
Mr L	19 March 2014	Threatening behaviours
Mr M	30 March 2014	Deceased from cancer

*Critical incidents reported by VACRO to Corrections Victoria as a requirement of the Link Out program for the period January to March 2014.

747. The 2011 study of deaths of former prisoners also found that:

Although drug overdose is a leading cause of death for recently released prisoners, more than 50 per cent of deaths in this study were not drug-related, and at least two-thirds of deaths in the first year occurred more than one month after release. These findings underscore the importance of moving beyond simplistic messages about reduced drug tolerance and overdose risk in the first few weeks of release to build a more sophisticated, evidence-based approach to reducing mortality among former prisoners from multiple preventable causes over at least the first year after release. To be effective, preventive interventions must be multifaceted, cross-sectoral, tailored to the target group and, crucially, delivered both before and after release⁴³².

748. Publicly available research into deaths post-release in Victoria is limited and dated. A previous report tabled by my office – *Investigation into deaths and harm in custody* – recommended that the then Department of Justice, ‘... arrange for an independent research study to identify the number and nature of deaths which occur within four weeks of a person leaving prison, and within one year of a person leaving prison’⁴³³. The recommendation was accepted in principle but in May 2015 the department provided this update to my office:

The department does not have resources to conduct research, but does support independent research projects, including three [one ongoing] relating to offender deaths in custody since 2008. All requests for independent research are considered through the prescribed application and ethics process within the department⁴³⁴.

432 S.Kinner et al, *op cit*, page 67.

433 Victorian Ombudsman, *Investigation into deaths and harm in custody*, March 2014, page 103.

434 Correspondence from the Secretary, Department of Justice and Regulation to the Victorian Ombudsman, 8 May 2015.

749. Post-release support is not the sole responsibility of Corrections Victoria. Given the pressure on the community health system and demands for drug and alcohol support and mental health services in the general community, there is no one government agency with the responsibility or capacity to address all these issues.

Employment

750. Compared to the general community, those released from prison face additional barriers in finding and maintaining suitable employment. Employment prospects for former prisoners may be compromised by access to suitable housing, drug and alcohol issues, access to reliable transport, health issues and education levels. In addition, some employer policies restrict employment of those with criminal records. The requirement for community corrections and parole reporting may also be disruptive to workplace requirements⁴³⁵.

751. Corrections Victoria has identified some of the barriers to employment and the reluctance of employers to hire former prisoners:

Many employers are reticent to hire former prisoners because of concerns they will continue the anti-social behaviour that contributed to their incarceration. For example, they may be apprehensive about former prisoners' honesty and/or potential for other anti-social behaviour. They may also be concerned the former prisoners will revert to drug and/or alcohol misuse, leading to erratic attendance at work and sometimes workplace safety issues⁴³⁶.

752. Difficulty in finding suitable housing can also have an impact on the ability to seek, obtain and maintain employment post-release. Corrections Victoria identifies this issue in its *Prisoner Employment Pathway Framework 2015-19*⁴³⁷:

People find it difficult to apply for jobs and consistently attend employment when they are uncertain about where they will sleep. Continually seeking short term accommodation takes considerable effort, which reduces capacity to meet longer-term objectives such as employment.

753. As detailed earlier, Corrections Victoria provides the Industry Skills Centre Program in eight prison locations with funding to support a minimum of 120 prisoners. Part of the program involves assistance with job placement services and this is contracted to Group Training Association Victoria. A 2014 review of the program for Corrections Victoria identified concerns with data collection and record keeping, so the success of the program is difficult to assess.

⁴³⁵ S. Dawe, *Vocational Education and Training for Adult prisoners and offenders in Australia: Research Readings*, 2007.

⁴³⁶ Corrections Victoria, *Prisoner Employment Pathway Framework 2015-19*, 2015.

⁴³⁷ *ibid.*

754. Despite the recognised importance of employment in reducing the risk of recidivism, support for Victorian prisoners to obtain employment after their release is limited. Corrections Victoria acknowledges that:

Beyond assistance provided through reintegration-related services, Corrections Victoria provides only limited assistance to prisoners because such assistance is the remit of the Commonwealth Department of Employment⁴³⁸.

755. Two models provided through the Corrections Victoria Koori Education, Training and Employment Strategy were designed specifically to refer Koori former prisoners to job seeker programs and obtain work placements⁴³⁹. Neither have met targets as discussed earlier in this report.

756. A review of the employment placement aspect of the strategy found that there was a high withdrawal rate of those who had been referred to the program and that of the 14 successful placements in the second model, there was only information on the duration of that employment for one released prisoner.

757. In a recent development, the Commonwealth Department of Employment and Corrections Victoria are piloting a program of pre- and post-release assistance for prisoners to improve their employment prospects. The program aims to improve job search skills and build connections with employers, with the intent of reducing the reliance on welfare post-release⁴⁴⁰. There are, however, successful job placement programs and employer programs for former prisoners operating in Victoria. These include Second Step at Toll (see case study), job placement services offered by WISE and ACSO's Employment with Conviction program.

758. WISE offers job placement support for former prisoners, and suggests that its programs have saved the community \$12 million in re-incarceration costs⁴⁴¹.

Opportunity for transitional paid employment

759. In prisoner surveys, one of the most commonly cited opportunities for improving transition was the chance to do paid rather than voluntary work prior to release⁴⁴². The prisoner gains the confidence, sense of self-worth and financial benefits associated with paid work, providing funds to establish housing, including bond and upfront rental.

760. There are currently no paid work options for Victorian prisoners, however these programs have documented positive outcomes in other states and territories.

761. In the Northern Territory there are currently 60 prisoners involved in the Sentenced to a Job program which commenced in September 2012⁴⁴³. The program, designed to reduce reoffending is described as follows:

Employment draws an offender back into mainstream society and provides them with a source of income. Employment also plays a very important role in establishing positive influences – offenders establish relationships with stable and supportive peer groups in 'real world' workplaces⁴⁴⁴.

762. Prisoners participating in this program pay 5 per cent of their salary to victims of crime, tax, as well as board and lodging in the correctional facility.

438 Corrections Victoria, *Prisoner Education and Training, Service Delivery Model*, 2015.

439 Corrections Victoria, *Review of the Koori Education, Training and Employment Strategy*, December 2014.

440 Corrections Victoria, email response to the Victorian Ombudsman, 14 August 2015.

441 WISE Employment, *An overview of WISE's programs for ex-offenders in Australia*, 2012.

442 Exit surveys from prisoners who had been resident at the Judy Lazarus Transition Centre (discussed later in this report).

443 Newsletter of the Asian and Pacific Conference of Correctional Administrators, Challenges and Opportunities, 36th edition, March 2014, page 8.

444 Northern Territory Government, Department of Correctional Services, *Sentenced to a job programme*, brochure, undated.

763. Prisoners in New South Wales are also able to undertake paid work, including those living at both the Parramatta and Bolwara Transitional Centres for women. As in the Northern Territory, these prisoners are required to pay a portion of their wages to a Victims' Compensation Levy and contribute to the cost of their electronic monitoring bracelet if worn while on release⁴⁴⁵. Prisoners also contribute up to 20 per cent of their net earnings to pay for the administration of the work release program and are encouraged to pay outstanding fines from their wages⁴⁴⁶.

764. In South Australia, the Prisoner Reintegration Employment Opportunity Program has been in place for several years, providing workers to sectors including mining.

765. While Corrections Victoria does not currently have any formal partnerships with industry for post-release employment, a number of private organisations have developed their own, including Toll Holdings.

Second Step program: A case study of success

Toll Holdings is a large freight and logistics company, generating annual consolidated revenue of \$8.8 billion in 2014 and operating a network of 1,200 sites in over 50 countries with approximately 40,000 people.

The Second Step program was developed by the First Step Clinic, a Melbourne based not-for-profit organisation to improve the employment prospects of people overcoming addictions and after release from prison. The program has since developed a specific focus on providing opportunities for

Indigenous Australians who are also often marginalised from mainstream employment opportunities.

Second Step provides twelve months of supported employment including the social support of a Partner Program and a workplace that accommodates the transition challenges which can interrupt the successful re-engagement into the community. Many participants remain with the Toll Group after the completion of the twelve month program.

Support can include taking account of:

- Parole Board or similar requirements, such as time off to attend meetings or to report to Community Corrections
- particular addiction or offending behaviour history
- longer transition period for each role
- time off and flexibility required to engage with other professional support.

The Second Step program has supported over 400 participants including those released from prison.

One participant, who has been employed with Toll for over nine years, described the flexibility of the work program as assisting her to complete her community corrections order. When asked if she would have been able to do so without the time off to attend meetings she said: 'No, because by the time I had finished work and then cycled to the parole office it would have been closed, so I would've missed it every day'. This participant also said that the program enabled her to lease a house, as 'she was a good candidate for the house as she was working'.

⁴⁴⁵Corrective Services NSW, *Offender Classification & Case Management Policy and Procedures Manual, 20.4 Work release/ education and vocational training programs.*

⁴⁴⁶*ibid.*

Role of family support in the transition process

766. In my 2014 discussion paper, I posed the question, 'What is the impact of current security regimes, including lockdowns and limitations on family contact, on rehabilitation and reintegration?'

767. Many of the 34 submissions to my discussion paper responded to this question, emphasising the importance of the role family support can play in the successful rehabilitation and reintegration of released prisoners. Below is a sample of the responses provided on this issue.

Limitation on family contact can have detrimental consequences for prisoners post-release. The LIV suggests incorporating a program where relationships can be built between prisoners and their family, particularly children, pre-release. This, together with appropriate rehabilitation programs such as parenting programs and counselling, would improve transition and reintegration back to family life and the general community⁴⁴⁷.

768. Others commented that:

The good order of the prison, including security matters, have primacy over all other aspects of prison activity, including treatment, rehabilitation and transitional services. Family interaction is determined through the lens of security, with phone and visit privileges diminished at the behest of security demands.

The primacy of security is illustrative of the conflicted prison environment and the challenges of matching transitional and rehabilitation services with restrictive security practices⁴⁴⁸.

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

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

With the majority (about 85 per cent) of women in prison being parents or primary carers of children, maintaining the parent-child relationship is crucial. A 2011 study of Victorian women who have been imprisoned and their children, found that few children had frequent and predictable visiting arrangements and visits generally took place under poor conditions that did not meet the children's needs. As well as causing distress to children, poor quality and irregular visits can make eventual reunification less likely⁴⁴⁹.

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

...

We're often called upon to pick up a released prisoner who has come out of prison at a late hour after public transport has finished, which is the likelihood in regional areas, or they are released on a Friday night. This has the impact of leaving the prisoner vulnerable from the minute they come out of prison. More consideration and appropriate notice needs to be provided regarding the release of prisoners to appropriate support agencies and family members⁴⁵⁰.

447 Law Institute of Victoria, submission to Victorian Ombudsman, 19 December 2014.

448 Victorian Alcohol and Drug Association, submission to Victorian Ombudsman, December 2014.

449 Victorian Council of Social Service, submission to Victorian Ombudsman, December 2014.

450 *ibid*.

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

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

Helping offenders maintain or restore relationships with their family and friends, where this is appropriate, should be central to the resettlement effort. But too often, these relationships are seen simply as a matter of visits which may be increased or reduced according to an offender's behaviour. We found no evidence that families were involved in sentence planning for instance, even when an offender said they were relying on them for support after release. Too little account was taken of whether initial arrangements were sustainable and what continuing support might be needed⁴⁵¹.

771. Lockdown hours at some locations are very long. A prisoner at one maximum security prison described this as counterproductive to effective rehabilitation. In particular he expressed frustration that he was unable to maintain regular contact with his children and his lawyers given he was locked down at 4pm daily and not let out again until 8am the following morning. During this time, he was unable to make phone calls, access electronic education materials or undertake programs. He explained that his children were at school or commuting during the hours he was let out and his lawyers were not back in chambers until after 4pm.

772. My office has received complaints over the years from prisoners and their family members about a lack of clarity around – and in some cases an apparent reluctance by prisons to provide – the specific date of a prisoner's impending release. Other complaints related to an apparent lack of consideration given to prisoners being able to maintain family relationships, and in particular visits, when deciding whether to transfer them to other prisons.

Transitioning through prison for release

773. Corrections Victoria recognises the importance of transitioning for a return to the community. Its Sentence Management Manual stipulates:

To minimise potential institutionalisation, it is generally considered in the best interest of the prisoner to progress through the security levels, to be released from the least restrictive environment possible (subject to security and management considerations). Staff should consider placing prisoners with significant transition needs in prison locations that assist them to develop the skills, networks and confidence necessary to be able to live in the community. This includes the ability to develop and practice independent living skills such as cooking, cleaning and budgeting as well as vocational skills to assist with employment in release⁴⁵².

774. Security requirements mean that not all prisoners can be released from the least restrictive environment. However, there is evidence that recent overcrowding within the prison system has led to some prisoners being unable to effectively transition through security levels before being released.

⁴⁵¹ HM Inspectorate of Prisons, *A joint thematic review of HM Inspectorate of Prisons*, HM Inspectorate of Probation and Ofsted, *Resettlement provision for adult offenders: Accommodation and education, training and employment*, September 2014.

⁴⁵² Corrections Victoria, *Sentence Management Manual, 2.11 Transitional needs*, 17 July 2014, page 9.

775. Discharge figures from the maximum security Barwon Prison and Port Phillip Prison show an increase in the number of men released in the last two financial years. In 2013-14, 952 sentenced prisoners were released from maximum security. From 1 July 2014 to 3 June 2015, 1,153 sentenced male prisoners were released from these two prisons⁴⁵³.

776. While the individual circumstances of each prisoner released is not known, these are highly secure facilities which are not able to offer the same leave and transition opportunities as other prisons to develop independent living skills in preparation for release. The same is true for women prisoners in Dame Phyllis Frost Centre which is a maximum security facility.

777. As described by the InterChurch Criminal Justice Taskforce:

... often there are very limited or no transition opportunities from 23 hour lock up to being released. There should be staged security reductions for every prisoner, especially those from management or maximum security to minimum security, combined with re-education, before prisoners are released. Anything less is setting prisoners up to fail⁴⁵⁴.

Case study: Straight release into the community

A female prisoner with a diagnosed intellectual disability, mental illness, an acquired brain injury and substance use history had been placed in the Marmak Unit (integrated mental health) at Dame Phyllis Frost Centre for two years. Her complex needs made her unsuitable for the mainstream prison units.

Despite this, she was considered suitable for straight release to the community. She was released straight from the Marmak Unit, without adjusting from an environment of intense supervision and support to the community.

778. A 2013 evaluation of recidivism rates across male prison discharge locations found that rates of recidivism varied considerably depending on the location⁴⁵⁵.

Table 15: Recidivism rate for male prisoners per discharge location

Discharge location	Return to prison rate	Security
Hopkins Correctional Centre	31.7%	Medium
Barwon Prison	52.1%	Maximum
Beechworth Correctional Centre	14.4%	Minimum
Dhurringile Prison	19.6%	Minimum
Fulham Correctional Centre	37.9%	Medium/minimum
Judy Lazarus Transition Centre	10.4%	Minimum
Langi Kal Kal Prison	10.7%	Minimum
Loddon Prison	37.0%	Medium
Melbourne Assessment Prison	49.6%	Maximum
Melbourne Remand Centre	45.5%	Maximum
Port Phillip Prison	44.1%	Maximum

Data source: Corrections Victoria.

453 Corrections Victoria, email response to Victorian Ombudsman enquiries, 4 June 2015.

454 Victorian InterChurch Criminal Justice Taskforce, *Submission concerning investigation into the rehabilitation and reintegration of prisoners in Victoria*, 31 December 2014.

455 A. Day, S. Casey, S. Ross and R. Jones, *Confidential Evaluation of the Marmoneet Correctional Centre, Final Report*, February 2013.

779. While the prison of discharge is not necessarily the prison in which a person has spent the majority of their sentence, the evidence suggests there is a correlation between the maximum security prison locations and a higher recidivism rate. While the explanations for this are complex and varied, the security nature of the maximum prisons generally means prisoners have less out-of-cell hours, and do not have the opportunity to access the same level of transition support and adaptation to more independent living as those in medium or minimum security locations prior to release.

Support provided by Corrections Victoria

Corrections Victoria Reintegration Pathway

780. In January 2015, Corrections Victoria implemented a revised approach to providing transition and reintegration support to all prisoners. When my investigation started, this program consisted of a Transitional Assistance Program (TAP) provided by Corrections Victoria, and Intensive Transition Support Programs (ITSP), delivered by a number of non-government organisations.

781. The new approach, known as the Corrections Victoria Reintegration Pathway (CVRP), replaces the TAP and ITSP. It focusses on pre- and post-release services and has two objectives:

- to provide responsive and targeted transition and reintegration supports for all prisoners
- to deliver an integrated pathway driven approach which recognises that transition and reintegration needs across a prisoners journey from entry through to post-release⁴⁵⁶.

782. There are four stages in the CVRP:

- entry stage: occurs early in a prisoner's sentence to address needs associated with transitioning into prison – such as ending housing leases, outstanding bills and financial responsibilities – and to identify anticipated release needs for each prisoner
- sentence stage: prisoners participate in programs to address offending behaviours, education, training and skill development. Issues identified in the entry stage continue to be addressed in preparing for eventual release
- pre-release stage: provides support services and referrals to address prisoner needs through three program tiers:
 - re-group
 - re-link
 - re-connect
- post-release stage: eligible prisoners are supported through a targeted or extended stream of the re-connect program before and after release⁴⁵⁷.

783. To help prisoners successfully return to the community, all stages focus on seven priority areas:

- community and family connectedness
- mental health
- drug and alcohol
- housing
- independent living skills
- employment
- education and training⁴⁵⁸.

⁴⁵⁶ Corrections Victoria, *Reintegration Pathway Presentation*, Stakeholder Forum, April 2015.

⁴⁵⁷ Corrections Victoria, *Reintegration Pathway Service Delivery Manual*, 3 February 2015.

⁴⁵⁸ *ibid.*

784. CVRP providers include Corrections Victoria and four contracted community agencies: VACRO, ACSO, Jesuit Social Services and VALS.

785. Corrections Victoria says that it has a CVRP target of 1,000 prisoners each year from these groups:

- high transitional needs parolees: serious violent offenders or sex offenders (SVOSOs) on parole
- high transitional needs straight release – SVOSO prisoners
- 100 per cent sentenced Aboriginal and Torres Strait Islander prisoners
- 100 per cent female sentenced prisoners.

786. There is additional health support available to Aboriginal and Torres Strait Islander people on release. In response to my draft report, Corrections Victoria said:

Justice Health is developing a pilot transitional health service for Aboriginal and Torres Strait Islander prisoners to support continuity of their health care on release and to strengthen relationships between prison health services and Aboriginal health services in the community, as part of the Aboriginal Social and Emotional Well-Being Plan.

787. Young offenders are not targeted for inclusion in this post-release support program.

788. For prisoners outside these target groups but requiring support, or for those not within the first 1,000, the provision of post-release support rests with other community service organisations offering income support, housing, employment services and health/wellbeing support.

789. Using the 2013-14 financial year as an example, there were 4,250 men and women released from prison to the community⁴⁵⁹. On current figures with 1,000 each year receiving post-release support, this would leave around 3,250 people with no structured support on their return to the community.

790. A number of submissions to my investigation raised questions about the capacity of the CVRP to respond to increased numbers of prisoners⁴⁶⁰.

791. One contracted provider advised my investigation that in their experience it would be difficult to find one prisoner who did not meet the criteria for intensive support. In 2013-14, of the 4,250 sentenced prisoners released from Victorian prisons, only 695 places were available in the then intensive support post-release program, regardless of demand.

792. While the delivery method and introduction of the new post-release programs do not offer a direct comparison, Corrections Victoria projections suggest that there will be an increase in the number of prisoners assisted. Corrections Victoria suggests that 3,500 prisoners will be assisted with transition, in either group or individual programs in prisons each year.

⁴⁵⁹Number of prisoners participating in TAP in 2013-14. Email response from Corrections Victoria, 4 September 2014.

⁴⁶⁰Victorian InterChurch Criminal Justice Taskforce, *Submission concerning investigation into the rehabilitation and reintegration of prisoners in Victoria*, 31 December 2014 and Jesuit Social Services submission to the Victorian Ombudsman, December 2014.

Pip Wisdom Community Corrections Grants

793. In addition to the new pre- and post-release support programs, there are a number of other programs and services offered in Victoria to support prisoners with their reintegration needs.

794. Named after a senior public servant who made a significant contribution to prisoner support in Victoria, the Pip Wisdom Community Corrections Grants are designed to assist prisoners with a successful transition back into the community following release⁴⁶¹.

795. The grants total \$543,000 per annum. The most recent grants are for the period 1 October 2013 to 30 June 2016. The grants support a range of programs, including:

- Muslim Connect, Islamic Council of Victoria: mentoring program for Muslim prisoners and offenders run at a number of prison locations, providing personal, cultural and spiritual support pre- and post-release
- African Visitation and Mentoring Program, Jesuit Social Services: volunteer mentors are matched with prisoners and offenders from African nations to provide in custody and after release
- Pre- and Post-release Support Program, Prison Network Ministries: provides a range of services to women prisoners and their children, both in prison and after release
- Prison Invisits Program, Shine for Kids: offers activities for children of prisoners at Barwon Prison and Dame Phyllis Frost Centre during weekend visits

- The Transit Program, Salvation Army: provides short-term case management support to men with an acquired brain injury or intellectual disability who are being released from prison
- Bridge Employment, Support and Training program, YMCA: young prisoners aged up to 30 years receive employment-related training and support at the Metropolitan Remand Centre and Marngoneet Correctional Centre.

796. The grants enable a further level of support to prisoners in Victoria for rehabilitation and reintegration both pre- and post-release, which may otherwise go unmet.

Judy Lazarus Transition Centre

797. Victoria has one prison dedicated to support transition to the community. The Judy Lazarus Transition Centre (the Centre) in West Melbourne has been operating since 2007 and accommodates 25 minimum security male prisoners. Placement in the centre is reserved for prisoners nearing release or their eligibility date for parole who are facing significant transition difficulties⁴⁶².

798. The Centre helps residents to reintegrate into the community through intensive case management, which focuses on support with employment, accommodation, life skills and family relationships.

799. To be eligible for placement at the Centre, the following criteria must be met:

- male
- not convicted of a sexual offence
- have a minimum sentence of three years or recent history of shorter sentences with repeated failures to successfully integrate into the community

⁴⁶¹ Corrections Victoria website <www.corrections.vic.gov.au/home/release/transition+programs/> viewed on 5 August 2015.

⁴⁶² Department of Justice, Corrections Victoria, *Commissioner's Requirement - Judy Lazarus Transition Centre*, May 2009.

- between three and twelve months remaining to serve on their sentence
- suitable for placement in a minimum security community based facility (which includes no pending court matters, no outstanding disciplinary matters, no current identified drug user status and no current suicide or self-harm concerns)
- committed to the transitional program
- release needs that can be appropriately addressed in the Centre
- capable of satisfying the rules and requirements expected in the Centre
- assessed as not posing a risk to community safety if placed at the Centre⁴⁶³.

800. Centre residents move through a three stage program: induction, implementation and maintenance. Each stage has a prescribed duration for 'permit' activities, which are described below. Movement between stages is subject to a formal review.

801. Permits are issued to attend approved programs such as voluntary work placements, job seeking, education, family visits and physical programs.

802. Several submissions to my investigation highlighted the success of the Centre and called for it to be replicated, particularly for women, or expanded to include more prisoners:

Staged release gives people the opportunity to develop skills and confidence to live in the community after release. The lack of a transitional support facility for women prisoners is a clear barrier to a staged release program for women⁴⁶⁴.

... All longer term prisoners should have access to transitional services such as those available at the Judy Lazarus Transitional Centre, which is a great example that needs replication many times over⁴⁶⁵.

VALS supports the creation of more transition centres for prisoners to prepare for their release. We note ... there is no women specific transition centre, this is particularly concerning, given the high rates of homelessness amongst women, and specifically for Aboriginal and Torres Strait Islander women, the increasing rate of incarceration. Transition centres can provide essential re-establishment of community and familial relationships that may not have been facilitated [in prison] because of security requirements⁴⁶⁶.

803. The recidivism rate for those who have spent time in the Centre is 10.4 per cent, compared to the overall recidivism rate of 44.1 per cent.

804. A 2009 review⁴⁶⁷ found that the Centre contributed to reduced levels of recidivism by addressing a range of post-release transition issues linked to reoffending. For the period of that review, only 4.5 per cent of men leaving the centre were reimprisoned within nine months. Seventy-one per cent of interviewed past residents were employed post-release.

805. A more recent review of the Centre by the Office of Correctional Services Review in 2014 found that:

In terms of state and national recidivism rates, the Centre's residents appear to have succeeded to a significantly greater extent than other prisoners in transitioning and reintegrating with the community⁴⁶⁸.

⁴⁶³ *ibid.*

⁴⁶⁴ VCOSS submission to the Victorian Ombudsman, December 2014.

⁴⁶⁵ InterChurch Criminal Taskforce, submission to the Victorian Ombudsman, December 2014.

⁴⁶⁶ Victorian Aboriginal Legal Service, submission to the Victorian Ombudsman, October 2014.

⁴⁶⁷ M and P Henderson and Associates Pty Ltd, *Evaluation of the Judy Lazarus Transition Centre: Final Report*, August 2009, page 4.

⁴⁶⁸ Office of Correctional Services Review, *Review of the Judy Lazarus Transition Centre*, September 2014.

806. My staff met with residents to discuss their experience of the Centre and reviewed the exit surveys completed in 2013-14. The men were overwhelmingly positive about the way in which it prepared them for life in the community post-release.

Comments made by prisoners in exit surveys from the Judy Lazarus Transition Centre

When asked about the impact of their stay at the Centre as opposed to a prison location in preparing for release:

'Immense difference'
'Able to see my family weekly'
'Able to spend quality time with my daughters'
'Able to do proper study. Proper research'
'More importantly, feeling human again. Being trusted again was overwhelming and I reciprocated'

When asked about reconnecting with family:

'It has given me the opportunity to re-establish the most important thing which was my relationship with my kids, if not for JLTC this would not have been achieved'.

When asked about community work:

'Work experience has resulted in work' at a bakery

'[My employers] were fantastic and made me feel worthwhile as a person',

Alternative approaches

Imprisonment itself does not act as a deterrent for reoffending. Innovative ways of thinking are resulting in prisoner numbers and recidivism rates falling in places as diverse as Texas and New Zealand.

Victoria's imprisonment rate is at its highest in over ten years and growing quickly, but the crime rate has not risen accordingly. This is something that underpins any attempt to reduce recidivism.

There are already alternative approaches to the traditional court system, like dedicated drug and Koori courts, which deal with people overrepresented in Victorian prisons.

The overwhelming majority of prisoners will be released back into the community. Inadequate efforts to rehabilitate and reintegrate prisoners leaves them vulnerable to recidivist behaviour upon release.

Key facts:

- imprisonment costs approximately \$270 per prisoner per day while Community Corrections Orders cost around \$27 per offender per day
- over 99% of prisoners will be released at some point
- a dedicated strategy in New Zealand has led to a 10% fall in reoffending by prisoners after they were released from prison
- a justice reinvestment program in Texas led to a 1,125 drop in prisoner numbers between 2008 and 2010.

807. Imprisoning people almost always represents a temporary solution. Of the 6,386 people held in Victoria's prisons in March 2015, only 14 people⁴⁶⁹, or 0.21 per cent, were being held indefinitely, never to be released. Therefore, over 99 per cent of prisoners will be released back into the community.

808. I received a range of submissions from community organisations, advocate groups, former prisoners and other interested parties supporting a significant increase in the allocation of funding for initiatives and strategies to reduce offending, imprisonment and recidivism rates. These include diversionary programs⁴⁷⁰, post-release services⁴⁷¹ and therapeutic alternatives to custody⁴⁷². The theme in these submissions was that more needs to be done to support the successful transition of prisoners back into the community.

809. Academics and commentators in this field are also calling for governments in Australia to rethink their approach to criminal justice broadly and prisons in particular.

Links between prison and reoffending

810. According to the *Sentencing Act 1991*, the purpose of a sentence of imprisonment in Victoria includes punishment, denunciation of the offending behaviour and protection of the community⁴⁷³. It is also imposed to act as a deterrent to other potential offenders and to facilitate the rehabilitation of the offender.

469 Corrections Victoria, email response to the Victorian Ombudsman, 24 April 2015.

470 Liberty Victoria, submission to the Victorian Ombudsman, December 2014.

471 Law Institute of Victoria, submission to the Victorian Ombudsman, December 2014.

472 Jesuit Social Services, submission to the Victorian Ombudsman, December 2014.

473 *Sentencing Act 1991* section 5 (Vic).

811. The Sentencing Act has several purposes, including:

- (d) to prevent crime and promote respect for the law by –
 - (i) providing for sentences that are intended to deter the offender or other persons from committing offences of the same or a similar character; and
 - (ii) providing for sentences that facilitate the rehabilitation of offenders; and
 - (iii) providing for sentences that allow the court to denounce the type of conduct in which the offender engaged⁴⁷⁴...

812. Half of all Victorian prisoners have been imprisoned previously and the recidivism rate at 39.5 per cent⁴⁷⁵ in 2013-14 had risen to 44.1 per cent by the end of 2014-15⁴⁷⁶.

813. As outlined below, numerous studies and academic research have concluded that imprisonment itself does not act as a deterrent for reoffending⁴⁷⁷. It has been found to often have a contrary effect, resulting in a higher rate of reoffending in prisoners when compared with offenders who are given non-custodial or community-based sentences⁴⁷⁸. Some of the reasons for this include the criminal learning environment that prisons can create, public stigma, reinforcement of criminal identity, and that imprisonment fails to treat the underlying causes of criminal behaviour⁴⁷⁹.

814. If inadequate effort is made to rehabilitate and reintegrate people as they are released, former prisoners and the community are left vulnerable to recidivist behaviour. Liberty Victoria noted in their submission that this is why ‘the community has a great interest in the rehabilitation and reintegration of prisoners’.

815. The cost of imprisonment is approximately \$270 per prisoner per day compared to non-custodial supervision by community corrections officers at around \$27 per offender per day⁴⁸⁰.

816. The prison population is rising faster than general population growth. Jesuit Social Services noted in its submission that imprisonment for non-violent offences grew 43 per cent between 2010 and 2014, while imprisonment for crimes against the person increased by 24 per cent⁴⁸¹. The proportion of vulnerable groups in prisons is also increasing. It is evident from the average prisoner profile that prisoners are not representative of the general population⁴⁸² in terms of age, ethnicity, socio-economic status and health.

817. Reimprisonment has been found to be most strongly associated with being young, Aboriginal and Torres Strait Islander or a repeat offender, and to a lesser extent, male⁴⁸³. It has been found that the higher the number of previous sentences, the greater the risk of reoffending, particularly if those previous sentences were served in prison⁴⁸⁴. Conversely, offenders who receive a low level sentence, such as a fine or suspended sentence, are less likely to reoffend than those who receive a term of imprisonment⁴⁸⁵.

474 *Sentencing Act 1991* section 1(d) (Vic).

475 Australian Bureau of Statistics, *45170 – Prisoners in Australia*, 2014.

476 Victorian Government, *2015-16 Budget Paper No 3 Service Delivery*.

477 Defined as a return to prison within two years.

478 D. Ritchie, *Does Imprisonment Deter? A Review of the Evidence*, Melbourne Sentencing Advisory Council, 2011.

479 *ibid.*

480 *Report on Government Services*, Corrective Services attachment, 2014.

481 Australian Bureau of Statistics, *45170 – Prisoners in Australia*, 2014.

482 H. Tubex, *State of imprisonment: lopsided incarceration rates blight West*, *The Conversation*, 16 April 2010.

483 J. Zhang & A. Webster, *An analysis of repeat imprisonment trends in Australia using Prisoner Census Data from 1994 to 2007*, *Australian Bureau of Statistics Research Paper* 1351.0.55.031, 2010.

484 Sentencing Advisory Council, *Reoffending following sentencing in the Magistrates’ Court of Victoria*, Melbourne, 2011.

485 *ibid.*

818. The evidence also suggests that having more people in prison reduces community safety, puts increasing pressure on government budgets, and can have intergenerational impacts⁴⁸⁶.

Current efforts to reduce recidivism

819. There are a number of initiatives and programs in the Victorian criminal justice system designed to reduce recidivism and imprisonment rates. Some examples are described below.

Police interventions

820. Police are often the first point of contact for people experiencing pressing social, health or welfare issues⁴⁸⁷, and they are also most likely to be the first contact in the criminal justice system. Police officers currently have discretion to issue informal or formal warnings and cautions rather than arrest offenders. There are also a number of diversion programs and initiatives being piloted or in operation that work to divert first time and low level offenders, particularly those with drug-related offending behaviour.

821. Initiatives include:

- programs to address victim's needs and provide restorative and therapeutic outcomes
- pre-charge referral programs to support services and treatment
- drug diversionary programs including the Illicit Drugs Diversion Initiative and the Cannabis Cautionary Program, both aimed at offering treatment and education as alternatives to being charged.

822. Victoria Police's current strategic plan prioritises referring people needing assistance to appropriate support services, to reduce the number of recidivist offenders.

Court-based interventions

823. Courts constitute a significant part of the criminal justice system and provide an opportunity to divert offenders into treatment for drug, alcohol or mental health issues, refer offenders to relevant support services and address offending behaviour prior to being sentenced. A number of these interventions have been shown to significantly reduce the number of offenders sentenced to imprisonment and, in the longer term, their rates of reoffending.

Drug Court

824. The Drug Court of Victoria operates in Dandenong and offers Drug Treatment Orders as an alternative to imprisonment to a cohort of offenders with multiple issues. The aims of its two year interventions⁴⁸⁸ are to improve the health and well-being of participants and reduce the severity and frequency of reoffending.

To be eligible, offenders must:

- plead guilty
- not have committed a sexual offence or an offence involving the infliction of bodily harm
- live in the Dandenong area.

486 M. Seagrave, A. Eriksson & E. Russell, *State of imprisonment: Victoria is leading the nation backwards*, The Conversation, 13 April 2015.

487 Victoria Police, *Victoria Police Blueprint 2012-15*, page 4.

488 KPMG, *Evaluation of the Drug Court of Victoria: Final Report to the Magistrates' Court of Victoria*, 18 December 2014.

825. A recent evaluation by KPMG⁴⁸⁹ of the Drug Court found that successful completion of the program reduced the rate of recidivism by over a third and also lowered the seriousness of reoffending behaviour⁴⁹⁰. KPMG estimated the cost at \$26,000 per participant for two years, compared with two years' imprisonment at an average cost of \$197,000 per prisoner. KPMG calculated a \$1.2 million in saving on prison expenditure as a result of the program completed by 61 offenders.

826. The scale of this program is limited both in terms of the number of places available and its single location. Chief Magistrate Peter Lauristen has recently spoken for expansion of the drug court model beyond Dandenong, endorsing the effectiveness of the program for addressing the needs of a particularly difficult cohort of offenders⁴⁹¹.

Court Integrated Services Program

827. The Court Integrated Services Program (CISP) was established in 2006 as a coordinated, team-based approach to the case management, assessment, referral and treatment of offenders at the bail stage. It aims to improve treatment, court, sentence and reoffending outcomes for participants⁴⁹².

828. CISP currently operates in the Magistrates' Court at Melbourne, Sunshine and the Latrobe Valley, and has broad support from court staff, magistrates and external stakeholders⁴⁹³. CISP also integrates the Koori Liaison Officer Program, which seeks to provide CISP services through culturally appropriate interventions⁴⁹⁴.

829. The program was developed as an integrated approach to linking offenders with a variety of support services in an effort to reduce the rate of imprisonment or the length of sentence. It has been reported that magistrates use the program to ensure that:

- offenders receive a comprehensive and independent assessment of any problems or special needs
- an appropriate and timely therapeutic response is provided
- offenders receive supervision and case management while on bail
- offenders' suitability for alternative sentencing options, such as a CCO, can be determined⁴⁹⁵.

830. A 2010 evaluation used cost benefit modelling to show that for every dollar invested in CISP, there were savings of between \$1.70 and \$5.90⁴⁹⁶.

831. In addition to the economic benefits, offenders who completed CISP had a recidivism rate 10 per cent lower than non-CISP offenders⁴⁹⁷. A decrease was also found in the seriousness of any reoffending following participation in the program.

832. In addition to this reduction in recidivism, CISP has resulted in more offenders being sentenced to a CCO rather than imprisonment, and increased bail compliance rates.

489 *ibid.*

490 *ibid.*

491 J. Lee, 'Drug Court the 'only way' to help drug-addicted criminals', *The Age*, 12 March 2015.

492 Department of Justice, *Court Integrated Services Program: Executive Summary Evaluation Report*, 2010.

493 S. Ross, *Evaluation of the Court Integrated Services Program*, final report prepared for the Department of Justice by The University of Melbourne, 2009.

494 Magistrates' Court of Victoria, *Annual Report 2013-14*.

495 Department of Justice, *Court Integrated Services Program: Executive Summary Evaluation Report*, 2010.

496 *ibid.*

497 S. Ross, *Evaluation of the Court Integrated Services Program*, final report prepared for the Department of Justice by The University of Melbourne, 2009.

833. When the program was evaluated in 2014, it was found that approximately half of CISP clients had a combination of mental health and drug issues, together with other issues including alcohol abuse, ABI and homelessness⁴⁹⁸. Limited availability of residential drug and alcohol treatment places, housing and access to mainstream mental health services have presented barriers to the effective operation of this program, as has CISP staff turnover⁴⁹⁹.

834. My officers heard strong support for an expansion of CISP, along with an acknowledgement that significant work would be required to ensure the support and services were able to meet increased demand.

Neighbourhood Justice Centre

835. The Neighbourhood Justice Centre (NJC) was established in 2005 in Collingwood and is based on a community justice model of problem solving and therapeutic justice. Its functions include:

- a single magistrate operating with the jurisdiction of the Magistrates' Court, the Children's Court, the Special Circumstances, Indigenous and Family Violence Lists, the Victims of Crime Assistance Tribunal and the Victorian Civil and Administrative Tribunal
- client services including counselling, employment and training support, housing support and legal assistance
- community engagement.

836. An evaluation of the NJC found that it continues to meet the ongoing need for a local approach to justice that addresses the underlying causes of criminal behaviour and disadvantage⁵⁰⁰.

837. This evaluation identified a 16.7 per cent reduction in recidivism for NJC clients, compared with offenders who went through the mainstream Magistrates' Court. Savings in annual imprisonment costs were estimated at \$4.56 million per annum based on a 24 per cent reduction in prison days for NJC users⁵⁰¹.

838. There has been a 20 per cent increase in completed cases in the NJC between 2009-10 and 2013-14⁵⁰².

839. The current government has committed to building on the success of innovative courts and diversion lists by integrating similar processes and approaches throughout the mainstream court system⁵⁰³; however, specific details of this proposal are yet to be released.

Koori Courts

840. The Koori Court operates as a division of the Magistrates' Court, and originally commenced as a pilot in Shepparton on 7 October 2002⁵⁰⁴. Today, the Koori Courts operate across eight Magistrates' Court locations and at the County Court:

1. Bairnsdale
2. Broadmeadows
3. Latrobe Valley
4. Melbourne (Children's Court)
5. Mildura (Adult and Children's Court)
6. Shepparton
7. Swan Hill
8. Warrnambool⁵⁰⁵.

841. Unlike Indigenous courts in other jurisdictions, the Koori Courts in Victoria were established by specific legislation: the *Magistrates' Court (Koori Court) Act 2002*⁵⁰⁶.

498 Department of Justice, *CISP Remand Outreach Pilot Evaluation*, November 2014.

499 S. Ross, *Evaluation of the Court Integrated Services Program*, final report prepared for the Department of Justice by The University of Melbourne, 2009.

500 KPMG, *Evaluation of the Neighbourhood Justice Centre*, final report commissioned by the Department of Justice, December 2012. See also: Magistrate David Fanning, 'Neighbourhood Justice Centre, Delivering Justice Locally - Strengthening the Yarra Community', presentation at Non-Adversarial Justice Conference, 6 May 2010.

501 Magistrates' Court of Victoria, *Annual Report 2013-14*.

502 *ibid*.

503 2014 Victorian ALP Platform.

504 Sentencing Advisory Council, *Sentencing in the Koori Court Division of the Magistrates' Court: A Statistical Report*, 2010.

505 Department of Justice, *Koori Court: A Defendant's Guide*, 2008.

506 Sentencing Advisory Council, *Sentencing in the Koori Court Division of the Magistrates' Court: A Statistical Report*, 2010.

842. While not technically a diversionary court, the adult and children's Koori Courts aim, among other things, to reduce the rate of repeat offending by addressing underlying offending behaviour in a culturally appropriate way⁵⁰⁷ and 'to provide fair and equitable justice services to Aboriginal and Torres Strait Islander people'⁵⁰⁸.

843. The Koori Court aims to provide an informal atmosphere that allows participation by the Koori community⁵⁰⁹. All parties to the court proceedings, including any family of the accused and the Magistrate sit around a table and have a 'sentencing conversation'⁵¹⁰.

844. Aboriginal offenders are only eligible to elect to have their matter heard at the Koori Court if they plead guilty or intend to do so, and their offences do not include family violence or sexual offences⁵¹¹.

845. While the Koori Court has not been subject to recent evaluation, a 2006 evaluation of the original pilot, commissioned by the then Department of Justice found that:

... in virtually all of the stated aims of the Koori Court pilot program, it has been [a] resounding success. Specifically the Koori Courts have:

- Reduced the levels of recidivism amongst Koori defendants, which in turn has direct ramifications for the levels of over-representation with the prison system
- Achieved reductions in the breach rates for community corrections orders and the rates of Koori defendants failing to appear for their court dates
- Increased the level of Koori community participation in, and ownership of, the administration of law

- Provided a forum for the sentencing of defendants that is less alienating for them and which has allowed them to give their account of the reasons for their reoffending
- Provided a mechanism whereby the sentencing process takes account of cultural considerations
- Developed a particularly effective means of integrating the various service providers who might be involved in the tailoring of community based orders
- Reinforced the status and authority of Elders and Respected Persons, thereby strengthening the Koori community and
- Effectively broadcast the vision of the Koori Courts, such that they have received support from some sectors that had previously been sceptical about initiatives such as the Koori Courts⁵¹².

CISP Remand Outreach Pilot and specialist court lists

846. The **CISP Remand Outreach Pilot (CROP)** began in February 2014 and adopted integrated case-work intervention to identify prisoners on remand who may be able to secure bail after being linked into relevant community support services, particularly to address accommodation, mental health and drug and alcohol issues⁵¹³. An evaluation of CROP was undertaken after six months⁵¹⁴ and found:

- just under one third of men in the CROP program (29 per cent) were released to bail compared with only 21 per cent in a comparison group

507 Department of Justice, *Koori Court Information for Legal Representatives*, 2008.

508 Department of Justice, *Victorian Aboriginal Justice Agreement*, 2000.

509 Department of Justice, *Koori Court Information for Legal Representatives*, 2008.

510 *ibid.*

511 Department of Justice, *Koori Court: A Defendant's Guide*, 2008.

512 Department of Justice, *A Sentencing Conversation: Evaluation of the Koori Courts Pilot Program October 2002–October 2004* (written for the Department of Justice by Mark Harris), 2006.

513 Magistrates' Court of Victoria, *Annual Report 2013-14*.

514 Corrections Victoria, *CISP Remand Outreach Pilot evaluation – Forecasting and Statistical Analysis*, April 2015.

- 25 per cent of males in the comparison group were still on remand at the time of analysis compared with 20 per cent in the CROP group, while 40 per cent had become sentenced prisoners compared with 39 per cent of males in the CROP group
- among the CROP group, 22 more males (6 per cent) were released from custody (to bail, non-custodial sentences or time served) than in the comparison group
- CROP participants were 16 per cent more likely to obtain bail than those who were not involved⁵¹⁵.

847. The evaluation concluded that:

While it is difficult to obtain a reliable estimate with a highly variable and complex client base, the benefit of CROP appears to be not only meeting but exceeding the cost of the program. Program benefits come from both increased numbers of remandees being granted bail, and increased numbers of remandees being released from custody.

848. The **Assessment and Referral Court (ARC) List** commenced in 2010 at the Melbourne Magistrates' Court to assist defendants on bail experiencing mental illness or cognitive impairment including acquired brain injury, by addressing the underlying causes of their offending behaviour through facilitating access to treatment and support services⁵¹⁶.

849. The Department of Justice and Regulation has advised that an internal independent evaluation of the ARC List shows a return on investment benefit of between \$2 and \$5 for every dollar, when compared to the costs of imprisonment. The most common outcome for those who successfully complete the program is a full discharge of their matter by the court, lowering the imprisonment rate for this cohort of vulnerable offenders.

850. The **Criminal Justice Diversion Program** for first time or low risk offenders is available in all Magistrates' Courts across Victoria. The program is less intensive than some of the other court-based interventions and provides diversion plans which aim to assist the offender in avoiding criminal conviction. An evaluation in 2004⁵¹⁷ found that 94 per cent of participants successfully completed the diversion program and avoided conviction and that the reoffending rate within the cohort was low⁵¹⁸.

851. The **CREDIT/Bail Support Program** operates in eight Magistrates' Court locations and aims to assist defendants in getting and staying on bail by providing up to four months of case management and access to treatment and support services. While the focus is on drug and alcohol treatment, other services may be provided based on the needs of each defendant. The objectives of the program include reducing or delaying further offending and reducing the likelihood of a prison sentence to lower costs in the prison system⁵¹⁹. An evaluation conducted in 2004 found that 2.5 per cent of participants who successfully completed the CREDIT program received a custodial sentence, compared to 30 per cent of participants who did not complete the program⁵²⁰.

515 *ibid.*

516 Magistrates' Court of Victoria, *Annual Report 2013-14*.

517 S. Alberti et al *Court Diversion Program Evaluation: Overview report*, Turning Point Alcohol and Drug Centre and Health Outcomes International, 2004.

518 *ibid.*

519 *ibid.*

520 *ibid.*

852. Some of these court programs have ongoing funding, while others are still pilots with short term funding. Most operate in a small number of locations, notwithstanding generally positive evaluation results.

Correctional interventions

853. A number of correctional interventions are described earlier in this report, including:

- the enhanced reintegration pathway
- a new education framework
- enhanced offending behaviour programs framework.

854. I am advised that Corrections Victoria has also started to analyse the current drivers of growth in the prison population with a view to identifying opportunities for further initiatives to reduce recidivism.

855. My investigation identified that the Department of Justice and Regulation has a range of additional initiatives in place or under development including the community safety grants program, focusing on identifying those communities most in need of support and better co-ordination of services.

856. Analysis of research by Jesuit Social Services covering the period 2007-14 shows that a quarter of Victoria's prisoners come from just 2 per cent of postcodes. This data remained largely unchanged since the research was first undertaken in 2004⁵²¹. This research also shows that 50 per cent of prisoners come from 6 per cent of the state's postcode areas⁵²².

857. The research showed that people living in the most disadvantaged postcodes are:

- 3 times more likely to be experiencing long term unemployment or have been exposed to child maltreatment

- 2.6 times more likely to have experienced domestic violence
- 2.4 times more likely to be on a disability support [pension] and
- twice as likely to have criminal convictions as the rest of the population⁵²³.

858. In addition there are broad-based initiatives like the *Victorian Alcohol and Drug Strategy 2013-17* and *Victoria's Ice Action Plan*, which cover aspects of the criminal justice system and aim to improve outcomes⁵²⁴ and reduce duplication of effort.

Experience in other jurisdictions

Justice reinvestment

859. A number of submissions urged the Victorian Government to take a justice reinvestment approach to the corrections system⁵²⁵. The InterChurch Criminal Justice Taskforce called for funds to be diverted from prison expenditure to rehabilitation and reintegration programs. Similarly, Caraniche noted that 'justice reinvestment has been instrumental in re-shaping prison rehabilitation and reintegration policy in the USA'.

860. 'Justice reinvestment' is the diversion of government spending from prisons and investing instead in strategies and initiatives designed to reduce offending rates, break the cycle of recidivism, and increase community safety⁵²⁶. In jurisdictions where this approach has been applied it has been done as a partnership between government and the community.

521 T. Vinson, *Community Adversity and Resilience: The Distribution of Social Disadvantage in Victoria and New South Wales and the Mediating Role of Social Cohesion*, Jesuit Social Services, Melbourne, 2004.

522 Analysis of data contained within *Dropping off the edge 2015*, T. Vinson, M. Rawsthorne, A. Beavis, M. Ericson, 2015.

523 *ibid.*

524 Victorian Government, *Victoria's Ice Action Plan*, March 2015

525 Submissions from the Victorian Custody Reference Group, InterChurch Criminal Justice Taskforce and Caraniche.

526 The Senate Legal and Constitutional Affairs References Committee, *Value of a Justice Reinvestment Approach to Criminal Justice in Australia*, June 2013, page 3.

861. The justice reinvestment approach was originally conceived in the United States (US) and follows a specific methodology⁵²⁷:

- analyse available data and map the justice system to identify vulnerable or high recidivist communities
- identify and develop options to reduce offending and generate savings
- implement options, quantify the savings and then reinvest savings in identified communities
- rigorously measure and evaluate the extent to which savings and community justice outcomes have been realised.

United States results

862. With the highest imprisonment rates of any country, very high recidivism rates and spiralling costs, some states in the United States have been forced to rethink their approach to criminal justice. Both government and stakeholders in the US acknowledged that the previous system was unsustainable and was not effectively improving public safety⁵²⁸.

863. Texas introduced justice reinvestment in 2007 when the prison population was projected to grow by 17,000 over the next five years⁵²⁹. Implementation involved:

- expanding pre- and post-release treatment and diversion programs
- increasing access to transitional support
- improving parole and probation practices, including reducing caseloads
- significant change to the criminal statutory framework.

864. As a result of this redirected investment, the growth in the prison population in Texas was arrested and prisoner numbers decreased by 1,125 between 2008 and 2010. \$443.9 million was saved in 2008-09, including savings achieved through the cancellation of plans to increase prison capacity⁵³⁰.

865. The savings were then redirected to additional treatment and diversion programs, expanded capacity in treatment facilities and related social welfare programs.

866. The approach taken in Texas has now been replicated across 27 other states under the guidance of the centrally-located Council of State Governments (CSG) Justice Centre. A further five states are pursuing justice reinvestment strategies independently⁵³¹.

867. There are some key differences between the jurisdictions which would limit the application of the US approach in Victoria:

- starting from a low base: the United States' justice system is characterised by very high incarceration rates and generally low investment in community based rehabilitation programs. As a result, there has been greater scope for large, immediate reductions in imprisonment rates in the US – generally achieved through legislative criminal law and sentencing reforms⁵³²
- immediate savings: upfront savings identified for reinvestment in the US examples have generally been drawn from the closure of prisons or decisions not to build new ones. Correctional service budgets have otherwise continued to increase⁵³³. In Victoria these immediate savings are not available given demand and the existence of some diversionary programs

527 The Senate Legal and Constitutional Affairs References Committee, *Value of a Justice Reinvestment Approach to Criminal Justice in Australia*, June 2013.

528 *ibid*, page 48.

529 *ibid*, page 51.

530 D. Brown, *The Promise of Justice Reinvestment*, presentation in Melbourne on 12 May 2014.

531 S. Hudson, 'Panacea to Prison? Justice Reinvestment in Indigenous Communities', *Policy Monographs*, The Centre for Independent Studies, No 134, 2013, page 10.

532 The Senate Legal and Constitutional Affairs References Committee, *Value of a Justice Reinvestment Approach to Criminal Justice in Australia*, June 2013.

533 S. Hudson, *op cit*, page 1.

- capacity for data collection: the justice reinvestment approach requires a strict methodology for implementation, relying heavily on robust, reliable and large-scale data collection and analysis. Data collection and information sharing across Victorian Government agencies would need to be addressed
- local responsibility: a key component of justice reinvestment in the US has been the devolution of decision-making and authority from state to local authorities, but in Australia local councils rarely have the funding or authority to deliver services relevant to the rehabilitation and reintegration of prisoners⁵³⁴.

868. For Victoria, components in the expansion of justice reinvestment might include more data collection and analysis, localised place-based responses to community safety issues and rigorous evaluation of programs and initiatives.

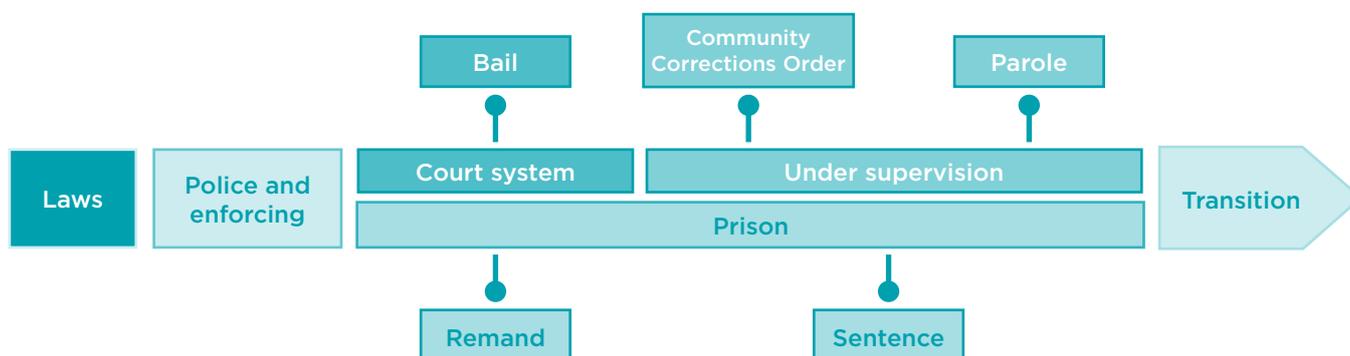
869. Liberty Victoria however noted in its submission⁵³⁵ that the privacy of prisoners must be respected and that their personal information, including assessment information and details of any health issues, should not be shared without the consent of the prisoner.

Alternative ways to reduce recidivism

870. Prisons and the corrections system make up only one part of the broader criminal justice continuum. This continuum begins from the moment an individual engages in offending behaviour, initiating policing and enforcement activities, continues through the court system to prisons or supervised correctional orders, culminating in the offender's transition back into the community.

871. Figure 9 shows the pathway and the current opportunities for intervention at a number of points. Efforts to enhance these interventions may include a change in the legislative framework, adjustment to police practices, increased funding for court diversion or enhanced support services for prisoners transitioning back into the community.

Figure 9: The justice continuum



534 S. Hudson, 'Panacea to Prison? Justice Reinvestment in Indigenous Communities', *Policy Monographs*, The Centre for Independent Studies, No 134, 2013.

535 Liberty Victoria, submission to the Victorian Ombudsman, December 2014.

872. The criminal justice system has also been described as an 'ecosystem'⁵³⁶, where a change made to one part of the system will have an impact across the whole, sometimes in significant ways. A recent example of this in Victoria has been the impact on prison numbers as a result of parole, sentencing and bail reforms.

873. In contrast with the United States' justice reinvestment approach, which tends to focus heavily on individual components of the continuum, other jurisdictions have taken a 'whole of system' approach to the problem of increasing imprisonment rates and recidivism.

874. Jesuit Social Services strongly advocated for such an approach in its submission, pointing to success achieved in several international jurisdictions with holistic criminal justice approaches as well as historically in Victoria under the *Corrections Long-Term Management Strategy*. I have reviewed a number of these examples below.

New Zealand

875. As outlined earlier in this report, the Department of Corrections (DoC) in New Zealand introduced a strategic focus on reducing reoffending in 2011. It released a four year strategic plan, *Creating Lasting Change*, with four priority areas: reducing reoffending, public safety, better public value, and visible leadership. The stated goal was to reduce reoffending by 25 per cent by 2017 – a goal which integrated with the New Zealand Government's Better Public Services program launched around the same time.

876. The approach has been applauded for its clarity, evidence base, methodology and results in reducing reoffending rates⁵³⁷.

877. The criminal justice landscape in New Zealand prior to the introduction of the strategic plan presented some significant challenges:

- New Zealand imprisoned offenders at a rate 24 per cent higher than the United Kingdom and 33 per cent higher than Australia and the rate of remand was also higher
- although the crime rate had noticeably decreased over the period 2009-11, the rate of imprisonment rose by 15 per cent
- the reimprisonment rate had not decreased and an increasing number of offenders were sent to prison for short sentences
- New Zealand imprisoned more Indigenous people than almost all comparative jurisdictions, including the United States.

878. The goal of a 25 per cent reduction in reoffending was measured against these baseline rates:

- a reimprisonment rate of prisoners within 12 months of release of 27.1 per cent
- a reconviction rate of community sentenced offenders within 12 months of sentence of 30.4 per cent.

879. The strategic plan was articulated with the New Zealand Ministry of Justice's *Reducing Crime and Reoffending Result Action Plan*, which co-ordinated this effort with a number of short, medium and long term initiatives including a Family Violence Task Force, a Methamphetamine Action Plan, and ten-year Drivers of Crime program.

⁵³⁶ Attorney-General's Department South Australia, *Transforming Criminal Justice: Strategic Overview* <www.agd.sa.gov.au/sites/agd.sa.gov.au/files/documents/Initiatives%20Announcements%20and%20News/Justice%20Sector%20Reform/TCJ%20Strategic%20Overview.pdf> viewed on 5 August 2014.

⁵³⁷ New Zealand Office of the Auditor-General, *Department of Corrections: Managing offenders to reduce reoffending*, Wellington, 2013.

880. The Action Plan contained four strategic priorities, including 'strengthening rehabilitation and reintegration services to prepare and support people to live law-abiding lives'⁵³⁸. Initiatives to reduce reoffending included:

- expanding drug and alcohol rehabilitation and treatment programs in prison and following transition into the community
- enhancing rehabilitation services provided by DoC and community organisations
- increasing participation in education and employment and creating post-release employment pathways
- establishing reintegration centres through community/government partnerships.

881. The initiatives developed and implemented by DoC under this framework were targeted towards those groups that contributed disproportionately to rates of offending, including Maori offenders, women, offenders under the age of 20 years and those either serving short sentences or on remand⁵³⁹.

882. An example is the Out of Gate program. Prisoners serving sentences of two years or less were found to have the highest reoffending rates, but had previously not been targeted with rehabilitation initiatives. Given the potential to target such a large group of reoffenders, DoC partnered with five community-based organisations to provide one-to-one support for prisoners serving short sentences or on remand for more than 60 days. The program helps prisoners access post-release support in the community, with a focus on employment, accommodation, education and training, living skills, health and wellbeing, family and community links⁵⁴⁰.

⁵³⁸ New Zealand Ministry of Justice, *Delivering better public services: Reducing Crime and Reoffending Result Action Plan*, 2012.

⁵³⁹ New Zealand Office of the Auditor-General, *Department of Corrections: Managing offenders to reduce reoffending*, Wellington, 2013.

⁵⁴⁰ Department of Corrections, *Corrections Works*, December edition, 2013, page 5.

883. In June 2011, shortly before the initiative was introduced, there were 1,876 prisoners being held on remand in New Zealand's prisons⁵⁴¹. There is a similar number of people on remand and short sentences in Victoria.

884. If the reoffending rate is reduced by 25 per cent, DoC expects 600 fewer reimprisonments, 4,000 fewer reconvictions for community-based orders and 18,500 fewer victims⁵⁴². If similar results were achieved in Victoria, approximately \$177 million could be saved from reduced imprisonment costs⁵⁴³.

885. By December 2014, the strategy had reduced reoffending by 10 per cent⁵⁴⁴, the lowest rates in ten years⁵⁴⁵.

886. The New Zealand experience is underpinned by a number of factors:

- DoC was supported to make investment decisions and organisational changes because the reduction of reoffending was articulated as a broader government priority
- clearly articulated goals and performance measures, combined with regular monitoring, evaluation and reporting meant DoC was able to demonstrate progress and identify any changes that needed to be made
- clarity of purpose and intent allowed DoC to build effective partnerships with community-based organisations.

⁵⁴¹ New Zealand Department of Corrections website <www.corrections.govt.nz/resources/offender-volumes-report/offender_volumes_report_2011/5_prison_remant_snapshots.html> viewed on 27 July 2015.

⁵⁴² Department of Corrections website <www.corrections.govt.nz/about_us/Our_vision_goal_and_priorities/reducing_reoffending/progress_towards_reducing_reoffending_by_2017.html> viewed on 27 July 2015.

⁵⁴³ Based on an average annual cost per prisoner of \$98,400 (\$269.56 per prisoner per day; see *Report on Government Services*, Corrective Services attachment 2014) and an average sentence length of 3 years (Australian Bureau of Statistics, 4517.0 *Prisoners in Australia*, 2014), resulting in an average sentence cost per prisoner of \$295,200 (see Victorian Ombudsman, *Investigation into the rehabilitation and reintegration of prisoners in Victoria: Discussion paper*, October 2014).

⁵⁴⁴ *ibid*.

⁵⁴⁵ New Zealand Office of the Auditor-General, *Department of Corrections: Managing offenders to reduce reoffending*, Wellington, 2013.

887. There are some key differences between New Zealand and Victoria, including:
- the reoffending rate for the purposes of reporting against the strategic plan is the rate of reimprisonment within 12 months of release, compared with recidivism rates in Victoria, which are based on reoffending within two years
 - there is a different emphasis on Indigenous issues, with Maori offenders making up approximately 50 per cent of the 8,500 prisoners in New Zealand⁵⁴⁶, whereas in Victoria approximately 8 per cent of the prison population is Aboriginal or Torres Strait Islander⁵⁴⁷
 - the New Zealand imprisonment rate per 100,000 total population sits at around 190⁵⁴⁸, while Victoria's was 134.4 in June 2014⁵⁴⁹.

888. I am advised that Corrections Victoria and the Department of Justice and Regulation have begun to examine the New Zealand model, and have applied aspects of it to a number of recent reforms and initiatives.

Singapore

889. In Singapore, the recidivism rate dropped from 44.4 per cent to 26.5 per cent between 1998 and 2009⁵⁵⁰.

890. The reforms sought to shift the prison service from its focus on the safe custody of criminals to a leader in rehabilitation and reintegration of prisoners, with a strong emphasis on family and societal support.

891. Of particular note in Singapore's reforms has been the effort to educate and engage the community in order to:

- help meet the needs of prisoners transitioning back into the community
- increase the public's acceptance of former prisoners following their release
- improve efforts to recruit appropriately skilled officers.

892. This engagement took many forms, including a significant media campaign to educate the public about the importance of rehabilitation and improve its perception of the prison service and former prisoners. This campaign was then followed by the Yellow Ribbon Project, a series of initiatives that invited the public to 'help unlock the second prison', being the stigma and lack of acceptance felt by former prisoners.

893. These efforts were coordinated by the CARE (Community Action for the Rehabilitation of Ex-offenders) Network – a governance structure of eight government agencies and community organisations responsible for the rehabilitation of prisoners post-release⁵⁵¹.

894. The Singapore Prison Service had more than 1,800 employers offer work to former prisoners and has had approximately 1,400 individuals volunteer to assist prison staff with counselling and personal development activities for prisoners⁵⁵².

546 *ibid.*

547 This is based on the average daily prison population in 2013-14. *Report on Government Services 2015 – Corrective Services chapter*, Table 8A.33.

548 International Centre for Prison Studies as at June 2014 <www.prisonstudies.org/country/new-zealand> viewed on 27 July 2015.

549 Corrections Victoria website <www.corrections.vic.gov.au/utility/publications+manuals+and+statistics/corrections+statistics+quick+reference> viewed on 5 August 2015.

550 L. Leong, *The Story of Singapore Prison Services: From custodians of prisoners to captains of life* <www.cscollege.gov.sg/Knowledge/Pages/The-Story-of-Singapore-Prison-Service-From-Custodians-of-Prisoners-to-Captains-of-Life.aspx> 2010, viewed on 4 August 2015. See also JF. Helliwell, 'Institutions as enablers of wellbeing: The Singapore prison case study', *International Journal of Wellbeing*, 1(2), pages 255–265, 2011.

551 L. Leong, *op cit.*

552 *ibid.*

895. In their submission, the Victorian Custody Reference Group endorsed the Yellow Ribbon Project as an evidence-based program worth considering by the Victorian Government.

South Australia

896. Following the 2014 state election in South Australia, a Ministerial portfolio was created for Justice Reform⁵⁵³. The stated purpose for this new Minister is to:

...work closely with the Ministers for Police, Correctional Services, Communities and Social Inclusion and their agencies, along with the judiciary and the courts ... to identify inefficient, overlapping and redundant rules, policies and practices and to address any processes, cultural issues and operational practices that hamper efficiency in the sector⁵⁵⁴.

897. It is anticipated that this approach will provide incentive, responsibility and authority at the highest level for a holistic approach to criminal justice, including through budget allocation and performance reporting.

898. In addition to broad Ministerial oversight and coordination, South Australia also established a Criminal Justice Sector Reform Council, a 'platform for high level discussions around issues affecting the criminal justice system'⁵⁵⁵ and providing oversight for specific reform projects.

899. An additional aspect of the South Australian approach is the stated intention to develop a set of performance measures⁵⁵⁶ to track the impact of the reforms. The development of such measures is intended to provide guidance to government and the Council for continuous improvement.

Implications for Victoria

900. Prison numbers continue to grow, despite the initiatives that are in place in Victoria.

901. In the three jurisdictions examined above, one of the consistent themes is transparency in the aims and progress of the reforms.

902. In its submission, VCOSS noted that the lack of publicly available statistics and data about the Victorian corrections system was hindering community sector organisations in the adequate delivery of services to prisoners. VCOSS called for the government to resume publishing the *Statistical Profile of the Victorian Prison System* in order to 'assist organisations to develop and deliver programs targeted at the specific needs of Victoria's prison population'⁵⁵⁷. In May 2015, Corrections Victoria recommenced publishing these figures in *Key statistics on the Victorian Prison system 2009-10 to 2013-14*⁵⁵⁸.

903. A number of submissions call for a reconsideration of 'tough on crime policies' and our approach to incarceration⁵⁵⁹. There are opportunities across the criminal justice system to make improvements, including the expansion of existing effective programs and the development of new initiatives, particularly targeted at early intervention and breaking the cycle of reoffending. These were outlined in a number of submissions to this investigation.

553 John Rau, Deputy Premier of South Australia, *Fair, accessible and efficient justice system*, media release, 2 May 2014.

554 Attorney-General's Department South Australia, *Transforming Criminal Justice: Strategic Overview* <www.agd.sa.gov.au/sites/agd.sa.gov.au/files/documents/Initiatives%20Announcements%20and%20News/Justice%20Sector%20Reform/TCJ%20Strategic%20Overview.pdf> viewed on 5 August 2014.

555 *ibid.*

556 *ibid.*

557 Victorian Council of Social Service, submission to the Victorian Ombudsman, pages 3-4.

558 Department of Justice and Regulation, *Key Statistics on the Victorian Prison System 2009-10 to 2013-14*, May 2015.

559 Victorian Custody Reference Group, *Submission: Investigation into the rehabilitation and reintegration of prisoners in Victoria*, 31 December 2014.

-
904. VACRO proposed further exploration of alternatives to imprisonment, noting that such alternatives are often cheaper than prison and offer opportunities for community engagement in the process⁵⁶⁰.
905. Submissions from criminal justice experts made clear that any period of imprisonment must be combined with programs and support to assist offenders address their illegal behaviour and re-establish themselves in the community⁵⁶¹.
906. The InterChurch Criminal Justice Taskforce noted that if the number of prisoners on remand or the average time a prisoner in Victoria spent on remand was halved, the corresponding reduction in prisoners would be equivalent to eliminating a medium-sized prison, along with all the associated costs. The funding saved through such an approach could then be reinvested in additional early intervention and diversion programs⁵⁶².
907. Liberty Victoria said there is now an opportunity to address potential reoffending by low risk offenders and those serving short sentences through expanded access to offending behaviour programs⁵⁶³.
908. The Victorian Custody Reference Group suggested that a justice reinvestment approach to targeting the issues of 'disadvantaged communities and dysfunctional families' at the local level would improve recidivism and community safety outcomes – a view supported by Jesuit Social Services which stated that the communities from which prisoners come are:
- ...characterised by entrenched and overlapping disadvantage on a range of indicators⁵⁶⁴.
909. Another theme in the submissions was the need for strong coordination across government. For example, Flat Out Inc stated that 'preventing imprisonment and reimprisonment requires broader responses across multiple sectors and departments'⁵⁶⁵, including government agencies and non-government organisations responsible for housing, health, education and employment.
910. In its submission, VCOSS urged the Victorian Government to develop a comprehensive, whole-of-government strategy to reform the criminal justice system with a view to improving rehabilitation and reintegration outcomes, and measuring success against clear targets. VCOSS were also strongly of the view that it is time for a public conversation about the criminal justice system more broadly⁵⁶⁶.

⁵⁶⁰Victorian Association for the Care and Resettlement of Offenders, *Submission to the Ombudsman*, 31 December 2014.

⁵⁶¹R. Fitzgerald & A. Cherney, *State of imprisonment: out one day, back the next in Queensland*, The Conversation <www.theconversation.com/state-of-imprisonment-out-one-day-back-the-next-in-queensland-38989> viewed on 23 July 2015.

⁵⁶²Victorian Inter Church Criminal Justice Taskforce, *Submission concerning investigation into the rehabilitation and reintegration of prisoners in Victoria*, 31 December 2014.

⁵⁶³Liberty Victoria, *Submission to the Victorian Ombudsman's investigation into the rehabilitation and reintegration of prisoners in Victoria*, 31 December 2014.

⁵⁶⁴Jesuit Social Services, submission to the Victorian Ombudsman, December 2014.

⁵⁶⁵Flat Out Inc. and Centre for Human Rights of Imprisoned People, *Submission to the Victorian Ombudsman's investigation into the rehabilitation and reintegration of prisoners in Victoria*, December 2014.

⁵⁶⁶Victorian Council of Social Service, *Submission to the Victorian Ombudsman*, December 2014.

-
911. Jesuit Social Services said that the circumstances required:
- strong leadership that brings stakeholders together to identify common goals and a clear strategy to achieve them
 - ... underpinned by strong systems of governance⁵⁶⁷.
912. In the course of my investigation my officers met with a number of senior representatives from Corrections Victoria, the Department of Justice and Regulation, the Department of Health and Human Services and the Department of Premier and Cabinet, to discuss the prospects of a whole-of-government approach to the issues facing the justice system.
913. Several of these stakeholders pointed to the need for improved collaboration between agencies, particularly in relation to information sharing, for a broader government response to be successful.
914. Jesuit Social Services' submission noted the challenge of negative community attitudes and associated stigma attached to former prisoners. It supported the view that successful reintegration can only be achieved through greater collaboration between government and the community sector in tackling disadvantage and the drivers of crime. As discussed, this was a focus of the Singapore reforms.
915. Jesuit Social Services advised in their submission that based on its previous research, a 15 per cent reduction in the rate of reimprisonment would reduce the Victorian male prisoner population by 458 individuals, saving the overall corrections system between \$15 million and \$23 million over the long term⁵⁶⁸.

⁵⁶⁷ Victorian Council of Social Service, *Submission to the Victorian Ombudsman*, December 2014.

⁵⁶⁸ Jesuit Social Services, *Strengthening prisoner transition to create a safer Victoria*, 2014 and Jesuit Social Services' submission to the Victorian Ombudsman.

Conclusions

916. Prisoner numbers in Victoria are at record levels, as is spending, with the Corrections budget over \$1 billion for 2015-16. The Victorian prison population has grown by 25 per cent in the two years since 2012, and based on projections from Corrections Victoria, without further significant expansion, the prison system is likely to be at or near full operational capacity by 2019. More prisoners means higher costs. If the aim is to improve public safety and reduce the costs to the state, the capacity to provide effective rehabilitation is critical.
917. Throughout this investigation, my officers have observed areas of good practice and good intent across the criminal justice system. However, the rapid growth in numbers of people in the system and behind bars has overwhelmed its capacity to deliver consistent and effective rehabilitation or reintegration for prisoners.
918. One of the results of the significant increase in prisoner numbers is that many are not able to access rehabilitation programs or adequate support while they are imprisoned and less than a quarter are provided with post-release support. Rehabilitation programs and post-release support services have simply not kept pace with the demand from rising populations of both male and female prisoners in Victoria.
919. The recidivism rate is also increasing, with nearly 45 per cent of all prisoners returning to prison within two years of release. It is clear from the evidence presented to my investigation that the current approaches to addressing recidivism are not working.
920. Over 99 per cent of prisoners will be released back into the community. Programs that address offending and other behaviours and improve outcomes make sense, both in terms of public safety and the public purse.
921. While there are many reasons why people reoffend and return to prison, it is evident from my investigation that insufficient access to rehabilitation and reintegration programs has a significant bearing on the likelihood.
922. Corrections Victoria is considering recidivism quite directly in its business model, including for example an incentive in the contract for the operation of the new Ravenhall Prison, which allows for a bonus payment of up to \$2 million a year if recidivism drops by 12 per cent. This represents a change to the current contracting arrangements.
923. It is clear from submissions and evidence I received that Victoria's corrections approach does not respond systemically to the contemporary demographics of the prison population.
924. While my officers saw some areas of good practice across the justice system in diversion, rehabilitation and reintegration, these were uncoordinated, as well as demographically, geographically and financially constrained. There are challenges in sharing data, which could improve connections across the system to benefit both prisoners and the public.
925. My investigation considered alternative approaches in other jurisdictions to investing in the justice system, including:
- outcomes-based whole-of-government approaches, with shared responsibility and decision-making across the criminal justice system
 - justice reinvestment: diverting funds away from prisons and investing instead in strategies and initiatives designed to break the cycle of recidivism, reduce offending rates, increase community safety and reduce overall costs in the longer term.

926. The New Zealand approach has had strong results, reducing reoffending by 10 per cent in two years, with an aim of 25 per cent drop by 2017. It has been successful through whole-of-system governance, common performance targets, consistent priorities and increased investment in programs and services designed to address the drivers of disadvantage and reduce recidivism.

927. If Victoria were to achieve a 10 per cent reduction in reoffending, this would mean around 600 fewer imprisonments, 4,000 fewer reconvictions and 18,500 fewer victims, as well as substantial savings in avoided imprisonment costs.

928. Reducing imprisonment rates will require an increase in funding for a number of years, until the results of new measures are realised. However, if the new measures reduce imprisonment rates and reoffending rates, there will be substantial savings in the longer term for the Victorian community both financially and in terms of community safety.

929. I recognise however that many of the factors contributing to the increase in prisoner numbers are outside the responsibility of Corrections Victoria and rest with other government agencies. The evidence from other jurisdictions demonstrates strongly the gains that can be made through a co-ordinated whole-of-government approach – looking at reducing the numbers of people entering the system and addressing the needs of those exiting in order to reduce reoffending.

930. Data and submissions to my report confirm that certain communities suffer far greater levels of disadvantage than others. Between 2007 and 2014, one quarter of prisoners came from 2 per cent of postcodes in the state. Even more alarming, 50 per cent of prisoners came from just 6 per cent of postcodes.

931. Just under half of all prisoners in Victoria have at least two measures of serious disadvantage. At the time they entered the prison system, 35 per cent of prisoners were homeless, more than 50 per cent were unemployed and more than 85 per cent did not complete high school.

Diversion programs

932. This report highlights alternative justice and sentencing approaches being implemented in certain Victorian courts. These approaches are reducing reoffending, while at the same time achieving significant savings in the costs of imprisonment. In brief, these are:

- the Drug Court in Dandenong: 34 per cent reduction in reoffending within 24 months
- Koori Courts operating in Melbourne and regional Victoria: reduction in recidivism among Koori defendants
- the Court Integrated Services Program in Melbourne, Sunshine and the Latrobe Valley: almost \$2 million in avoided costs of imprisonment per annum
- the Assessment and Referral Court List at the Melbourne Magistrates' Court for people with mental illness or cognitive impairment: a likely benefit of between \$2 and \$5 for every dollar spent
- the Neighbourhood Justice Centre Collingwood: 16.7 per cent reduction in reoffending within 2 years
- Criminal Justice Diversion Program for first-time or low-risk offenders: 94 per cent of participants successfully completed the program
- the CREDIT/Bail Support Program: 2.5 per cent of participants who successfully completed this program received a custodial sentence, compared to 30 per cent of non-participants.

933. The funding historically available for these programs has been very limited, compared to the spending in the corrections system more broadly. In light of the reduced imprisonment and reoffending rates achieved through these approaches, and overall savings to the justice system, consideration should be given to extending them to more courts in Victoria.

Sentencing, parole and bail

934. A number of submissions and my research showed that the recent abolition of suspended sentences, changes to bail laws, the reduction in police use of discretion and higher recidivism have all contributed to the increase in the prison population.

935. The reforms implemented as a result of the Callinan Review into parole, together with the delays in access to rehabilitation programs across all prisons, have contributed to a bottleneck of prisoners in the system who are unable to meet the requirements to be considered for parole.

936. In March 2015, 690 prisoners, or more than 10 per cent of the Victorian prison population, had passed their earliest eligibility date for parole. While a number of these prisoners may yet still apply for and be granted parole, the evidence provided to my investigation suggests that many others will leave the prison system on straight release, without condition, supervision, or the need to participate in rehabilitation programs.

937. These circumstances have been shown to be a factor in recidivism, with the data indicating that people on straight release are more likely to reoffend. This is also not consistent with the intent of any parole system and means that many prisoners are simply being warehoused, leaving prison without the reasons behind their offending and risk of reoffending being addressed.

Improving prisons

938. Once a person has received a custodial sentence, a process is set in train, which is intended to support the prisoner's chances of rehabilitation. Victoria's corrections system has a similar structure to others around the world that have much higher success rates. We have assessment, case management, offending behaviour and other programs, and some measures of post-release support. However, as this report demonstrates, the resourcing, consistency and effectiveness of Victoria's structures are in stark contrast to other jurisdictions.

Case management

939. Current approaches to case management in Victoria do not provide prisoners with appropriate consistency throughout their sentence. Prisoners are allocated new case managers depending on their movement within and between prison locations, which often has an adverse effect on the quality of the relationship and the continuity of case management. It also leaves many unaware of the identity of their case manager, undermining their chances of effective rehabilitation.

940. A 'throughcare' approach, as applied in New Zealand, where one case manager is allocated for the duration of a prisoner's term as well as post-release, seems on the evidence to be an important element in the success of their recent reforms. The costs and benefits of throughcare needs analysis in the Victorian context, but the part it plays in successful rehabilitation should be considered.

941. My investigation has also found that Corrections Victoria could improve the current case management system in a number of ways to ensure that rehabilitation programs and support systems are meeting the needs of prisoners, including improving the engagement between case managers and prisoners and ensuring relevant information is transferred with prisoners to new locations.

Rehabilitation programs and services

942. Remandees now make up nearly a quarter of all people in Victoria's prisons, however my investigation found that very few rehabilitation programs are available to them, despite growing numbers and longer periods on remand.

943. The evidence suggests that opportunities have been missed to address behaviours and needs which may have contributed to offending and which may reduce the risk of a remandee reoffending.

944. Corrections Victoria advised that it is not appropriate to offer offence-specific rehabilitation programs to those on remand, as they have not yet been convicted. If it is appropriate to hold remandees in prison without having been convicted of an offence, I find it incongruous to deny them the opportunity to participate in a wider range of rehabilitation programs.

945. Despite an over-representation of women and young people being held on remand, my investigation found a paucity of programs for these groups. There was only one instance of a program for women remandees being delivered last financial year.

946. Corrections Victoria advised my investigation on 31 July 2015 that following a recently completed review of the programs and services available to unsentenced prisoners, it plans to introduce a number of changes to programs and services offered.

947. For sentenced prisoners, there is a range of offending behaviour programs offered, however it is clear from Corrections Victoria's performance indicators that many prisoners are not being provided with the opportunity to participate in these programs in a timely manner. Data on which programs are delivered and prisoners attending is, to date, patchy.

948. My investigation found that difficulties in recruiting and retaining qualified staff, issues with accreditation and quality assurance have undermined the delivery of programs.

949. My officers also heard concerns about whether group programs are the most appropriate way to deliver some programs, given the need for prisoners to discuss personal matters and their reluctance to do so within a group.

950. I understand from Corrections Victoria that it has recently completed a review of individual offending behaviour interventions that complement or provide an alternative to group programs. The review has resulted in a number of changes to the programs and services available, including greater clarity around when individual interventions are appropriate. This is a useful development, as is a more comprehensive approach to data collection on programs and participation rates in this financial year.

Alcohol and other drug programs

951. Over 75 per cent of male prisoners and 83 per cent of female prisoners have reported illicit drug use before entering prison, and it is well recognised as a significant challenge to rehabilitation and prisoner management.

952. While a range of programs are provided to address these problems – including new programs on specific drugs like ice – my investigation found that the steep population growth in prisons has led to high demand and long waiting lists. As a result, an effective response has been difficult, however I understand funding in this area has recently increased considerably.

953. Marngoneet Correctional Centre was established to provide a therapeutic residential drug treatment program for prisoners identified as having particular needs and risks. However, the pressure of numbers means that Marngoneet now houses many general prisoners, diminishing the effectiveness of the intensive program. While this was made clear in a 2013 evaluation, evidence to my investigation suggests these issues are yet to be addressed.

954. In response to my draft report, the department stated:

... Marngoneet has shifted away from the true therapeutic community model, [and] the correctional system more broadly has moved towards an approach to offer more programs of greater intensity across more prison rather than focussing rehabilitative efforts on a single site. This attends to the operational reality of maintaining a large and complex corrections system while providing prisoners with treatment opportunities irrespective of the prison they reside in.

Regarding the criticism of prisoner placement compromising the culture of the prison, this is an enduring tension in any western correctional system that offers 'residential' treatment beds. The challenge is to balance the need to maintain a pro-social treatment ... [environment] within the unit or neighbourhood with the realities of [the] client group. Prisoners are not always highly motivated, treatment-ready and committed to positive behaviour change. Nonetheless, this is the task facing clinicians working in a prison setting – motivating unmotivated prisoners to attend, participate in and complete programs.

955. The effectiveness of alcohol and other drug programs in prison is not tested until a prisoner is released back into the community. My investigation found inadequate transitional support services for prisoners with substance abuse issues and limited community based support services for prisoners once they are released. Recently released prisoners have a much higher risk of death and overdose than the general population, underscoring the need for sufficient, coordinated support when they transition back into the community.

Mental health treatment and support

956. In March 2015, 40 per cent of the Victorian prison population had been assessed as having a mental health condition, which equates to 2,574 prisoners across Victoria.

957. The evidence shows that the number of specialised mental health facilities in Victorian prisons are inadequate to meet the needs of prisoners with mental health issues. This results in an increased risk to the safety of the prisoner, staff and other prisoners.

958. I welcome the increase in the number of specialist treatment beds and the introduction of the specialised mobile mental health service at a number of prisons, however this may need to be further expanded to meet the need for assessment and treatment.

959. Transitional support for people with mental illness is also severely limited and fails to meet the demand. The Community Integration Program for example is limited to 100 places a year and is only available to prisoners at the Melbourne Assessment Prison and Dame Phyllis Frost Centre. Evidence suggests the shortfall will become more acute as numbers continue to rise.

960. The program has recently been evaluated however the findings were unavailable at the time of writing. Submissions to my investigation contend that post-release support has a beneficial impact, but there are also constraints in the kind and duration of support available.

Education, skills and training

961. Most Victorian prisoners have low levels of literacy and numeracy, as well as limited education and skills. Six per cent of male and 14 per cent of female prisoners finished high school. Many were unemployed at the time they were imprisoned – 63 per cent of men and 45 per cent of women. It is well established that a prisoner's prospects for successful rehabilitation are improved if they are able to work after they are released. However, without adequate and relevant skills or education, it is very difficult to obtain employment particularly for people who have a criminal record.

962. Although there is a range of education and skills training programs available inside prisons, there are lengthy waiting lists, and inconsistencies in the performance of providers and the availability of programs. Once again, the impact of the growing population of prisons is felt in the provision of these programs.

963. I note that Corrections Victoria is about to tender for new education providers at the end of 2015. This process presents an opportunity to establish new performance targets and provide more relevant courses and education opportunities, taking into account current employment opportunities. Corrections Victoria should also take this opportunity to address inconsistency in the performance measures applied to education providers across the prison system.

964. Many of the education courses delivered by the TAFEs contracted by Corrections Victoria are also delivered online in the community. While access to online learning is now available in other jurisdictions, there is currently a blanket restriction on prisoner access to the internet, which significantly reduces the range and number of courses available. Providing access to online learning with appropriate monitoring would open up many new education opportunities and support the reintegration prospects of prisoners.

965. More opportunities for prisoners to work in the pre-release phase would benefit not only the prisoner, but also others by way of compulsory contributions to victims of crime. This warrants further consideration.

Support for prisoner groups with particular needs

Aboriginal and Torres Strait Islander people

966. Aboriginal and Torres Strait Islander people represent only 0.7 per cent of the Victorian population but nearly 8 per cent of the prison population. While the recidivism rate for non-Indigenous prisoners is currently 45 per cent, for Aboriginal and Torres Strait Islander prisoners, this rate is 55 per cent. Victoria now has the highest rate of increase in Indigenous imprisonment in the country.

967. The Aboriginal Justice Agreement is a positive development and a number of valued initiatives have come from it, but evidence to my investigation suggests that there are too few Aboriginal Wellbeing Officers and Aboriginal Liaison Officers in the prison system to provide adequate support for rehabilitation and reintegration.

968. My investigation also found that culturally specific programs for Aboriginal and Torres Strait Islander prisoners were run haphazardly in the prison system. These programs have been shown to be effective in helping prisoners address their behaviours and reintegrate successfully, so they should be run consistently. This is true of the program run by Torch, where Corrections Victoria needs to clarify the supply of materials and the ownership of art completed in prison.

Cognitive disability

969. In March 2015, 178 prisoners were registered as having an intellectual disability. An earlier study estimated that 42 per cent of male prisoners, and 33 per cent of female prisoners had an acquired brain injury. Despite this, identification and assessment is ad hoc, and reliant on non-specialist staff.

970. The number of specialised beds available is inadequate. Corrections Victoria has advised there are no plans to provide beds specifically for this group, however there will be a 25-bed 'close supervision' unit at the new Ravenhall Prison, to be completed by 2017.

Women

971. The number of women in prison in Victoria is increasing exponentially, with a 12.9 per cent growth rate in 18 months, building on 9.6 per cent in the five years before that. This has a consequent impact on the provision of services, programs and supports available to women during and after their imprisonment.

972. In Victoria and other jurisdictions, women are incarcerated for different sorts of crimes and for shorter periods than men. They have a high likelihood of being victims of violence themselves.

973. It is clear that women have a heightened vulnerability to violence and homelessness, often complicated by their roles as mothers and carers and the limited availability of safe and secure housing. Further consideration should be given to support their transition from prison back into the community, including introducing a transition centre or services comparable to the Judy Lazarus Transition Centre for male prisoners.

Young adults

974. In March 2015 there were 751 young people (under the age of 25) in prison which is 12 per cent of Victorian's prison population. However they have a recidivism rate of 53 per cent compared to 44 per cent of the general prison population.

975. Targeting young prisoners provides a valuable opportunity to reduce recidivism rates: they are less entrenched in the criminal justice system and the likelihood of a positive influence from rehabilitative programs is highest. Currently, however, there are only 35 beds available specifically to young male prisoners.

976. The Youth Unit at Port Phillip Prison has proven to be effective and supportive of young prisoners' needs. Given its success, there is value in replicating the unit's model in other Victorian prisons. In particular, consideration should be given to the development of a youth unit to accommodate young male prisoners who are not first time offenders and not currently eligible for the youth unit.

Pre- and post-release support

977. I have previously discussed the need for more transitional pre- and post-release services and support for a range of people exiting prison. This is not the responsibility of Corrections Victoria alone and my recommendations in this area reflect the whole-of-government approach needed.
978. Although the introduction of the new reintegration pathway in January 2015 provides an opportunity for Corrections Victoria to address some of these needs, it will cater to less than a quarter of prisoners released.
979. Many submissions described the criticality of appropriate and secure housing in supporting a successful transition to the community. The links between homelessness and offending are well established, and the risk of a return to offending behaviour and its impact on community safety is apparent. Without improvements in this area, submissions expressed doubt as to the possibility for any significant reduction in recidivism.
980. The issue of housing for released prisoners is not the responsibility of Corrections Victoria alone. It is a community issue and requires policy development, innovation and investment with a whole-of-government approach.
981. The current housing options are very limited, complex and piecemeal. An increase is needed in the number of housing placements available, but the system could also be significantly streamlined. As one witness stated to my investigation, 'we shouldn't make it hard to get not much'.
982. The introduction of a case support and brokerage model is one initiative that could assist in minimising the risk of homelessness. Expanding and refining the Corrections Victoria Housing Program is an option, mirroring the approach taken in the disability sector where funding is provided to meet the individual needs of the client.
983. The recidivism rate for those who have spent time in the Judy Lazarus Transition Centre is 10.4 per cent, compared to the general prison population of 44.1 per cent. The evidence is clear that the Centre, using a combination of supported case management, day release, work opportunities and family engagement, is a successful model that could be replicated to support greater numbers of prisoners in their transition back to the community.
984. As with housing and post-release alcohol, drug and mental health treatment programs, employment support is not Corrections Victoria's responsibility alone. To improve chances of reintegration, engaging with employer representative groups is crucial.
985. A whole-of-government response will be required to address prisoners' post-release needs. While such a response would require increased funding initially, if these programs are successful in reducing recidivism, there will be significant longer term savings – to public safety, as well as the public purse.

Recommendations

Whole-of-government approach to reducing offending

I recommend that the Victorian Government:

Recommendation 1

Adopt a whole-of-government approach to reduce offending and recidivism and to promote rehabilitation of offenders, to include:

- a common intent and set of shared objectives to reduce offending and recidivism
- appropriate governance arrangements, both at ministerial and departmental levels
- creation and publication of targets and performance measures common across justice, education, health and human service system agencies
- improved collection, sharing and use of data across agencies to drive evidence based reforms and improved service delivery.

Response from the Department of Justice and Regulation:

[While ... this is directed to the Victorian Government, the department is supportive of the recommendation's intent and will bring this recommendation to the Government's attention.

I recommend that the Department of Justice and Regulation:

Recommendation 2

Using justice reinvestment methodology, pilot and evaluate local approaches to crime prevention and community safety in disadvantaged Victorian communities with the aim of reducing reoffending and increasing community safety.

Communities engaged in such an intervention could have either a geographic or demographic focus: particular parts of the state or identified groups such as young offenders or Aboriginal and Torres Strait Islander offenders. These pilots should build on the place-based, coordinated responses to criminal justice issues that are being developed by the Department of Justice and Regulation in a number of local areas.

Response from the Department of Justice and Regulation:

Supported in principle.

Alternatives to incarceration

I recommend that the Department of Justice and Regulation and Court Services Victoria seek further investment to:

Recommendation 3

Expand the current court-based interventions to operate as required for offenders, regardless of their location. This should build on the successful models of the Drug Court of Victoria, the Court Integrated Services Program, the Neighbourhood Justice Centre, the Assessment and Referral Court List, the Criminal Justice Diversion Program and the CREDIT/Bail Support Program and the Koori Court.

This increased capacity should be coupled with a commensurate increase in the capacity and availability of support services connected with the programs.

Response from the Department of Justice and Regulation:

The department supports [this] recommendation in principle, subject to receiving additional funding to implement [it].

...

This is a joint recommendation to the department and Court Services Victoria (CSV). The department will consult with CSV regarding this matter after your report is tabled.

Within the prison system

I recommend that the Department of Justice and Regulation:

Assessment and case management

Recommendation 4

Review current practices and procedures for identifying and screening prisoners with a cognitive disability, including ABI, to ensure that these functions are carried out by staff with specialist knowledge.

Response from the Department of Justice and Regulation:

Supported in principle.

Recommendation 5

Pilot and evaluate alternative case management structures and approaches that do not solely rely on prison officers to perform this role, such as the New Zealand throughcare model.

Response from the Department of Justice and Regulation:

Supported in principle, subject to receiving additional funding to implement the recommendation.

Recommendation 6

Develop systems and processes to provide greater continuity of, and stronger emphasis on, prisoner case management, including ensuring that case managers are able to meaningfully contribute to, and receive feedback from case management meetings.

Response from the Department of Justice and Regulation:

Supported in principle.

Offending behaviour programs

Recommendation 7

Increase the availability of offending behaviour programs to ensure that the needs of the prison population, including those on remand, are met in a timely fashion

Recommendation 8

Continue the work already commenced to evaluate offending behaviour programs and provide an update to my office by December 2016 on:

- a. offending behaviour program accreditation by the panels review program, including outcomes on each program reviewed by the panels
- b. offending behaviour program evaluations completed under the Corrections Victoria Evaluation Framework 2015–18
- c. offending behaviour and other program data collection through the Corrections Victoria Intervention Management System
- d. the outcome of workforce changes in the Offending Behaviour Programs Branch.

Response from the Department of Justice and Regulation:

Supported.

Alcohol and other drug programs

Recommendation 9

Ensure that alcohol and drug treatment programs are available in all Victorian prisons, including minimum security prisons.

Recommendation 10

Review whether the residential drug treatment program at Marngoneet is meeting its objectives, and whether the effectiveness of the program is being compromised by the current prisoner placement process.

Response from the Department of Justice and Regulation:

Supported.

Educational programs

Recommendation 11

Monitor completion rates of in-prison education programs, not just enrolment or one off attendance, either through an amended Service Delivery Outcome measure or alternative regular measurement.

Recommendation 12

When recontracting for the provision of in-prison education programs, introduce more consistent performance measures for providers across the prison system.

Response from the Department of Justice and Regulation:

Supported.

Recommendation 13

Trial the introduction of controlled and monitored online learning for suitable prisoners, review the success of the trial and consider the results for expansion to a wider group of approved prisoners.

Response from the Department of Justice and Regulation:

Supported in principle, subject to receiving additional funding to implement the recommendation.

Aboriginal and Torres Strait Islander prisoners

Recommendation 14

Undertake a review of the Aboriginal Wellbeing Officer / Aboriginal Liaison Officer positions to determine:

- a. whether the position description is consistent with the duties, tasks and responsibilities undertaken by the officers performing these roles
- b. if the current number of these positions and ratio of these officers to Aboriginal and Torres Strait Islander prisoners across the Victorian prison system requires increasing.

Recommendation 15

Examine the current delivery of cultural programs to Aboriginal and Torres Strait Islander prisoners and in particular:

- a. conduct an analysis of demand versus availability of these programs
- b. record and monitor participation in these programs to ensure that they are as effective as possible.

Recommendation 16

Continue the recently funded art program for Aboriginal and Torres Strait Islander prisoners, with consideration to the proceeds of sale of artwork supporting the prisoner's transition to the community.

Response from the Department of Justice and Regulation:

Supported.

Women prisoners

Recommendation 17

Investigate and provide options to government for replicating the services available in the Judy Lazarus Transition Centre for women prisoners.

Response from the Department of Justice and Regulation:

Supported.

Young adult prisoners

Recommendation 18

Consider new and/or expanded accommodation options and practices for young adults in prison, along the model developed by the Youth Unit in Port Phillip.

Response from the Department of Justice and Regulation:

Supported in principle.

Prisoners with cognitive disability

Recommendation 19

Explore options for additional dedicated facilities similar to the Marlborough Unit in Port Phillip to address the specific needs of this cohort.

Response from the Department of Justice and Regulation:

Supported in principle.

Transition and post-release services

I recommend that the Department of Justice and Regulation, in consultation with relevant stakeholders as necessary:

Recommendation 20

Explore options to provide the services available in the Judy Lazarus Transition Centre to a larger number of prisoners.

Recommendation 21

Investigate options to address post-release housing for former prisoners, such as further development of the brokerage funds service similar to the support packages provided for disability clients, and through the development of a single housing service point.

This approach should also ensure that the specific needs and vulnerabilities of women are recognised and addressed.

Recommendation 22

In conjunction with the Department of Health and Human Services, investigate a 'throughcare' model from prison to community health services, to address the health needs, in particular mental health, alcohol and drug, and disability, of prisoners being released into the community.

Response from the Department of Justice and Regulation:

Supported.

I recommend that the Department of Justice and Regulation:

Recommendation 23

Establish a project with relevant stakeholders such as the Department of Education and Training (Skills Victoria), the Department of Economic Development, Jobs, Transport and Resources, relevant Commonwealth job search agencies and representatives of employer and community groups with a view to creating stronger employment pathways in prison and more options for employment post prison.

Response from the Department of Justice and Regulation:

Supported.

Recommendation 24

Consider the introduction of paid employment for prisoners in transition that requires a percentage of wages paid to go to victims of crime support.

Response from the Department of Justice and Regulation:

Supported in principle.

Recommendation 25

Explore options to introduce more flexible parole reporting conditions, particularly in relation to former prisoners who have secured employment post-release.

Response from the Department of Justice and Regulation:

Supported.

Acronyms

ABI	acquired brain injury
ACSO	Australian Community Support Organisation
AJA	Aboriginal Justice Agreement, Victoria
ALO	Aboriginal Liaison Officer
AOD	Alcohol and Other Drug(s)
ARC	Assessment and Referral Court
AWO	Aboriginal Wellbeing Officer
CARE	Community Action for the Rehabilitation of Ex-offenders, Singapore
CCO	Community Corrections Order
CEO	Chief Executive Officer
CIP	Community Integration Program
CISP	Court Integrated Services Program
CMRC	Case Management Review Committee
COATS	Community Offender Advice and Treatment Services
CREDIT	Court Referral and Evaluation for Drug Intervention and Treatment Program
CROP	CISP Remand Outreach Pilot
CSC	Correctional Service of Canada
CSG	Council of State Governments, Texas
CV	Corrections Victoria
CVIMS	Corrections Victoria Intervention Management System
CVRP	Corrections Victoria Reintegration Pathway
DCI	Deputy Commissioner's Instructions
DHHS	Department of Health and Human Services, Victoria
DoC	Department of Corrections, New Zealand
EED	Earliest Eligibility Date (for parole)
ISO	Indigenous Services Officers
ITSP	Intensive Transition Support Program
MAP	Melbourne Assessment Prison
MRC	Melbourne Remand Centre
NDIS	National Disability Insurance Scheme
NJC	Neighbourhood Justice Centre
SDO	Service Delivery Outcome

SOATS	Specialised Offender Assessment and Treatment Service
SVOSO	Serious Violent Offender or Sex Offender
TAP	Transitional Assistance Program
VACRO	Victorian Association for the Care and Resettlement of Offenders
VALS	Victorian Aboriginal Legal Services
VCASP	Victorian Coalition of ABI Service Providers
VCOSS	Victorian Council of Social Service
VET	Vocational Education and Training
WISE	a not-for-profit employment services provider

The Victorian Ombudsman
Level 1 North Tower
459 Collins Street
Melbourne VIC 3000

Phone 03 9613 6222
Fax 03 9614 0246
Email ombudvic@ombudsman.vic.gov.au
www.ombudsman.vic.gov.au