

**Investigation into the rehabilitation and reintegration  
of prisoners in Victoria**

**Discussion Paper**

**October 2014**

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# Foreword

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In July 2014 I announced that I was investigating rehabilitation and transitional services for prisoners in Victoria. I said at the time that this was prompted by the growth in prisoner numbers and concerns with rates of re-offending and the cost to the Victorian community.

During the 40 years since the Office of the Victorian Ombudsman was established, the welfare of those in closed environments, particularly those in the correctional setting, has been an ongoing concern. Numerous Ombudsman investigations have been conducted and reports tabled concerning such issues as conditions in custody, prisoner access to health care, and deaths and harm in custody, as well as human rights considerations for prisoners.

What has not been considered however is whether the corrections system in Victoria is adequately ensuring that a prisoner's sentence appropriately addresses rehabilitation and post release support to prevent further offending, with its attendant cost and risk to the community.

Generally, the correctional system is 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 re-offending becomes even more important.

A particular concern is the position of women and indigenous prisoners. A common observation is that when systems come under stress, these groups seem to bear a disproportionate amount of the burden. I wanted to look not only at how the system was expected to work, but also how it was working in practice.

There has been a substantial response to my announcement of this investigation. Organisations and individuals, including current and former prisoners, contacted my office to express support and to provide information to assist the investigation. They have continued to contact my office over the past months.

Since this investigation commenced my officers have visited a range of prisons both public and private, and interviewed more than 50 witnesses including prisoners, custodial staff, advocacy groups, service providers and academics. From this preliminary work some clear issues are beginning to emerge, but there is much more to be done.

As this paper notes, Victoria's prison population has grown exponentially in the past few years, and with the impact of recent parole and sentencing reforms further growth is inevitable. In short, the prison population of 4,350 in June 2009 is projected to reach 7,169 in June 2015.

The short and medium term consequences of that growth are equally inevitable. Although a massive building program has begun to increase bed capacity across the prison system, the expansion in prisoner numbers has resulted in backlogs in assessment, and affected the availability of programs and support both before and after release.

It is also apparent that the reforms to the parole system are having unintended consequences – with the increasing difficulty in obtaining parole, an increasing number of prisoners are leaving without it, at the end of their full sentences, and therefore without the monitoring and reporting requirements that parole would impose. Nor will they necessarily have attended programs designed to reduce offending behaviour, one of the requirements for parole.

It is not surprising, when a prison system is required to expand to the degree we are seeing in Victoria today, that the aspirations of the system as reflected in guidelines and procedures are not always met. This is in no way a reflection on the leadership of Corrections Victoria or the many dedicated people who work within the system.

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The issues in this paper are not new either to Corrections Victoria or to the other agencies involved, and many are, to varying degrees, already being addressed. Some significant changes are due to take place in January 2015, including the replacement of the prisoner assessment tool VISAT, a new pre-release program, and a new reintegration program. These are important initiatives which this investigation will be considering further.

There are bigger questions – again not new – where the stresses within the correctional system are exacerbated by the increase in prisoner numbers. These include the poor mental health of over 40 per cent of the prison population and the poor literacy and numeracy skills of over 50 per cent. A disproportionate share of the prison population compared with the population at large also has issues of drug and alcohol abuse.

The strains on the prison system are not simply a problem for the prison authorities and they do not affect only the prison population or those connected to it. They are a problem for the State, and everyone in it.

I will be looking in greater detail at the evidence behind the issues and the work being done to address them, and obtaining further evidence to fill the gaps in the narrative as necessary. I am therefore publishing this paper setting out the work done so far and what I see as the emerging issues.

I invite interested groups and individuals, agencies and the public to respond to the questions set out at the end of the sections of this paper to add to my understanding of the rehabilitation and reintegration of prisoners in Victoria. I will publish a report, with recommendations, when the investigation is complete.

If you would like to make a submission, it can be lodged online at:

[prisons@ombudsman.vic.gov.au](mailto:prisons@ombudsman.vic.gov.au)

Or send to:

Victorian Ombudsman: Prisons Consultation  
Level 1 North Tower  
459 Collins Street  
Melbourne VIC 3000

DX210174 Melbourne

All submissions must be received by  
31 December 2014.

Deborah Glass  
**Ombudsman**

# 1. Scope

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1. My investigation is examining the effectiveness of rehabilitation and transitional services for prisoners in Victoria, including:
  - rehabilitation program provision
  - pre-release transitional services
  - the provision of services for the women and indigenous prison population
  - post release services.
2. I am concerned to establish:
  - 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 that are not being adequately supported.
3. The scope of the investigation does not – indeed cannot – include matters outside the scope of the Ombudsman’s jurisdiction, including the role of judges and the sentencing of the courts, and decisions of Ministers. Nor does it include youth justice facilities, which are administered by the Department of Human Services and have previously been the subject of scrutiny by the Ombudsman, or the provision of community correctional services other than its role in support for post release.
4. Professor Richard Harding, Emeritus Professor of the University of Western Australia’s Crime Research Centre and former Inspector of Custodial Services in Western Australia, is assisting my investigation as an advisor.
5. In the course of this investigation to date, my officers have:
  - reviewed legislation, procedural and policy documents
  - interviewed or met with more than 50 witnesses including male and female prisoners, indigenous prisoners, custodial staff, advocacy group representatives, contract service providers including offender program staff, university researchers and key stakeholders
  - examined documentation and material obtained from Corrections Victoria, the Department of Justice, Victorian Coroners Court, Sentencing Advisory Council, contract service providers and witnesses
  - reviewed complaints made to my office from prisoners (both current and former), family members, members of the public and advocacy groups and contract service providers.

# 2. Background

## 2.1 Victoria’s corrections system

6. Corrections Victoria is the business unit of the Department of Justice that implements court judgements and orders of the Adult Parole Board. It is responsible for the strategic management of the state’s correctional system including programs for the rehabilitation of prisoners and the community based supervision of offenders.
7. 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<sup>1</sup>.
8. Across Victoria there are 11 public and two privately operated prisons and one transitional centre. Two prisons are exclusively for women with the remainder for men.

## 2.2 Pressure on the corrections system

9. The corrections system in Victoria has recently undergone significant reform, particularly in relation to sentencing and parole. This paper does not seek to explore all the key drivers behind these reforms and their consequences, but will touch on two that have had a profound impact on the increase in the prison population and indirectly, upon delivery of rehabilitation programs.
10. In May 2013, the Victorian Government commissioned a review of the Adult Parole Board, headed by former High Court Justice, Mr Ian Callinan. His review resulted in a report<sup>2</sup> that contained 23 measures to improve the operation of the adult parole system in Victoria.

**Chart 1: Victorian Prison Locations and Bed Capacity**



Source: Corrections Victoria Operational Capacity Figures, 13 October 2014.

<sup>1</sup> Corrections Victoria website: <http://www.corrections.vic.gov.au/utility/corrections+vicoria/>

<sup>2</sup> Mr Ian Callinan AC, *Review of the Parole System in Victoria*, July 2013.

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11. With respect to programs, one measure recommended that no person should be granted parole who has not undertaken programs which either the Court or Corrective Services has ordered or directed or believes should be taken<sup>3</sup>. Another measure (measure 6) recommends that potentially dangerous parolees should only be granted parole if they are able to satisfy the parole conditions. One condition which could be ordered by the Adult Parole Board<sup>4</sup> is the need for stable and suitable accommodation, which in Victoria is in acute short supply.
12. The overall impact appears to be that many parole applications have been rejected by the Adult Parole Board. The result is that more people are being imprisoned in Victoria, and for longer, and prison populations are experiencing unprecedented growth.
13. Another reform with the potential to impact on the correctional system is the recent abolition of suspended sentencing in Victoria, which having had a staggered introduction came into full effect on 1 September 2014.
14. As Chart 2 illustrates, based on the four years between 2009 to 2012, the Victorian prison population rose by just under 11 per cent. In the subsequent two years between 2012 and 2014 this growth has more than doubled to 25 per cent.
15. Corrections Victoria states its current projections are for 7,169 prisoners by 30 June 2015<sup>5</sup>. As of 8 October 2014, Corrections Victoria advised my office there were 6,140 prisoners in Victoria<sup>6</sup>. This amounts to just over 1,000 additional prisoners expected in eight months. This rate of growth is significantly higher than the trend over the last six years.
16. The State Government and Corrections Victoria have responded by committing to a major building program to expand bed capacity. For example, a new men's prison – Ravenhall – has been commissioned and is scheduled to be operational in 2017. When the tender documents were first drafted, the capacity was to be 500 beds, but as the bidding process went forward this was increased to 1,000. All around the state, existing prisons have expansion plans, for example:
- a 54 bed unit at Fulham Correctional Centre
  - a 27 bed wing at the already greatly expanded Marngoneet Correctional Centre
  - an additional 88 new beds at the maximum security Dame Phyllis Frost Centre for women prisoners.
17. In addition, extensions to Ararat Prison (Hopkins Correctional Centre) are near completion, which will add 350 beds for protection prisoners and those convicted of sex offences, to Corrections Victoria's capacity. In July 2014, a 236 bed expansion was opened at Loddon Prison and in the same month, the first 42 beds of a planned 126 bed expansion were opened at Dhurringile.
18. Building programs do not of themselves solve the problems that come with sudden large increases in prison population. At best, they buy some time for the prison authorities to re-balance objectives, resources, personnel and programs. One of those objectives is to reduce re-offending, which is an important public safety consideration. However, when corrections departments go through intensive periods of expansion, the rehabilitation aspects of imprisonment are often overwhelmed by the accommodation and security aspects, which under organisational pressure receive greater attention.

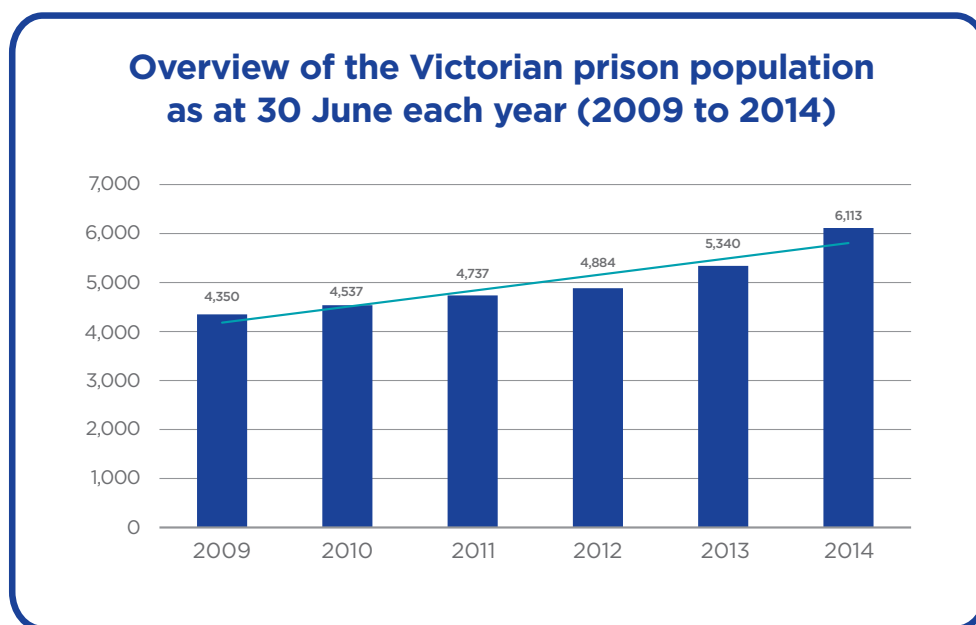
<sup>3</sup> Mr Ian Callinan AC, *Review of the Parole System in Victoria*, Measure 13, July 2013.

<sup>4</sup> Adult Parole Board of Victoria, *Members' Manual*, 2013.

<sup>5</sup> Corrections Victoria, email to Victorian Ombudsman, 6 October 2014.

<sup>6</sup> Corrections Victoria, email to Victorian Ombudsman, 10 October 2014.

**Chart 2: Overview of the Victorian prison population as at 30 June each year (2009 to 2014)**



Source: Australian Bureau of Statistics, Prisoners in Australia, 2013 and Corrections Victoria Daily Prisoner and Police Cell Report for Monday, 30 June 2014.

## 2.3 Recidivism and the cost to the community

19. The principal aims of any corrections system are to provide deterrence, community protection, and punishment. The corrections system also places a high priority on prisoner rehabilitation, as is set out in the Corrections Victoria purpose, to achieve '*positive behavioural change*', and to provide an effective environment that reduces the risk of re-offending and re-incarceration, referred to as recidivism<sup>7</sup>.
20. It would however be overly simplistic to suggest that recidivism can be addressed principally through the corrections system. It is inevitably a product of many individual factors for prisoners, including poor education and work skills, poor literacy and numeracy, a lack of social capital, poor housing, and alcohol and substance abuse. In addition, in March 2014, the former Ombudsman George Brouwer reported that 42 per cent of all prisoners had a psychiatric risk rating indicating a mental health issue in 2012-13<sup>8</sup>.

<sup>7</sup> Corrections Victoria website: <<http://www.corrections.vic.gov.au/utility/corrections+victoria/>>

<sup>8</sup> Victorian Ombudsman, *Investigation into Deaths and Harm in Custody*, March 2014.



21. Just as the prison population is rising, so too is the rate of people returning to prison. Since 2012 there has been a significant increase in the number of prisoners who were in prison as an adult for a second or subsequent period. In 2013, 51 per cent<sup>9</sup> of all Victorian prisoners had previously served a prison sentence as an adult. This compares to 48 per cent in 2012<sup>10</sup>.
22. The rates of recidivism amongst indigenous prisoners are similar. In the *Victorian Government Aboriginal Affairs Report 2013*, 50.3 per cent of Aboriginal prisoners in Victoria returned to prison within two years of release (this study was based on prisoners who had been released in 2010-11 and looked at whether they had returned in 2012-13)<sup>11</sup>. Although the lowest proportion in Australia in 2013, the rate of imprisonment for Aboriginal and Torres Strait Islander adults in Victoria is almost 13 times higher than the rate for non-indigenous adults, according to aged standardised data<sup>12</sup>.
23. Incarcerating people in prisons is also expensive. The average cost to keep a prisoner in a Victorian prison per day is \$270.12 or \$98,600 per year<sup>13</sup>. The typical average sentence length for a Victorian sentenced prisoner is 3.3 years<sup>14</sup>. On this basis, the average cost per prisoner sentence to the Victorian community is \$325,495.
24. The rates of re-offending therefore not only have a negative impact on community safety, but also result in a significant cost to the public purse.

## 2.4 The role of offender rehabilitation programs in Victoria

25. The *Sentencing Act 1991* includes the range of factors that should be taken into account in sentencing. These include<sup>15</sup>:
  - punishment that is just in all the circumstances
  - deterrence of the offender or other persons in the community from committing offences of the same or a similar character
  - on behalf of the community, for the court to denounce the type of conduct in which the offender engaged
  - protection of the community from the offender and
  - the establishment of conditions in which the rehabilitation of the offender may be facilitated.
26. Historically, the relative weight that has been accorded to these factors has varied; the Act does not purport to set priorities, but rather to allow them to be worked out and balanced according to the temper of the times.
27. From about 1990 onwards, considerable efforts were made within the correctional system to develop new and more rigorous programs that were subject to robust evaluations. There is now an extensive body of literature validating various types of intervention, mostly in the areas of sex offending and violent offending. There are also programs which have proven effective in addressing alcohol and drug dependency which are often the precursor to general offending.
28. The basis of virtually all the validated rehabilitation programs is cognitive behavioural therapy (CBT). This aims to assist offenders to understand how they came to make their criminal behaviour choices, and how these were not the only ones open to them.

<sup>9</sup> Australian Bureau of Statistics, *Prisoners in Australia 2013*, December 2013.

<sup>10</sup> Australian Bureau of Statistics, *Prisoners in Australia 2012*, April 2013.

<sup>11</sup> Victorian Government, *Aboriginal Affairs Report, 2013*.

<sup>12</sup> Australian Bureau of Statistics, *Prisoners In Australia 2013*, December 2013.

<sup>13</sup> Corrections Victoria website: <http://www.corrections.vic.gov.au/utility/publications+manuals+and+statistics/corrections+statistics+quick+reference>

<sup>14</sup> Australian Bureau of Statistics, *Prisoners In Australia 2013*, December 2013.

<sup>15</sup> Part 2, Section 5, *Sentencing Act 1991*.

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29. Because of the differences in prison conditions and prisoner profiles, demographics and cultures, programs will have a success rate across a range; there is no expectation that it will be uniform. For example, sex offender rehabilitation programs have been shown to reduce sex offence re-offending by between 10 per cent and 30 per cent and anger management programs, relevant to violent offenders, likewise range up to 15 per cent improvement on those who have not received programs<sup>16</sup>.
30. Support for reintegration into the community is critical. Elements such as education, skills training and work opportunities comprise part of the rehabilitation package.
31. The *Standard Guidelines for Corrections in Australia*<sup>17</sup>, developed by correctional administrators from 1986 onwards, fed into and was derived from various international instruments, including the *United Nations Standard Minimum Rules for the Treatment of Offenders*. A guiding principle of the 2012 revised version of the Standards for the management of prisoners is that prisoners are:
- ... Actively engaged to make positive behaviour change (inclusive of accessing intervention programmes, education, vocational education and work opportunities) with the aims of preparing them for their participation in and return to the community, as well as reducing re-offending behaviour ...
32. More specifically the Standards provide as follows:
- 3.10 Programmes and services provided to address criminogenic needs should be based on best practice and have solid evidence as to their efficacy.
- 3.11 All programmes should be periodically evaluated in relation to the achievement of their objectives and the views and experiences of prisoners.
33. Victoria has historically been regarded as the state with the greatest commitment to offender rehabilitation programs. In the early years of this century, planning commenced for the construction and operation of a specific purpose program delivery prison, Marngoneet. This opened in 2006, and was regarded as an exemplar for Australia of best practice in prisoner management and support which would reduce re-offending.
34. Prior to that, a study surveyed all Australian jurisdictions, including Victoria, to ascertain the extent of their offender rehabilitation programs<sup>18</sup>. The 2003 survey showed Victoria as having the most extensive range of such programs in Australia. However, the 2009 survey showed that a lot of these programs were 'under review' – something that could have been a good thing (seeking greater rigour) or a bad thing (waning commitment). The study report makes no comment on these possibilities.
35. Both the *Correctional Management Standards for Men's Prisons in Victoria*<sup>19</sup> and the *Standards for the Management of Women Prisoners in Victoria*<sup>20</sup> specify outputs as follows:
- The Prison Manager will [inter alia] provide a range of offending behaviour programs (such as cognitive skills, substance abuse, violent behaviour) at varying intensities that allow sentenced prisoners, including dual status prisoners, to address issues relating to their offending appropriate to their level of risk of re-offending and criminogenic needs ...

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16 Friedrich Losel and Martin Schmucker, *The Effectiveness of Treatment for Sexual Offenders: A Comprehensive Meta-analysis*, Journal of Experimental Criminology, 2005.

R.K.Hanson, G.Bourgon, L.Helmus, and S.Hodgson, *The Principles of Effective Correctional treatment also apply to Sexual Offenders: A Meta-analysis*, 2009.

Friedrich Losel, *What works in Reducing Re-offending: A Global Perspective*, 27 April 2010.

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

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18 Karen Heseltine, Rick Sarre and Andrew Day, *Correctional Offender Treatment Programs: the 2009 National Picture in Australia*, 2011.

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

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

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36. While recidivism studies are technically quite difficult because of the need to control for numerous variables and the typically small sample sizes available, Victoria has attempted to measure the success of its programs. For example, Corrections Victoria refers to a 10 year study (1996-2006)<sup>21</sup> into the outcomes of sex offender treatment programs in Victoria by the Sex Offenders Program Branch as containing a significant conclusion as follows:

A marked difference regarding sexual and non-sexual reconviction was seen between those who completed treatment compared to those who were removed or withdrew from treatment. Those who completed treatment had much lower reconviction rates for both sexual and non-sexual offences<sup>22</sup>.

37. The accompanying data showed improvements of between six per cent and 16 per cent for sex offences, and eight per cent and 28 per cent for non-sex offences.

38. The operating philosophy of the Offending Behaviour Program Branch of Corrections Victoria reflects this commitment, with 'policy drivers' described as follows:

Corrections Victoria is expected to address the underlying causes of offending behaviour whilst offenders are in prison. The community expects that people who have been sentenced to a prison term will engage in interventions that reduce the likelihood that they will re-offend and inturn [*sic*] improve community safety and prevent further harm.

...

A reduction in recidivism ultimately results in reduced downstream costs, both in terms of costs of crime and costs of further prison sentences creating efficiencies for the Corrections system and for Government<sup>23</sup>.

39. The resettlement aspect of rehabilitation – successful reintegration into community life – is another significant aspect. Corrections Victoria runs a Transitional Assistance Program across the public prison system, and the privately managed prisons of Fulham (Sale) and Port Phillip run closely aligned programs. These are heavily dependent on the non-government and private sectors for delivery, sometimes funded by Corrections Victoria and sometimes reliant on the funding that those groups have obtained from elsewhere.

40. The patchwork nature of these services gives cause for concern. Obviously, the effect of the best-conceptualised and most professionally delivered offender rehabilitation programs can be eroded once the prisoner steps out of the prison gates, if the support system fails. That is why I have included post release services in the scope of this investigation.

## 2.5 Complaints to the Ombudsman

41. Complaints regarding issues with Victorian prisons are consistently the highest of all complaints received by my office. Just as the prison population has significantly increased, so too have complaints to my office. In 2013-14 my office concluded 3,117 complaints regarding prisons, an increase of more than 33 per cent over the previous financial year.

42. This included a notable increase in the number of complaints submitted related directly or indirectly to overcrowding, access to programs and sentence management.

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21 K.Owen, H.Coates, A.Wickham, J.Jellet, R.Teuma & S.Noakes, *Recidivism of Sex Offenders: Base Rates for Corrections Victoria Sex Offender Program (unpublished)*, 2007.

22 Corrections Victoria, *Sex Offender Programs, Reoffending Rates of Adult Male Prison-Based Sex Offenders in Victoria*, November 2007.

23 Corrections Victoria Base Review Team, *Offending behaviour programs*, 7 April 2014.

# 3. Rehabilitation and reintegration for Victorian prisoners

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43. To provide context for the issues that have emerged so far, the following sections provide an overview of the processes and procedures in place for prisoners in Victoria from the time of sentencing through to release.
44. For individuals entering the Victorian prison system, Corrections Victoria has developed a number of targeted interventions aimed at maximising rehabilitation opportunities for offenders and minimising their risk of re-offending. For the purposes of this investigation, I have categorised them as follows:
  - Assessment
  - Case management
  - Programs for prisoners
  - Preparing prisoners for release into the community
  - Post release support.

As noted earlier, issues affecting Indigenous and women prisoners will be a focus in the final report.
45. The progression through the system for each prisoner will differ depending on the nature of the offence/s committed, the prisoner's background and attributes, the opportunities for rehabilitation and the assessment of risk.
46. Corrections Victoria conducts a detailed assessment of each prisoner entering the prison system. This includes:
  - a medical assessment
  - a risk and needs assessment which includes assessment of psychiatric history, risk of self-harm and substance use
  - a security assessment.
47. The risk assessment process seeks to determine the likelihood of an individual committing further offences and/or general risk of re-offending. It also seeks to identify individual and systemic factors related to an offender's criminal behaviour. By distinguishing between high and low risk offenders, Corrections Victoria can make decisions about the level of supervision and control required to safely manage offenders, and target treatment and other interventions in ways that maximise the benefits to both the offender and public safety.
48. The Victorian Intervention and Screening Assessment Tool (VISAT) is the risk and needs assessment instrument currently used in Victorian prisons. VISAT assessments are used:
  - to establish a prisoner's general risk of re-offending (whether a prisoner has a low, moderate or high risk of re-offending) and the need for offence-specific and offence-related programs
  - to inform post release support planning
  - by the Adult Parole Board
  - to guide the preparation of a sentence plan for each prisoner<sup>24</sup>.
49. VISAT assessments are critical in determining prisoner eligibility for rehabilitation and education programs, for risk management and to identify a notional pathway for the prisoner's sentence period.
50. There are two forms of VISAT assessment:
  - VISAT Long is for male prisoners serving a sentence of six months or greater and female prisoners serving a sentence of four months or greater. The VISAT Long must be completed within six weeks of the commencement of a prisoner's sentence and is required to be administered by Assessment Officers.

## 3.1 Assessment of Prisoners

### 3.1.1 Background

46. Corrections Victoria conducts a detailed assessment of each prisoner entering the prison system. This includes:
  - a medical assessment
  - a risk and needs assessment which includes assessment of psychiatric history, risk of self-harm and substance use
  - a security assessment.

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<sup>24</sup> Corrections Victoria, *Sentence Management Manual*, 2014.

- VISAT Short is for male prisoners serving a sentence of less than six months and female prisoners serving a sentence of less than four months. The VISAT Short must be completed within 14 days of the commencement of sentence. VISAT Short assessments are administered by trained prison staff at the Melbourne Assessment Prison, Metropolitan Remand Centre and the Dame Phyllis Frost Centre.
51. A wide range of people working in the correctional environment – including staff, service providers and advocacy groups – have provided evidence to my investigators on the shortcomings of the VISAT process. VISAT itself has been subject to extensive reviews by Corrections Victoria, as a result of which it is being replaced in January 2015 by a new tool: the Level of Service/ Risk, Need, Responsivity (LSRNR).
  52. Corrections Victoria has engaged Professor James Ogloff and his team from the Centre for Forensic Behavioural Science to assist with the deployment of the new tool across the corrections system. From October to December 2014 Professor Ogloff and his staff will train approximately 600 staff in the use of the tool<sup>25</sup>. This development will be examined further in the final report.

### 3.1.2 Issues

#### Backlog and timeliness

53. Although VISAT is being replaced in January 2015, there is a significant backlog of prisoners who have not been assessed to inform their sentence plans, need for offence related programs and overall rehabilitation plan. This may also impact on the ability to adequately plan and budget for program placements across prisons.
54. At 2 October 2014, there were 1,449 Victorian prisoners awaiting VISAT assessment<sup>26</sup>. There is evidence that male prisoners are being transferred from the Melbourne Assessment Prison or Metropolitan Remand Centre, without having completed a VISAT assessment as required and outside of the recommended timeframes. For example, as of 12 August 2014, when my investigators visited Fulham Prison in Sale, there were 237 prisoners still to be assessed, and therefore without a determination on such issues as the need for offending behaviour programs.
55. It is reasonable to expect that without an assessment, prisoner needs are not understood and prisoners may be transferred to prison locations that do not offer the rehabilitation programs required to meet their individual needs or address their offending behaviour.
56. As VISAT is being replaced on 1 January 2015, the issue of any backlog still in place will need to be considered, in addition to the challenges posed by the ongoing operational environment.

#### Sharing of assessment information

57. A number of agencies are contracted by Corrections Victoria to support prisoners both in transitioning for release and for support post release in the community.
58. Concerns have been raised by these agencies that they are not always provided with the relevant assessment information to assist them in their work with each prisoner. This is likely to impact the quality of support provided. It also raises potential staff safety issues should there only be limited information regarding the offender with whom they are to work closely and support, to minimise recidivism.

<sup>25</sup> Corrections Victoria, correspondence to Victorian Ombudsman, 6 October 2014.

<sup>26</sup> Corrections Victoria, correspondence to Victorian Ombudsman, 2 October 2014.

### 3.1.3 Questions

What is the impact of delayed assessments on the rehabilitation of prisoners?

What assessment information should be available to relevant departmental and agency staff who work with prisoners?

What barriers are there to the sharing of assessment information and how could they be addressed?

## 3.2 Case management

### 3.2.1 Background

59. Case management is a vital component of the prisoner rehabilitation and reintegration process. Corrections Victoria's *Offender Management Framework* states that to maximise offender rehabilitation and reduce the risk to the community, prison officers are required to act as case managers and establish high quality relationships with offenders which are –
- respectful and open working relationships that maintain professional boundaries and encourage offenders to engage in offender management processes<sup>27</sup>.
60. Effective case management targets some of those factors which may contribute to re-offending.
61. The *Standard Guidelines for Corrections in Australia*<sup>28</sup> set out minimum requirements for prisons in relation to prisoner case management. For example:
- Each administering department should administer a system of individual case management of prisoners that enables the assessment, planning, development, co-ordination, monitoring and evaluation of options and services to meet the individual needs and risks of persons as they move between community corrections and prisons. (Standard Guideline 3.1)
62. Other key requirements as set by Corrections Victoria include<sup>29</sup>:
- case plans should be regularly reviewed by both the prisoner and staff and should contain measurable goals
  - within two weeks of arriving at the prison, prisoners are to be assigned a case worker
  - prisoners must have a Local Plan developed with the assistance of their case worker within six weeks of arriving at the prison.
63. Primary responsibility for the case management of prisoners rests with prison officers, with each prisoner being assigned a prison officer as case manager. At each prison, a Review and Assessment Committee<sup>30</sup> comprised of senior correctional officers:
- oversees the case management of prisoners
  - reviews prisoners' security classifications
  - considers prisoners' access to programs
  - monitors the welfare of prisoners.
64. Audits of case management compliance are regularly undertaken by Corrections Victoria.

<sup>27</sup> Corrections Victoria, *Offender Management Framework – Achieving the balance*, May 2010.

<sup>28</sup> Department of Justice, Victoria et al *Standard Guidelines for Corrections in Australia*, 2012.

<sup>29</sup> Corrections Victoria, *Deputy Commissioner's Instruction: 2.03*, December 2012.

<sup>30</sup> Corrections Victoria, *Sentence Management Manual, Review and Assessment Committees*, June 2014.

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65. Corrections Victoria has recently advised that the unit established to oversee case management across the system has been restructured and strengthened<sup>31</sup>. Work has also commenced on a new Integrated Offender Management System to support all aspects of case management by giving corrections staff improved access to individual offender information.

### 3.2.2 Issues

66. While case management is a standard approach across Australia and the United Kingdom, issues have also been identified in relation to potential inherent conflicts between the custodial versus advocacy roles of prison officers tasked with case management. The success of the case management appears however dependent on the quality and enthusiasm of the case manager.

#### Guidance to Case Managers

67. The framework in which case management of prisoners in Victoria is set is complex. There are no consolidated guiding documents and instructions for prison officers to follow. The guidance material is located across multiple Commissioner's Requirements, Deputy Commissioner's Instructions and schedules.
68. Should a prison officer be seeking guidance for expectations and instructions on case management they would find it in the following documents<sup>32</sup>:

- *Commissioner's Requirement, Developing a Sentence Plan*
- *Commissioner's Requirement, Sentence Management Panels*
- *Commissioner's Requirement, Information Sharing*
- *Commissioner's Requirement, Review and Assessment Committees*
- *Commissioner's Requirement, Individual Management File and Schedule IM1.1 Individual Management File Audit Tool*
- *Deputy Commissioner's Instruction, Offender Management and Schedules 2.03(1), 2.03(2) and 2.03(3)*
- *Deputy Commissioner's Instruction, Prisoner Placement and Reviews and Schedule 2.02(1)*.

#### Allocation of Case Managers

69. If the assignment of case managers to prisoners is not timely, opportunities may be missed for developing a productive relationship that will maximise prisoner rehabilitation.
70. Delivering on the requirement that staff 'establish high quality relationships with offenders'<sup>33</sup> for case management purposes can be inconsistent and sometimes impossible in practice. For example, case managers are assigned on an accommodation unit basis. When a prisoner moves units (which is a common occurrence), their case manager changes. Prison officers themselves also move around the system.

#### Information sharing

71. Prisons and in particular case managers may not have access to relevant information to assist their case management and understanding of a:
- prisoner's rehabilitative progress and
  - whether the prisoner's offending behaviour is being appropriately addressed.

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31 Corrections Victoria, email to Victorian Ombudsman, 6 October 2014.

32 Corrections Victoria, *Commissioners Requirement, Sentence Management Manual, Developing a Sentence Plan*, June 2014.  
Corrections Victoria, *Commissioners Requirement, Sentence Management Manual, Sentence Management Panels*, July 2014.  
Corrections Victoria, *Commissioners Requirement, Sentence Management Manual, Information Sharing*, March 2014.  
Corrections Victoria, *Commissioners Requirement, Sentence Management Manual, Review and Assessment Committees*, June 2014.  
Corrections Victoria, *Commissioners Requirement, Sentence Management Manual, Individual Management File*, June 2013.  
Corrections Victoria, *Deputy Commissioner's Instruction, Offender Management*, December 2012.  
Corrections Victoria, *Deputy Commissioner's Instruction, Prisoner placement and Reviews*, February 2013.

33 Corrections Victoria, *Offender Management Framework - Achieving the balance*, May 2010.

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72. A central information management system containing all prisoner case file information does not currently exist. Prisoner case files and information comprises physical files (Parts 1-4) and information in IT systems including E\*Justice, Prisoner Information Management System and Corrections Victoria Intervention Management System.

### Audits of Case Management practices

73. Audits of prison case management practices are undertaken routinely, with random samples by Corrections Victoria, with scores averaged against the total number of files audited and assessed against a benchmark score<sup>34</sup>.
74. An unacceptable file contains no evidence of individualised quality case management, engagement or discussion with the prisoner and the entries (if any) do not reflect engagement or discussion.
75. I have reviewed the audit results for two prisons and the results indicate highly variable case management practices with examples at both ends of the range.

### 3.2.3 Questions

How could the Victorian case management model be improved? Consider:

- the adequacy of the training provided to prison officers on their role as case managers during induction and throughout their employment
- whether the current practice of assigning case managers per unit is the most effective model?
- whether the role should be carried out by prison officers or specialist corrections staff?
- whether case managers should be assigned per prisoner rather than per unit?

What can be done to improve access to relevant information to improve case management of prisoners?

## 3.3 Programs for Prisoners

### 3.3.1 Background

76. From the start of their sentence, prisoners for the most part have an opportunity to participate in programs that could either assist them in general education and employability and/or assist them in addressing their offending behaviour.

77. The *Corrections Act 1986* provides that prisoners have a right to access educational programs in prisons. This is supported by the *Deputy Commissioner's Instructions* which state:

Corrections Victoria acknowledges that it has responsibility to provide prisoners with opportunities to address their offending behaviour and adopt a productive and law abiding life style<sup>35</sup>.

and

The engagement of all prisoners in education and training particularly those prisoners who present with educational and employment disadvantage, is prioritised, thus enhancing employability skills and post release employment opportunities<sup>36</sup>.

78. This is echoed in the *Standard Guidelines for Corrections in Australia*<sup>37</sup> which sets out the requirements for rehabilitation programs in prisons:

Prisoners should be provided with access to programmes and services ... that enable them to develop appropriate skills and abilities to support reduced re-offending when they return to the community.

79. The Guidelines also state that programs offered to prisoners should be based on best practice and have solid evidence as to their efficacy<sup>38</sup>.

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35 Corrections Victoria, *Deputy Commissioner's Instruction No: 3.08 Programs Designed to Reduce Offending Behaviour - General*, December 2012.

36 Corrections Victoria, *Deputy Commissioner's Instruction No: 3.01 Education and Training*, November 2012.

37 Department of Justice, Victoria et al *Standard Guidelines for Corrections in Australia, Standard Guideline 3.6*, 2012.

38 Department of Justice, Victoria et al *Standard Guidelines for Corrections in Australia, Standard Guideline 3.10*, 2012.

34 Corrections Victoria, *Public Prison Service Delivery Outcome (SDO) Definitions*, July 2014.



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80. In general terms, the prison population has lower levels of literacy, numeracy and educational achievement.
81. Of the voluntary assessments undertaken by Corrections Victoria across all prisons in 2013, 59.5 per cent of prisoners had literacy levels requiring intensive support and 57 per cent had numeracy levels requiring intensive support<sup>39</sup>.
82. Corrections Victoria data suggests that the Year 12 completion rate of Victorian prisoners has varied between five and seven per cent in the past decade<sup>40</sup>. In contrast, the Year 12 (or equivalent) completion rate for all Victorians between 20-24 years of age in 2013 was 90.1 per cent<sup>41</sup>.
83. Assessment of a prisoner's language, literacy and numeracy skills upon reception is not compulsory. This is likely to impact on effective case management, appropriate program participation and therefore rehabilitation and reintegration planning.
84. As noted earlier, the prison population is rising above trend. As a result, the pressure on the system to meet the legislative requirements and correctional standards to provide appropriate and timely education and offending behaviour programs has intensified.
85. Planning the education and training to meet those needs in an expanding prison population is critical. It is vital to ensure that offending behaviour programs are appropriately delivered to match the literacy and numeracy levels of the participants.
86. As noted earlier, best practice in rehabilitation is well documented both in Australia and overseas, with research supporting the view that when conducted and properly planned, programs are effective in reducing recidivism.
87. There are methodological difficulties in assessing the impact of rehabilitation programs – for example, in differentiating between high risk and lower risk offenders, in ensuring program integrity and cultural appropriateness, and in comparing programs that may diverge in content or mode of presentation from each other. Nevertheless, there is evidence that such programs can be, and often are, effective.
88. Programs for prisoners are provided in two streams –
- offending behaviour programs
  - education and vocational programs.
89. Each have their own targets in the prison population and pathways for delivery.
90. Given the educational profile of the prison population, the streams may be interrelated: poor literacy and educational confidence could have an impact on offending behaviour programs, and unmanaged offending behaviours may undermine the capacity to improve general literacy, numeracy and skills.
91. Education and vocational programs are intended to be available to all prisoners.
92. Offending behaviour programs are not however available in all prisons and it is evident that the increase in the prisoner population has had an adverse impact on prisoner access to these programs.
- Offending behaviour programs**
93. In the current climate, prisoners assessed as low risk general offenders may not be able to access rehabilitation programs.
94. Depending on the type of offence committed and the prisoner's risk profile, there are specific programs provided by Corrections Victoria. For example, there are programs to address violent and sexual offending.

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39 Corrections Victoria, *Fact Sheet LLN Results 2013*, September 2014.

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

41 Department of Education and Early Childhood Development, *Summary Statistics for Victorian Schools*, July 2014.

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95. In 2007 the Victorian Department of Justice undertook to evaluate the success of in-prison sex offender programs being offered at that time. Using a follow-up period of 4.5 years, it was found that high-risk offenders had a sexual re-offending rate of 20 per cent but that this fell to about four per cent if they completed a treatment program<sup>42</sup>.

### Impact of reforms

96. As noted earlier, one of the measures recommended by Mr Callinan in his review<sup>43</sup> was that:

No person, whether a PDP [Potentially Dangerous Parolee] 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...

97. The resulting reforms are having an impact on both provision of programs and parole.

98. The impact on the Adult Parole Board can be seen from the figures published in the Board's Annual Report for the 2013-14 financial year<sup>44</sup>:

- The number of parole orders granted by the Board to prisoners fell from 2,051 in 2012-13 to 1,313.
- The number of parole applications denied by the Board increased from 425 in 2012-13 to 834.

99. As the Callinan reforms take full effect, it can be expected that the number of parole orders granted in Victoria will fall further, either as an absolute number or as a percentage of prisoners who are theoretically eligible for parole.

### Education and vocational programs

100. A range of educational programs, such as numeracy and literacy programs, through to more specific vocational programs, including construction, engineering, information technology and hospitality, are delivered by external education providers in various prisons. Service provision is monitored by the relevant prison General Manager and Corrections Victoria's Education, Training and Employment Branch.

101. For education programs, Corrections Victoria targets those prisoners who present with significant disadvantage<sup>45</sup>. These are prisoners that fall into the following groups:

- dual disadvantage (those who are unemployed at reception, with incomplete or no secondary education)
- Aboriginal and Torres Strait Islander (ATSI).

102. Additional target groups for education are prisoners serving a period of three months or more, who are:

- under 25 years of age
- women
- culturally and linguistically diverse or
- people with a disability.

According to the *Deputy Commissioner's Instruction 3.01*, prisoners who fall outside these groups will not be excluded from accessing education.

103. In 2013, \$12.3 million was spent on education and training in Victorian prisons. In 2014 this increased to \$13.6 million<sup>46</sup>.

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42 K.Owen, H.Coates, A.Wickham, J.Jellet, R.Teuma & S.Noakes, *Recidivism of Sex Offenders: Base Rates for Corrections Victoria Sex Offender Program (unpublished)*, 2007.

43 Ian Callinan AC, *Review of the Parole System in Victoria*, Measure 13, July 2013.

44 Adult Parole Board of Victoria, *2013-2014 Annual Report*, August 2014.

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45 Corrections Victoria, *Deputy Commissioner's Instruction 3.01 Education and Training*, November 2012.

46 Interview with General Manager, Corrections Victoria, 9 September 2014.

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104. It is also of note that in 2013, around 55 per cent of prisoners in Victoria were unemployed or otherwise not in the workforce prior to entering prison<sup>47</sup>.
105. As noted earlier, all prisoners, including those in protection or management units, should have access to state and nationally-accredited education and training programs. Prisoners may receive support to participate in distance education offered by education providers external to the prison system.
106. Corrections Victoria says it is developing a strategic framework to:
- guide an integrated service delivery model for prisoner education, training and employment services over the next five years. Central to this new approach is an offender employment pathway to improve the employability of offenders on release<sup>48</sup>.

### 3.3.2. Issues

#### Offending behaviour programs

107. As noted earlier, offending behaviour programs are not available in all Victorian prisons and it is evident that the increase in the prisoner population has adversely impacted on prisoner access to programs.
108. As a result of the reforms, Corrections Victoria has identified that 100 per cent of prisoners assessed as Serious Violent Offenders and 80 per cent of those considered general offenders must now complete required offending behaviour programs<sup>49</sup>. As of December 2013 this meant an increase from 500 to 2,400 serious violent offenders, and from 400 to 800 moderate risk general offenders<sup>50</sup>.
109. The potential impact of this requirement means that offenders with lower risk levels may not be able to access rehabilitative programs.
110. There is evidence that prisoner programs are yet to be expanded to meet this increased demand and to satisfy resulting waiting lists<sup>51</sup>. In June 2014, the program waiting list for Serious Violent Offenders was advised by Corrections Victoria to be three years, or around 200 prisoners. It is reasonable to expect that without significant expansion, this waiting list will continue to grow.
111. There is also evidence of difficulties in recruiting and retaining suitably qualified staff to conduct the current offending behaviour programs. For example, investigators were informed that at the Dame Phyllis Frost Centre, the delivery of offending behaviour programs was temporarily suspended in early 2014 due to insufficient clinical staff. At Fulham prison in August 2014, my investigators were informed there had not been a senior clinician for nearly 12 months to provide clinical guidance to staff and ensure quality control, and that no clinical staff member had more than 12 months experience at that location.
112. This issue of recruitment and retention of clinical staff will be one of the critical factors in determining the long term success of rehabilitative measures.

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

48 Department of Justice, correspondence to Victorian Ombudsman, 6 October 2014.

49 Corrections Victoria Base Review Team, *Offending behaviour programs*, 7 April 2014.

50 Corrections Victoria, *Offending Behaviour Programs, Service delivery reforms and utilisation rates*, December 2013.

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51 There have been increased complaints to my office from prisoners and family members regarding limited access to programs and increased wait lists.

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113. There has been a significant increase in complaints to my office regarding access to programs and concerns with meeting parole conditions. While Corrections Victoria has advised an expansion project for the offending behaviour programs has commenced, supported by an additional \$84.1 million from the 2014-15 State Budget<sup>52</sup>, this will not be fully implemented until at least April 2015<sup>53</sup>. With the average sentence length around three years and the three main program lengths ranging between 83 hours and 300 hours, this issue will need to be closely monitored.

#### **Bypassing parole**

114. A consequence of the parole reforms and the need to provide additional programs, is that prisoners who have been either unable or unwilling to participate in programs are being released at the end of their full sentence. Prisoners who are not released on parole leave custody without the reporting requirements and controls that apply to parolees. There are legitimate concerns that some prisoners are being released without having addressed their offending behaviour.

115. Corrections Victoria has indicated that 160 prisoners exited prison on straight release in 2012-13, despite having a parole component to their sentence. In 2013-14, this had more than doubled to 365 prisoners<sup>54</sup>. Leaving prison on straight release means that these individuals re-enter the community without the monitoring and reporting requirements that parole would otherwise demand.

#### **Program gaps**

116. There appear to be gaps in the programs and services available to prisoners.

117. Established programs may not be specifically tailored to the needs of indigenous offenders or women. For example, an appropriate violence intervention program is not yet available for women prisoners and there is evidence that the violence risk scale that is used to assess male prisoners cannot be used with accuracy for women offenders.

118. In response, Corrections Victoria has recently advised that it has adopted a violence risk measure for women and that this, together with a female specific violence program, will be deployed in October/November 2014<sup>55</sup>. Additional program support may be required to ensure effectiveness is maximised for these participants. These issues will be explored further in the final report.

119. A treatment program focused directly on perpetrators of family violence is also not yet widely available in all prisons.

#### **Audits, reviews and accreditation**

120. Corrections Victoria monitors the percentage of prisoners completing offending behaviour programs as a proportion of all prisoners starting such a program<sup>56</sup>.

121. The benchmark is 85 per cent of prisoners in public and private prisons, and for the 2013-14 financial year, all prisons where this measure applies, achieved it<sup>57</sup>. This measure is quantitative rather than qualitative, and only applies to maximum and medium security prisons.

122. Offending behaviour programs are now being delivered on an ad hoc basis in some minimum security prisons, yet the Service Delivery Outcome does not apply to these facilities. This is a gap in accountability which may need to be addressed.

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52 Minister for Corrections, *Media Release – Coalition Government extends vital investment in prison system*, Tuesday 6 May 2014.

53 Department of Justice, correspondence to Victorian Ombudsman, 6 October 2014.

54 Department of Justice response to Victorian Ombudsman, 20 August 2014.

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55 Corrections Victoria, email to Victorian Ombudsman, 6 October 2014.

56 Corrections Victoria, *Public Prison Service Delivery Outcome (SDO) Definitions*, July 2014.  
Corrections Victoria, *Private Prison Service Delivery Outcome (SDO) Definitions*, July 2014.

57 Corrections Victoria, *Service Delivery Outcome Results for all Prisons July 2013 – June 2014*.

123. The duration of some programs may also preclude prisoners with shorter sentences from participating.
124. Although the Standard Guidelines refer to programs being based on *'best practice and have solid evidence as to their efficacy'*<sup>58</sup>, there has to date been limited program review, accreditation and analysis.
125. Corrections Victoria has identified this as an area where improvement is required. Corrections Victoria is currently assessing all programs and introducing quality assurance mechanisms through a new accreditation panel. The Programs Accreditation Panel reviews program content against evidence-based criteria, and makes recommendations to fully, partly, or not accredit a program.
126. The establishment of the Panel is an important development for future program delivery and effectiveness. Clear objectives for the panel to determine its use and role will be crucial not only in terms of rehabilitative effectiveness but ensuring financial benefits to the state and community.
127. A database<sup>59</sup> for the collection of data on programs and participation only became fully operational at all locations at the end of June 2014. Until then Corrections Victoria was unable to produce accurate and reliable data on program participation and completion rates for each prison.

### Education and vocational training

128. Education and vocational training is not a luxury - it is a critical component in ensuring the rehabilitation of offenders and the reduction of recidivism.
129. The growing prison population presents challenges for education and vocational training as much as offending behaviour programs.

### Performance Measurement

130. The current Service Delivery Outcomes (SDOs) for benchmarking the education and training provided in Victorian prisons do not measure the quality of the education and training provided. Rather they measure attendance and completion rates<sup>60</sup>.
131. There is no one standard for all prisons for education participation. Each prison has SDOs for prisoner participation in education and vocational training ranging from 23.6 per cent to 66 per cent. Given the significance of improving skills and education to maximise post release employment and rehabilitative success, this is a key area for improvement.
132. Corrections Victoria monitors the contracted education providers through Education and Training Agreements. Financial penalties can be imposed should contract conditions not be met, for example if a course completion rate is not reached. I have been informed by Corrections Victoria that they have imposed penalties against all contracts at some point in the last two years to September 2014.

#### 3.3.3 Questions

Should assessment of a prisoner's language, literacy and numeracy skills upon reception be compulsory?

What work needs to be done to ensure that programs offered are effective in improving reintegration and reducing recidivism? Consider:

- What is needed to validate the impact of offending behaviour programs on recidivism?
- Should there be uniform standards for provision of education across all prisons?

58 Department of Justice, Victoria et al *Standard Guidelines for Corrections in Australia*, 2012, Standard Guideline 3.10.

59 This database is the Corrections Victoria Intervention Management System (CVIMS)

60 Corrections Victoria, *Public Prison Service Delivery Outcome (SDO) Definitions*, July 2014.

Corrections Victoria, *Private Prison Service Delivery Outcome (SDO) Definitions*, July 2014.

- What is the appropriate way to measure the effectiveness of education and training programs?

What is the practical experience of prisoners in accessing offending behaviour and educational programs? Consider:

- What could be done to improve the availability and delivery of programs?
- What strategies are required to ensure adequate numbers of suitably qualified clinicians and education staff are recruited and retained to all prisons?
- How could the system minimise the risk of prisoners being released without having completed programs designed to address their offending behaviour?

## 3.4 Preparing prisoners for release

### 3.4.1 Background

133. The challenges faced by people leaving prison are clearly recognised by Corrections Victoria, which notes:

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 re-offending<sup>61</sup>.

134. The *Deputy Commissioner's Instruction 3.14*<sup>62</sup> recognises that those:

... exiting prison are less likely to reoffend if they are assisted to prepare for their release and have access to information and support services to assist with the transition to community.

135. The Transitional Assistance Program is a pre-release program offered by Corrections Victoria to all sentenced prisoners coming to the end of their sentence. The program aims to reduce re-offending through the provision of transitional support and planning for release. Individual assessments are conducted to identify the areas of need for each prisoner, such as access to Centrelink benefits, health services and housing. All prisoners are expected to participate in the program. Once individual assessments are undertaken, the remainder of the program is delivered in group sessions, generally up to six months prior to a prisoner's release.

136. The expectations for how a prisoner should progress through prison to return to the community are set out in the *Corrections Victoria Sentence Management Manual*. These are in summary that:

- a prisoner should be held in the least restrictive environment possible and
- that each prisoner will be prepared for release by working their way down through the prison security levels.

137. The Manual also sets out that prisons 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 on release<sup>63</sup>.

<sup>61</sup> Department of Justice, *Corrections Victoria Prison Pre-release Program Specifications*, July 2014.

<sup>62</sup> Corrections Victoria, *Deputy Commissioner's Instruction No: 3.14 Preparation for Release*, September 2013.

<sup>63</sup> Corrections Victoria, *Sentence Management Manual - Transitional needs*, 2014.

138. For a small number of male prisoners coming to the end of their prison sentence, the Judy Lazarus Transition Centre, a secure residential facility managed by Corrections Victoria, provides a supervised pathway for their reintegration into the community. It is the only transition centre in the State.

139. I am advised that a new Pre-Release Program will commence in January 2015, *'providing targeted pre-release support to prepare all sentenced prisoners for life beyond prison'*<sup>64</sup>.

### 3.4.2 Issues

#### Transitioning through the prison system

140. Given that there are only 25 beds in the one transition centre available in the State, the overwhelming majority of prisoners in Victoria do not have the opportunity to spend time in a transition centre. These prisoners are therefore released direct from prison back into the community.

141. The evidence to date suggests that pressure of numbers may prevent prisoners being held in the least restrictive environment possible. Rather than transitioning, some prisoners are being released straight from management units or maximum security prisons without the opportunity of a staggered adjustment to more independent living.

142. The lack of transition options is an issue for all prisoners, but even more so for women. There is no medium security correctional facility for women in the State.

143. An external review of the Judy Lazarus Centre by the Office of Correctional Services Review found it to be highly effective in reducing recidivism<sup>65</sup>.

#### Transitional Assistance Program

144. With the increase in prison numbers has come an increased number of participants in the group programs for transition preparation. There is some evidence that the size of the group program delivery sessions is not conducive to the individualised and tailored support that may be necessary for the service to be effective.

145. There are examples emerging of inconsistencies in the delivery of the programs from prison to prison and the lack of a coordinated approach between prisons to assisting prisoners in the transition into the community.

146. There is also evidence that much of the support information for prisoners to assist them with returning to the community is provided in brochures and information packs. This is not useful to those prisoners with literacy and language issues.

#### 3.4.3 Questions

What are the critical needs for transition services:

- for women?
- for men?

What is the impact of higher prisoner numbers on transition services?

Are there innovative ways to improve the delivery of transitional assistance programs to prisoners with literacy and language issues?

What is the impact of the current security regimes, including lockdowns and limitations on family contact, on rehabilitation and reintegration?

<sup>64</sup> Department of Justice correspondence to Victorian Ombudsman, 6 October 2014.

<sup>65</sup> Office of Correctional Services Review, *Review of the Judy Lazarus Transition Centre*, 12 September 2014.

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## 3.5 Post release support

### 3.5.1 Background

147. There is ample evidence worldwide that those leaving prison face significant challenges reintegrating into the community. In Victoria, most prisoners receive very limited pre-release support and re-enter the community without having spent time in any transition facility.
148. A recent Australian study<sup>66</sup> of people released from prison found that most participants encountered a number of difficulties when trying to reintegrate into the community including:
- the risk and temptation to re-offend, 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 re-offending an easy option
  - having previous legal and criminal problems resurface unexpectedly
  - for women, feeling unsafe and vulnerable to abuse or harassment
  - difficulty finding employment
  - difficulties associated with alcohol or substance addiction.
149. The main form of support for people post release is through Intensive Transitional Support Programs funded by Corrections Victoria. These programs are delivered by non-government service providers, per prisoner on a set number of hours basis, with prisoners being assigned a worker.
150. Those eligible for the programs meet the following criteria:
- having served a sentence (not for those on remand)
  - at an increased risk of re-offending
  - have multiple and complex transitional needs
  - be willing to participate voluntarily and be actively involved.
151. Corrections Victoria contracted four not-for-profit organisations to deliver the Intensive Transitional Support Programs between December 2011 and 31 December 2014. A tender has been released for the delivery of future services.
152. A supported housing program and housing brokerage service is provided to assist prisoners identified at risk of homelessness in finding and securing suitable and stable accommodation in the community. Eligibility for this program however is restricted to people participating in the Intensive Transitional Support Program.
153. Corrections Victoria also funds some grants to community service organisations to deliver programs for prisoners, offenders and their families. The programs include culturally specific support programs as well as programs designed to assist with training, transportation and crisis housing.
154. Corrections Victoria has advised that from January 2015 a new Reintegration Program will commence, providing post release support services including assistance with housing, employment, and other life skills to those most in need exiting custody<sup>67</sup>.

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<sup>66</sup> L Schetzer and StreetCare, *Beyond the prison gates: the experiences of people recently released from prison into homelessness and housing crisis*, July 2013.

<sup>67</sup> Department of Justice correspondence to the Victorian Ombudsman, 6 October 2014.



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## 3.5.2 Issues

### Access to post release support programs

155. There is evidence of difficulties accessing the programs. In 2013-14 for example, 4,489 sentenced prisoners were released from Victorian prisons<sup>68</sup>. Of this number, placements for Intensive Transitional Support Programs were only available to 695 prisoners.
156. Travel time for a worker to meet with a former prisoner is also counted in the funded hours, potentially resulting in those in country locations receiving less direct contact and support for their allocated program given the travel times.
157. Evidence from service providers is that limited handover information about the individual needs of the exiting prisoner is provided to them.

### Homelessness

158. There is evidence that those leaving prisons are often confronted with housing difficulties, with many becoming homeless on release. For example, data to Corrections Victoria from two agencies providing transitional support indicates that 44 per cent of women and 22 per cent of men in 2013-14 were homeless at the expiration of their funded program placement<sup>69</sup>.
159. There is evidence of one support agency providing camping swags to released prisoners as suitable accommodation could not be found.
160. Service providers also report that finding housing for released prisoners is critical and can consume most of the funded hours for a transitional support program.

### Limited data

161. The data available on the outcomes for people who have left prison in Victoria is limited, with only the total numbers of prisoners who re-offend being measured. This means there is limited analysis of what contributes to the recidivism rates and the types of re-offending and the impact on community safety.
162. Recidivism rates vary markedly between correctional facilities. This is to be expected given the different populations that they accommodate.
163. According to the most recent state budget papers 2014-15<sup>70</sup>, the state's recidivism rate has increased steadily overall from 33.7 per cent in 2009-10 to 39.5 per cent in 2013-14. This upward trend suggests that Victoria will not meet the national target of less than 40.3 per cent rate of return to prison in 2014-15.
164. Research by health professionals indicates that the initial post release period is critical in terms of the health and wellbeing of those released from prisons. This research indicates that the risk of death after the initial post release period is higher than that of the general population, although publicly available data on deaths post release in Victoria is scant.

### Drug and Alcohol Addiction Support and Mental Health Issues

165. Studies suggest that prisoners who are released from prison with a reasonable state of mental wellbeing and who are free from addiction have a better chance of reintegration into the community.

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68 Corrections Victoria correspondence to Victorian Ombudsman, 7 October 2014.

69 Corrections Victoria Intensive Transitional Support Programs, *Quarterly Operational Reports, Financial year 2013-14*.

70 State of Victoria (Department of Treasury and Finance), *Victorian Budget 2014/15 Service Delivery Budget Paper No.3*, 2014.

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166. The support for those with substance abuse issues is also a critical issue both during the custodial sentence and in the support provided post release. As reported in the Victorian Ombudsman's *Investigation into deaths and harm in custody*<sup>71</sup> in March 2014, the prevalence of mental health disorders among Victorian prisoners is three to five times greater than the general community.
167. On 15 October 2014, the Victorian Auditor-General tabled a report in the Victorian Parliament on his audit *Mental Health Strategies for the Justice System*<sup>72</sup>. In his report, the Auditor-General concluded that in respect to mental illness within the justice system, there is currently '*no overarching strategy or leadership for mental health and the justice system that focuses on improving outcomes for people with a mental illness*'.
168. Further, in relation to programs to support released prisoners with a mental illness, he found that '*[t]he lack of coordination across these programs presents significant opportunities to target and improve service delivery, and ultimately improve prisoner outcomes*'.

### 3.5.3 Questions

How can transitional support programs be adapted and funded to better meet the needs of prisoners both pre and post release?

Are there innovations which could assist in better responding to the substantial problem of sustainable housing for post release prisoners?

Are there additional needs for released prisoners residing in regional Victoria to ensure their participation in post release programs is effective?

What could be done to improve pre and post release support for those susceptible to substance abuse and for those with mental health issues?

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<sup>71</sup> Victorian Ombudsman, *Investigation into Deaths and Harm in Custody*, March 2014.

<sup>72</sup> Victorian Auditor-General, *Mental Health Strategies for the Justice System*, October 2014.

# 4. Indigenous and women prisoners

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169. One of the issues I wish to examine in this investigation is whether there are any particular groups within the prisoner population that are not being adequately supported.

170. It is evident from my investigation to date, that women and indigenous prisoners face particular challenges with regard to the rehabilitation and transitional services available to them.

## 4.1 Background

171. In 2013, the Victorian female prison population increased 11 per cent<sup>73</sup> from the previous year.

172. As of 1 October 2014, the total number of indigenous prisoners in Victoria was 507, with 459 males and 48 females<sup>74</sup>.

173. Two of the 13 prisons in Victoria are exclusively for women – the Dame Phyllis Frost Centre and Tarrengower.

174. Indigenous prisoners are generally represented in the population at all Victorian prisons. At present, Port Phillip Prison has the highest number of indigenous prisoners.

175. While these groups represent relatively small percentages of the total prison population, it is important that the heightened needs of these prisoners are recognised and that they are adequately supported with tailored services and programs.

### Indigenous prisoners

176. The distinct cultural rights of indigenous people are recognised in the Preamble of the *Charter of Human Rights and Responsibilities Act 2006* which apply to Corrections Victoria and states:

Human rights have a special importance for the Aboriginal people of Victoria, as descendants of Australia's first people, with their diverse spiritual, social, cultural and economic relationship with their traditional lands and waters.

177. Section 19(2) of the Charter states:

Aboriginal persons hold distinct cultural rights and must not be denied the right, with other members of their community -

- a) to enjoy their identity and culture; and
- b) to maintain and use their language; and
- c) to maintain their kinship ties; and

- d) to maintain their distinctive spiritual, material and economic relationship with the land and waters and other resources with which they have a connection under traditional laws and customs.

178. There is a formal agreement between the Victorian Government and the Koori community to work together to improve Koori justice outcomes, known as the *Victorian Aboriginal Justice Agreement*<sup>75</sup>.

179. One objective in the current Justice Agreement<sup>76</sup> is to reduce re-offending through the following strategies:

Ensure the conditions support the rehabilitation of Koori offenders

Address cultural strength, education, training and employment and mental health and social and emotional wellbeing, as protective factors that will help reduce re-offending for Koori prisoners and offenders

Address individual offence-specific characteristics that put Koori prisoners and offenders at high risk of re-offending

Ensure that Koories in custody are able to reintegrate effectively into their communities upon release.

180. Through *Deputy Commissioner's Instructions*, Victorian prisons are required to provide programs for all indigenous prisoners which:

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73 Australian Bureau of Statistics, *Prisoners in Australia*, December 2013.

74 Corrections Victoria data to Victorian Ombudsman, 2 October 2014.

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75 Victorian Department of Justice, *Victorian Aboriginal Justice Agreement Phase 3 (AJA3)*, March 2013.

76 Victorian Department of Justice, *Victorian Aboriginal Justice Agreement Phase 3 (AJA3) - Strategies 3.1 - 3.6*, March 2013.

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'reflect their culture and which incorporate links to community programs'<sup>77</sup>.

181. There are five indigenous cultural programs developed for delivery in Victorian prisons – Aboriginal Cultural Immersion Program, Marumali, Koorie Faces, Dardi Munwurro and Men's Group Program.
182. Each prison in Victoria has either an Aboriginal Wellbeing Officer (public prison) or Aboriginal Liaison Officer (private prison), whose role is to provide ongoing welfare, advocacy and support for indigenous prisoners.

### Women prisoners

183. Women prisoners in Victoria may serve their sentence at one of two facilities. The Dame Phyllis Frost Centre in Deer Park is a maximum security prison (with provision for medium security units) and as of 10 October 2014, it had an operational capacity of 396 beds. Tarrengower Prison, in regional Victoria, is a minimum security facility and as of 10 October 2014, had 72 bed capacity.
184. As of 14 October 2014, there were 445 women prisoners in Victoria<sup>78</sup>.
185. The needs of women prisoners in relation to their offending and recidivism are complex and distinct to those of men. In its *Targeted Women's Correctional Response paper of 2014*<sup>79</sup>, Corrections Victoria states:

Research has found that there is an extremely high prevalence of mental illness among female prisoners and suggests women's offending is more likely to be linked with poverty and drug offences.

186. There is also research to support that women offenders have greater levels of disadvantage than men in areas such as homelessness, structural disadvantage, trauma and social marginalisation. The paper also suggests that:

... These contributors to offending behaviour are further compounded by the range of negative implications for women entering prison, which include social and economic costs of imprisonment borne by women, their children and their families.

187. The Corrections Victoria *Standards for the Management of Women Prisoners in Victoria*<sup>80</sup> refers to research that supports that women commit fewer and less serious crimes than men. The standards also reflect the following in relation to female offending:

- women are more likely to be convicted of crimes involving property or drugs which are motivated by poverty, gambling or substance abuse
- women are more likely to have committed their offence whilst under the influence of drugs or to support their drug use
- men's offending often develops through peer associates whereas with women's offending it often develops through their relationships with family members, their partners, colleagues and friends
- women have greater experience of sexual, physical and psychological abuse than men which tend to impact on their pattern of offending
- the impact of mental illness, substance abuse and trauma is integral to women's offending and there are higher rates for women than men.

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<sup>77</sup> Corrections Victoria, *Deputy Commissioner's Instruction No. 2.07 Aboriginal and Torres Strait Islander Prisoners*, December 2012.

<sup>78</sup> Corrections Victoria, *Daily Prisoner and Police Cells Report for Tuesday 14 October 2014*.

<sup>79</sup> Corrections Victoria, *Targeted Women's Correctional Response*, May 2014.

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<sup>80</sup> Corrections Victoria, *Standards for the Management of Women Prisoners in Victoria*, July 2014.

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188. Corrections Victoria, through its Mothers and Children Program, provides for children up to pre-school age to reside with their mother in custody if appropriate assessments have been completed. Any woman who was the primary carer of a pre-school child before commencing their prison sentence may apply for their children to reside with them. Pregnant women due to give birth while in prison are also able to apply. Dedicated Mother and Children residential units are available at both women's prisons.

## 4.2 Issues

### Indigenous prisoners

189. There is evidence that the delivery of indigenous cultural programs is inconsistent and intermittent. Port Phillip Prison is currently the location for the highest number of indigenous prisoners, and over the last two years a number of indigenous programs were not delivered there. For example, during 2012-13 the Koorie Faces, Marumali and Aboriginal Cultural Immersion Programs were not conducted; and in 2013-14 the Aboriginal Cultural Immersion Program was not delivered.

190. Although indigenous prisoners are generally represented in the population at all Victorian prisons, not all programs are delivered at all prisons. Eight Victorian prisons had no indigenous cultural programs conducted in 2013-14. The programs are designed to be run based on the numbers and needs of identified prisoners only and are currently scheduled six to 12 months in advance. Whether this is the most effective approach to ensuring the cultural and support needs of indigenous prisoners are met will be explored in greater detail in the ongoing investigation.

191. The findings of a 2013 Commonwealth Attorney-General evaluation<sup>81</sup> of indigenous justice programs suggested that in Victoria, more programs are required for indigenous prisoners to address education, parenting, relationships, family violence and drug/alcohol issues.

192. That review also highlighted the reliance by Corrections Victoria on external providers to deliver indigenous programs. The evaluation made reference to the sustainability of the programs being impacted should any agency withdraw.

193. One issue to be explored further is whether there are sufficient numbers of Aboriginal Wellbeing Officers and Aboriginal Liaison Officers in Victorian prisons to meet the unique demands and numbers of indigenous prisoners or those prisoners with indigenous partners and/or children. There is evidence of extended vacancies in such roles at a number of prisons.

194. The investigation to date has met with four of the dedicated Aboriginal Wellbeing Officers/Aboriginal Liaison Officers. Three of these four independently suggested that an increase in the number of positions (currently one per prison location) would be an improvement in ensuring the needs of indigenous prisoners are met. One officer told my investigators that there appeared to be a view that only an indigenous person could perform the role, when this may not be necessary so long as there was appropriate cultural sensitivity.

### Women prisoners

195. There are a number of issues which are of particular relevance to women while in prison and on release. Commentators point out that the vast majority of women in the system have a range of complex needs, with lives punctuated by repeated victimisation like gender violence.

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<sup>81</sup> Attorney-General's Department, *Evaluation of Indigenous Justice Programs Project B: Offender Support and Reintegration*, January 2013.

Many have issues with drugs, and come from backgrounds of family dysfunction and criminality. Thus questions of rehabilitation and reintegration are particularly difficult.

196. All prisoners face significant challenges in reintegrating into the community after their release from prison, however women are at particular risk. They may feel unsafe and vulnerable to abuse or harassment<sup>82</sup>.
197. Women are at greater risk of homelessness than men. As noted earlier, two agencies which provide intensive support to prisoners in transition reported that 44 per cent of women compared with 22 per cent of men in 2013-14 were homeless at the end of their placement<sup>83</sup>.
198. In relation to programs, Corrections Victoria has recently advised that it has now adopted a violence risk measure for women and that this, together with a female specific violence program will be deployed in October/November 2014. Additional program support may be required to ensure effectiveness is maximised for these participants. Other established programs may need to be specifically tailored to the needs of women.
199. There is no medium security correctional facility for women in the state, and no transition centre. This is despite evidence that the one transition centre for male prisoners in the state (the Judy Lazarus Centre) is highly effective in reducing recidivism<sup>84</sup>.

82 L.Schetzer and StreetCare, *Beyond the prison gates: the experiences of people recently released from prison into homelessness and housing crisis*, July 2013.

83 Corrections Victoria Intensive Transitional Support Programs, *Quarterly Operational Reports, Financial year 2013-14*.

84 Office of Correctional Services Review, *Review of the Judy Lazarus Transition Centre*, 12 September 2014.

## 4.3 Questions

### Indigenous prisoners

Is more work needed to ensure that the relevant objectives of the Charter, the *Aboriginal Justice Agreement*, and the *Deputy Commissioner's Instructions* are met for indigenous prisoners in practice?

Consider:

- Are there sufficient Indigenous Wellbeing/Liaison officers?
- How does the current case management structure impact on the day-to-day responsibilities of the Aboriginal Wellbeing/Liaison officers?
- Is there a more consistent way of providing programs than projection of prisoner numbers?
- In the *Deputy Commissioner's Instruction 2.07*, Corrections Victoria states that it will 'provide an environment which fosters the maintenance of cultural and community links for Aboriginal and Torres Strait Islander prisoners'. Are these links currently adequate?

### Women prisoners

Do the *Standards for the Management of Women Prisoners in Victoria* appropriately reflect the particular experience and needs of women offenders?

What changes need to be made to better support women after they are released from prison – particularly around the risk of homelessness?

Are there gaps in the range of offending behaviour or education/vocational programs available to women prisoners?

Is there a need for a medium security women's correctional facility in Victoria?

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