15. CUSTODIAL HEALTH AND SAFETY (RECOMMENDATIONS 122 - 167)

Introduction

The RCIADIC identified custodial health and safety practices as critically important in the prevention of custodial deaths.¹ Chapter 24 of the National Report recognised that police and prison custodial environments and juvenile detention centres present different risks to those in custody and accordingly made separate recommendations for each environment. Detainees in police custody² may suffer immediate health concerns due to intoxication, self-harm and suicide compared to detainees in prison custody, who may present longer term health issues.

Chapter 24 also considered common themes, which apply to both police and prison custody, including reception into custody, monitoring detainees, managing ‘at risk’ detainees, staff training and the physical environments in which people are detained.

Accordingly, the RCIADIC recommended that Custodial Authorities³ improve established practices and procedures under the following five categories:

1. duty of care, disciplinary action and de-briefing procedures (Recommendations 122 to 124);
2. custodial health and safety of detainees in police custody (Recommendations 125 to 149);
3. custodial health and safety of detainees in prisons (Recommendations 150 to 157);
4. custodial health and safety applicable to detainees in police/prison custody (Recommendations 158 to 166); and
5. juvenile care (Recommendation 167).

The RCIADIC called for comprehensive guidelines and policies to be made publicly available on a range of areas, including regular training, access to medical care, sharing information between Custodial Authorities and the involvement of Aboriginal Health Services in developing policies and cultural awareness of staff. This Report assesses the extent to which these Recommendations have been implemented in State and Federal legislation and, where publicly available, policies, codes of conduct, inspection standards, guidelines and manuals (‘guidelines’). This Report finds that the Recommendations of the RCIADIC have not been fully and coherently

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² Police custody includes the point of arrest up to awaiting trial in watch houses/lock-ins.
³ In this section, ‘Custodial Authorities’ refers to police services, corrective services and authorities in charge of juvenile centres.
implemented in legislation and guidelines across all jurisdictions, indicating that a co-ordinated program is required.

1. **Duty of Care, Disciplinary Action and De-briefing Procedures** (Recommendations 122-124)

**Recommendation 122:** That Governments ensure that:

(a) Police Services, Corrective Services, and authorities in charge of juvenile centres recognise that they owe a legal duty of care to persons in their custody;

(b) the standing instructions to the officers of these authorities specify that each officer involved in the arrest, incarceration or supervision of a person in custody has a legal duty of care to that person, and may be held legally responsible for the death or injury of the person caused or contributed to by a breach of that duty; and

(c) these authorities ensure that such officers are aware of their responsibilities and trained appropriately to meet them, both on recruitment and during their service.

**Recommendation 123:** That Police and Corrective Services establish clear policies in relation to breaches of departmental instructions. Instructions relating to the care of persons in custody should be in mandatory terms and be both enforceable and enforced. Procedures should be put in place to ensure that such instructions are brought to the attention of and are understood by all officers and that those officers are made aware that the instructions will be enforced. Such instructions should be available to the public.

**Recommendation 124:** That Police and Corrective Services should each establish procedures for the conduct of de-briefing sessions following incidents of importance such as deaths, medical emergencies or actual or attempted suicides so that the operation of procedures, the actions of those involved and the application of instructions to specific situations can be discussed and assessed with a view to reducing risks in the future.

The RCIADIC noted the “glaring deficiencies in the standard of care afforded many of the deceased during at least portions of their period of incarceration” and found that many of these deficiencies stemmed from Custodial Authority officers misunderstanding the duties they owe to detainees.

As detainees have been deprived of liberty and are unable to access their usual sources of support and assistance, they are dependent on Custodial Authority officers for all aspects of their well-being. Accordingly, each Custodial Authority officer owes each detainee under their supervision a legal duty of care. To increase awareness of this duty of care, the RCIADIC recommended the adoption of a combination of the following:

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(a) increased public accountability;

(b) guidelines setting out the legal duty of care and disciplinary action for breaches of that duty;

(c) training; and

(d) debriefing sessions for police and corrective services.

1.1 Increased public accountability

The RCIADIC recommended that instructions detailing expected Custodial Authority standards be made available to the public (unless this is not possible for security reasons) with a view to providing greater public accountability.\(^6\)

This Report's findings show that most States and Territories have not made freely available to the public (including via the internet) full and detailed manuals of Custodial Authorities. Where standards have been made publicly available, they are often loosely summarised or not clearly set out in one comprehensive document. This layering of overlapping information obscures standards and Custodial Authorities' accountability to the public.

1.1.1 Police services

The Australian Federal Police National Guideline on persons in custody and police custodial facilities ("National Police Guidelines") establish benchmark guidelines for managing people in police custody. The Australian Federal Police have also issued an ACT Watch-House Operations Manual. In New South Wales, a comprehensive handbook together with a code of practice, setting out police procedures, is accessible on the New South Wales Police website.\(^7\) In Queensland\(^8\) some general principles are contained in the Code of Conduct for the Queensland Public Service, while Queensland Police policies and procedures are contained in various internal documents including the Operational Procedures Manual can be accessed on the Queensland Police Force Website. Further guidelines come in the form of Commissioner's circulars, some of which, but not all, can be accessed online.\(^9\) South Australia,\(^10\) Western Australia\(^11\) and Tasmania\(^12\) summarised policies and codes of conduct stating broad

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\(^8\) The Code of Conduct for the Queensland Public Service, 1 January 2011 contains general principles. Queensland Police policies and procedures are contained in various internal documents, including the Operational Procedures Manual, which are not made publicly available but can be purchased: see <http://www.Police.qld.gov.au/rti/published/policies/qpsPolicyProc/>.


\(^11\) The Western Australia Police Code of Conduct, April 2008, contains general principles and refers to an internal police manual (see also s 2.11 of the Code of Conduct).

\(^12\) The Tasmania Police have issued an Aboriginal Strategic Plan which states as a guiding principle that Tasmania Police members recognise and accept their obligations and duty of care to all people in custody, and which names improving safety in custody as the no. 1 key result area. Tasmania Police
principles have been published but not detailed police manuals. Police guidelines are not publicly available online for the Northern Territory, Tasmania and the Australian Capital Territory.\footnote{The Review of ACT Policing’s Watch-house Operations, A joint report by the Australian Federal Police and the Commonwealth Ombudsman, June 2007 refers to the current ACT Policing Practical Guide: Persons in Custody, which is not publicly available.} Guidelines for Tasmania and the Australian Capital Territory are currently being revised, however, interim guidelines have not been made available online. Comprehensive guidelines for Victoria are available for purchase from Victoria Police and can be viewed at the State Library of Victoria.\footnote{Victoria Police Manual.} Further, there is no overall governance framework for watch-house operations. Watch-house guidelines can differ for each watch-house within the same State or Territory, adding confusion to police obligations towards detainees. As it is outside the scope of this Report to review the guidelines of each watch-house, with the exception of the Australian Capital Territory (where the AFP’s ACT Watch-House Operations Manual applies), the Report’s findings are based on publicly available police guidelines.

1.1.2 Correctional Services

Each State and Territory has signed up to the Revised Standard Guidelines for Corrections in Australia 2004 (’Corrections Guidelines’), which represent a statement of national intent.\footnote{Further revised in 2012.} Western Australia, Victoria and New South Wales have outlined further information regarding adult custodial operational instructions and standards, with New South Wales publishing comprehensive guidelines.\footnote{WA: Department of Corrective Services website, Adult Custodial Operational Instructions, Policy Directives and Rules; Victoria: Correctional Management Standards for Men’s Prisons in Victoria, Version 2.0, July 2014, chapter 4.2 and 9.2 (’Standards for Men’); Standards for the Management of Women Prisoners in Victoria, Version 2.0, July 2014, Chapter 1.2 and 9.2 (’Standards for Women’); New South Wales: NSW Corrective Services Operations Procedures Manual published under the Government Information (Public Access) Act 2009 and NSW Department of Corrective Services “Guide to Conduct and Ethics 2010“.} Also, Western Australia and Queensland have published inspection standards, which prisons are expected to reach.\footnote{Qld: Healthy Prisons Handbook, Version 1, November 2007; WA: Government of Western Australia, Office of the Inspector of Custodial Services, Inspection standards for Aboriginal Prisoners, Version 1, July 2008. See also Office of the Inspector of Custodial Services, Code of Inspection Standards for Adult Custodial Services, Version, April 2007: Prisons Act 1981 (WA) ss 7, 12 and 13(2)(d) and 95, which impose an implied duty of care on officers, prison officers and the CEO of the prison to persons in their custody; Court Security and Custodial Services Act 1999 (WA) s 13.} It is not clear, however, whether such standards are set out in instructions to correctional staff, as the public do not have access to operating procedure manuals. No other States or Territories have published guidelines.

\footnote{have advised (as at September 2013) that a new proposed Tasmania Police Manual is complete but not publicly available at this time.}
1.1.3 Juvenile detention authorities

The Standards for Juvenile Custodial Facilities ("National Juvenile Custodial Standards") set out minimum standards of guidelines to be applied across Australia. Western Australia has published Youth Custodial Rules reflecting the National Juvenile Custodial Standards and New South Wales, and Victoria have published their own standards. Queensland had a Youth Detention Centre Operations Manual published by the Department of Attorney General and Justice however, following review, it was determined to phase it out with a new manual. The new manual is not as yet available online. Guidelines in Tasmania, South Australia, the Northern Territory and the Australian Capital Territory are not accessible to the public.

1.2 Guidelines setting out the legal duty of care

The RCIADIC noted that standing instructions to Custodial Authority officers in guidelines need to be amended to increase awareness of the legal duty of care owed by officers to detainees. Accordingly, the RCIADIC recommended that guidelines to Custodial Authority officers set out in clear mandatory and enforceable terms that Custodial Authorities and each officer involved in the arrest, incarceration or supervision of a detainee:  

- owe a legal duty of care to detainees; and

- may be held legally responsible for the death or injury of the detainee due to a breach of that duty of care.

The Report's findings show that implementation of this Recommendation varies significantly across Australia. Guidelines in some jurisdictions go some way to establishing a standard of care and acknowledging that detainees are to be shown respect for their human rights with regard to their safety and welfare, but fall short of expressly setting out that a legal duty of care is owed by each Custodial Authority officer. It is difficult to see how the standard of care is to be achieved if ignorance of the actual legal duty of care and who owes that duty persists. Further, the guidelines do not link a breach of that duty to disciplinary or legal action.


19 As under s 20C of the Crimes Act 1914 (Cth) federal offenders are detained by the relevant State or Territory, we have not referred to federal juvenile detention.


22 Standards to guide the delivery of services in Juvenile custodial centres, Victorian Department of Human Services, Juvenile Justice Section, 9 Security and Safety.


25 RCIADIC, National Report, 1991, Chapter 3 (the flexibility of the duty of care at common law was preferable to defining the standard of duty of care under statute).
1.2.1 Police services

The National Police Guidelines do not refer to the legal duty of care owed to detainees and were found to be incomplete. Accordingly, implementation of this Recommendation varies considerably throughout Australia.

Pursuant to the Queensland Police Service Operational Procedures Manual, police officers have a duty of care to those persons in their custody. A failure to discharge that duty and which results in some detriment to another person may make the person upon whom that duty is imposed liable for the result.

Police guidelines in New South Wales, Victoria, the Australian Capital Territory and Western Australia have partially implemented the RCIADIC’s recommendation by highlighting that each police officer owes a duty of care but those guidelines fail to set out that disciplinary or legal action may be taken specifically for a breach of that duty.

The remaining States and Territories have not published guidelines or policies relating to the legal duty of care and the consequences of a breach of that duty. However, we note that the latest Tasmanian Police Manual, which is currently under revision and has been removed from the Tasmanian Police website, fully implemented and adopted the wording of the RCIADIC’s Recommendation.

1.2.2 Corrective Services

In Victoria, the duty of care is set out in legislation. In Western Australia, a duty of care is implied in the legislation. The RCIADIC’s Recommendation

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27 Queensland Police Service Operational Procedures Manual, section 16.1.1
28 NSW Police Code of Practice – CRIMES, p.20, ‘Custody’, and p.22 ‘Accountability’ (sets out that a duty of care is owed by Police officers towards people under arrest and others in their custody at any time).
30 ACT Policing Watch-house Operations Manual, Introduction & paragraph 2.7. Note that, as at April 2015, this manual appears not to be publicly available and as a result its currency has not been verified.
31 Western Australia Police Code of Conduct, April 2008, ‘Duty of Care’, paragraph 2:11, which provides that officers "must...be alert to (their) duty of care as a result of (their) actions". Further, the Western Australia Police Manual at DC 1.1 refers police members and “in particular members in charge of lockups” to the relevant section of the Criminal Code "which relates to persons having a duty of care over people in custody”.
32 NSW: Police Act 1990 S.173; NSW Police Force: Standards of Professional Conduct, Management Action, p.9; WA: see footnote 11, paragraph 2:15. The Police Manual, referred to in the Western Australian Police Code of Conduct, includes a section on "Duty of Care" (DC-1), which expressly states that "[c]ustodial care requires a member to be vigilant and consistent in preventing a detainee or person in custody from suffering illness, injury or death". The Police Manual also includes a number of other sections referring generally to the duty of care, including sections AD 1.8 (Aboriginal Medical Service), FR 1.3.1 (Use of Baton), FR 1.7.1 (Use of Handcuffs) and LP 10.1 (Cell Locks, Health, Safety, Welfare).
34 Corrections Act 1986 (VIC), s.20(2).
highlights the importance of also setting out the legal duty clearly in guidelines to increase prison staff awareness. New South Wales\textsuperscript{36} has fully implemented this Recommendation by setting out in its guidelines the individual duty of care owed by Custodial Authorities and officers and that a breach of that duty may lead to legal/disciplinary action.

The Corrections Guidelines and guidelines in Victoria\textsuperscript{37} and Queensland\textsuperscript{38} refer to the prison manager or the relevant Administering Department of the prison having regard to the welfare of detainees, as opposed to all prison staff. Also, the Guidelines do not set out in clear mandatory terms that prison staff can face disciplinary or legal action for a breach of that duty of care. No other States or Territories have published guidelines implementing this Recommendation.\textsuperscript{39}

\subsection*{1.2.3 Juvenile detention authorities}

The National Juvenile Custodial Standards have not implemented this Recommendation and accordingly guidelines vary in each of the States and Territories. The National Juvenile Custodial Standards acknowledge that detainees are entitled to living conditions that meet duty of care requirements but do not specify that the duty of care is owed by all employees of detention centres.

Queensland legislation sets out the standard of care (rather than the duty of care) and consequences of a breach of that standard.\textsuperscript{40} However, the RCIADIC recommends that guidelines to juvenile justice employees clearly set out the duty of care. As the current Queensland guidelines are not published it cannot be determined whether this Recommendation has been implemented.

\textsuperscript{35} Prisons Act 1981 (WA) ss. 7, 12, 13(2)(d) and 95, which impose an implied duty of care on officers, prison officers and the CEO of the prison to persons in their custody; Court Security and Custodial Services Act 1999 (WA) s. 13.


\textsuperscript{38} Healthy Prisons Handbook, Version 1, November 2007 16, p.20, paragraph 4.1; Queensland guidelines also refer to a specific duty owed by staff to take reasonable care to avoid causing harm to others: Department of Community Safety Code of Conduct Policy, November 2009, para 4.7.

\textsuperscript{39} Northern Territory Services, Code of Conduct, March 2010, 4.1.4. (According to the inquest reports, the Correctional Services manual refers to a duty of care owed to persons in custody but has not been made publicly available and therefore we are unable to independently verify this. Also, it is not clear whether the manual specifies who the duty is owed by and whether the consequences of a breach of that duty are set out). In Western Australia, the Department of Corrective Services had published on the “Our Structure” webpage a reference to the Deputy Commissioner (Adult Custodial) having responsibility for the “[c]ustody, control and welfare of adults in prisons and work camps and improving Aboriginal offender services”. The current Department of Corrective Services website does not make any such reference.

\textsuperscript{40} Youth Justice Act 1992 (QLD), s.263; Criminal Code Act 1899, S. 364 (reprinted as in force on 1 July 2012).
New South Wales and Victoria guidelines specify that all staff owe a duty of care to children in their care. However, neither New South Wales nor Victoria guidelines specifically set out that a breach of the duty of care may lead to legal/disciplinary action.

In Western Australia, rule 102 of the Youth Custodial Rules (Youth Custodial Services philosophy and management of young people) refers generally to the objectives of youth custodial facilities being to provide "a humane, safe and secure environment", however, there is no express reference in the Youth Custodial Rules to the duty of care and consequences of a breach of duty. According to the Western Australian Department of Protective Services website, rule 102 is currently under review.

Guidelines in the remaining States and Territories are not publicly available.

### 1.3 Training

The RCIADIC noted that guidelines alone are insufficient to achieve genuine, positive shifts in custodial practices and recommended that Custodial Authority officers are trained about their responsibilities for the care of persons in custody. Further, to ensure Custodial Authority officers maintain up-to-date knowledge of their responsibilities, the RCIADIC recommended that officers are trained on recruitment and regularly throughout their service.

#### 1.3.1 Police

This Recommendation has been partially implemented in all States and Territories. In New South Wales, Queensland, Western Australia and Tasmania, police are required to receive training to ensure employees

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41 *Children (Detention Centres) Act 1987* (NSW), ss. 4 & 14 and *Children and Young Persons (Care and Protection) Act 1998* (NSW), s.8.
42 Standards to guide the delivery of services in Juvenile custodial centres, Department of Human Services, Juvenile Justice paragraph 9, 'Security and Safety'. The Juvenile Justice Centre Operations Manual and the Case Practice Standards Manual are not available to the public online.
43 NSW Department of Juvenile Justice, Code of Conduct, July 2010, paragraph 1.3 'What happens if I breach the Code?' (only refers to general breaches of the code).
44 Department of Corrective Services website, "Youth Custodial Rule 102 Youth Custodial Services' philosophy and management of young people" publication.
47 Standards of professional Conduct, NSW Police, p.6 (it is the responsibility of the NSW Police force to provide training so that all employees know and understand the requirements of their jobs).
48 *Public Sector Ethics Act 1994* (QLD), s.21; *Public Service Act 2008* (QLD), ss. 53 and 98.
49 *Public Sector Management Act 1994* (WA), s.29 (1)(k); Western Australia Police Code of Conduct, April 2008, p.14, 'Competence', Section 2:15. See also the Police Manual (referred to in the Western Australian Police Code of Conduct), including sections AD 1.2.4 (Training - induction training and in-service training opportunities where operationally possible, AD-57 (Critical Skills (Police Life Support) Training and Re-qualification), AD-58.4 (Cross Cultural Awareness Training - initial and ongoing), FR-1.2.5 (Critical Skills (Weapons) Training and Re-qualification) and 13.1 (Police Training and Education Program).
50 *Police Service Act 2003* (TAS), s.7(2)(g).
understand their responsibilities. Further, the Tasmanian *Aboriginal Strategic Plan* aims to educate police regarding their obligations to people in custody and in particular, their duty of care to Indigenous people who are ‘at risk’.\(^ {51}\)

Legislation/Guidelines in respect of the Australian Federal Police,\(^ {52}\) Victoria,\(^ {53}\) the Australian Capital Territory,\(^ {54}\) the Northern Territory\(^ {55}\) and South Australia\(^ {56}\) broadly recognise the requirement for police training but do not elaborate on the scope of such training.

Only South Australian legislation refers to ongoing training and development.\(^ {57}\) Queensland, the Northern Territory, Victoria, Tasmania and New South Wales have not implemented legislation or guidelines specifying whether training is simply at the recruitment stage or at regular intervals throughout an employee’s service. In respect of Western Australia, the Western Australian police website\(^ {58}\) refers to initial and ongoing training, and the Police Manual\(^ {59}\) to the same in specified circumstances. The Australian Capital Territory\(^ {60}\) police website implies that training is provided on an ad hoc basis where changes to guidelines or legislation are made rather than at regular intervals.

1.3.2 Corrective Services

Victoria has fully implemented this Recommendation and its guidelines set out comprehensive training requirements in prisoner welfare and the annual review of staff training programs.\(^ {51}\)

Queensland, the Northern Territory, New South Wales and Western Australia have partially implemented the RCIADIC’s Recommendation.

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\(^ {51}\) *Aboriginal Strategic Plan*, Department of Police and Public Safety, General principles p. 9, paragraph 4.

\(^ {52}\) *Australian Federal Police Regulations 1979*, regulation 4.

\(^ {53}\) *Victoria Police Blueprint for 2012-2015* contains broad principles of training but does not specifically refer to training in regard to the duty of care owed by the police force. *Victoria Police Code of Conduct and Code of Conduct for Victoria Public Sector Employees* do not refer to training requirements for the police force.

\(^ {54}\) *Public Sector Management Act (ACT)*, s.8(c) (as a general principle best practices are adopted in the training and development of staff).

\(^ {55}\) *Public Sector Employment and Management Act (NT)*, s.5C(1)(c)(iii); NTPS principles and code of conduct, Principles of HR Management in the Public Sector (e(iii)).

\(^ {56}\) *Police Act 1998 (SA)*, s.10(1)(c).

\(^ {57}\) *Ibid*, (Commissioner has an obligation to ensure police are directed towards development through ongoing training and education).


\(^ {59}\) Western Australian Police Manual at sections AD 1.2.4 (Training - induction training and in-service training opportunities where operationally possible, AD-57 (Critical Skills (Police Life Support) Training and Re-qualification), AD-58.4 (Cross Cultural Awareness Training - initial and ongoing), FR-1.2.5 (Critical Skills (Weapons) Training and Re-qualification).

\(^ {60}\) The Government response to “The ACT Youth Justice System 2011: A report to the Legislative Assembly by the ACT Human Rights Commission” notes at paragraph 7.25 that ACT police will be instructed where significant changes are made.

Queensland Correction Services have implemented a formal training program covering specific subjects related to the health of detainees, and Queensland guidelines require prison managers to help employees understand and access the code and policies and to be familiar with the code of conduct. In the Northern Territory and New South Wales, legislation/guidelines acknowledge that employees should receive training but rely on individual employees to familiarise themselves with their relevant responsibilities under the guidelines. It is not clear whether training in Queensland, the Northern Territory and New South Wales is on a regular basis throughout an employee’s service or simply on recruitment. In Western Australia, prison officers are required to initially undertake paid intensive training for nine months, however, the scope of the training and whether it is ongoing are not clear.

Tasmania, South Australia and the Australian Capital Territory have not published guidelines regarding this Recommendation.

As previously mentioned, each State and Territory has signed up to the Corrections Guidelines, which highlight the need for those who are responsible for the supervision of prisoners to receive updated training on a regular basis in key functions.

1.3.3 Juvenile detention authorities

The National Juvenile Custodial Standards refer to a formal program of staff training (including training on policies, procedures and legislation) to meet job requirements. However, although the National Standards refer to the UN requirement for staff to attend organised training at intervals throughout their career under UN rule 85, this requirement has not been adopted within the wording of the National Standards.

The RCIADIC’s Recommendation has been fully implemented in New South Wales and Victoria. In New South Wales and Victoria, staff receive training regarding juvenile detention policies (including the welfare

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62 Queensland Healthy Prison Handbook, paragraph 7.2 (at risk and self-harming behaviour of detainees). 7.8 (suicide), 9.6 (cultural awareness), 11.13 (child safety), 16.12 (on-going training re health services).
63 Department of community safety code of conduct policy, November 2009, pp.4 & 5.
64 NTPS (Public Sector Employment and Management Act, 5C(1)(c)(iii)), and NTPS principles and code of conduct, Principles of HR Management in the Public Sector (e(iii)); Department of Justice, NT Correctional Services Code of Conduct, paragraph 4.1.1, Performance of duties. (All NTCS employees are required to sign a form indicating receipt of the Code of Conduct and that they will immediately make themselves aware of their obligations under the Code, paragraph 1.4).
65 Corrective Services NSW, Guide to Conduct and Ethics 2010 (responsibility of the individual to ensure they read and apply the guidelines (Foreword)).
69 Standards to guide the delivery of services in juvenile justice custodial centres, paragraphs 4.9, 9.3, 9.7 and 11.6.
of detainees) at induction and on an ongoing basis. In New South Wales there is an additional obligation for employees to be familiar with the relevant legislation.\textsuperscript{70}

The remaining States and Territories have not published guidelines specifying training requirements for employee’s duty of care. In South Australia\textsuperscript{71} legislation/guidelines broadly refer to general training and do not indicate whether such training is only at recruitment or throughout an employee’s service. In Western Australia, youth custodial officers are required to initially undertake paid intensive training for nine months,\textsuperscript{72} however, the scope of the training and whether it is ongoing are not clear. Legislation in the Australian Capital Territory\textsuperscript{73} refers to the general principle that best practices are adopted in staff training and the Australian Capital Territory Government claims that all community youth justice case managers are trained in policies and procedures as part of their induction training and at other times as considered appropriate.\textsuperscript{74} The Australian Capital Territory government has also published its Blueprint for Youth Justice in the ACT 2012-2022, which set as a “key strategy” to build a strong and smart workforce with an emphasis on ongoing training for staff.\textsuperscript{75}

1.4 Debriefing Sessions for Police and Corrective Services

Where incidents such as deaths, medical emergencies or attempted suicides of detainees in custody occur, the RCIADIC recommended that Custodial Authorities establish debriefing sessions to monitor procedures with a view to reducing risks in the future.\textsuperscript{76}

1.4.1 Police services

The Report's findings reveal that this Recommendation has been implemented in Western Australia and only been partially implemented in New South Wales, Queensland and Victoria.

The Western Australian Police Manual requires a member in charge to conduct a debriefing session following "incidents of importance", for example, deaths, medical emergencies or attempted/actual suicides of prisoners in police lock-up, at the earliest opportunity to discuss and assess the operation of procedures, the actions of those involved and the

\textsuperscript{70} NSW Department of Juvenile Justice, Code of Conduct, July 2010, section 1.5.1, page 720.
\textsuperscript{71} Family and Community Services Act 1972, s.10(1)(j) (General requirement to provide staff with general training to promote the welfare of the community). (Guidelines not available).
\textsuperscript{73} Public Sector Management Act, s.8(c).
\textsuperscript{75} Australian Capital Territory government, Blueprint for Youth Justice in the ACT 2012-2022, Strategy

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application of instructions to specific instructions, with a view to mitigating future risks.\textsuperscript{77}

New South Wales guidelines set out that debriefings on the findings and recommendations of any investigation into deaths in custody are required to be held but do not specify whether such debriefings are attended by all officers.\textsuperscript{78}

The Victoria Police Manual requires that a "hot debrief" be held where an incident commander considers it necessary to quickly assess the conduct of an operation or incident. A "full debrief" must be held following a critical incident or an incident where the police were required to use force on a person under 18 years of age.\textsuperscript{79}

No other States or Territories have published guidelines relating to compulsory debriefing sessions. Indeed, debriefing requirements are not referred to in the National Police Guidelines or the Australian Federal Police Practical Guide on Deaths (Australian Capital Territory Policy).

1.4.2 \textbf{Corrective Services}

This Recommendation has been fully implemented in Queensland,\textsuperscript{80} the Australian Capital Territory\textsuperscript{81} and Western Australia.\textsuperscript{82} New South Wales,\textsuperscript{83} Victoria,\textsuperscript{84} South Australia, the Northern Territory, and Tasmania have not published guidelines regarding debriefing sessions. The Corrections Guidelines refer to findings being reported to the Administering Department, however, this falls short of requiring debriefing sessions to all staff.\textsuperscript{85}

\textsuperscript{77} Police Manual (referred to in the Western Australian Police Code of Conduct) at section LP 3.5 (Debriefing (Incidents of Importance). See also section LP 3.1.
\textsuperscript{78} New South Wales Police Force\textsuperscript{77}, Handbook, p.129. (Handbook also refers to the Guidelines for Investigation and Management of Critical Incidents, which are not available to the public).
\textsuperscript{79} Victorian Police Manual: Operational Debriefing, sections 1.1 - 1.2.
\textsuperscript{80} Custodial Operations Standard Operating Procedure - Death in Custody, section 11,( safety and security documents on corrective services website). In addition The Queensland Correctional Services Department has published a procedure entitled "Managing Traumatic Events at Work" which requires the Business Unit Manager to conduct an on-site de-briefing as soon as practical but within 3 hours of a traumatic event (see section 9).
\textsuperscript{81} Notifiable Instrument NI2011-120 made under the Corrections Management Act 2007, Corrections Management (Critical Incident Stress Debrief) Policy 2011.
\textsuperscript{82} Government of Western Australia, Department of Corrective Services, Policy Directive 41, ‘Reporting of Incidents and Other Matters’ (Following a critical incident, which includes death in custody, an immediate debrief (10.1) and then formal debrief (10.2) are required to discuss lessons learned. See also Policy Directive 30 ‘Death of a Prisoner’.
\textsuperscript{83} At the time of writing, the Corrective Services NSW has removed the ‘Serious Incidents’ section (13.2 Deaths in custody) from the Operations Procedures Manual.
\textsuperscript{84} The Victorian Prison Emergency Management Plan, O/I No. 68 – Deaths in Custody and O/I No. 3 – Incident Response are referred to in Victoria’s response to the RCIADIC (Chapter 6) but are not available to the public.
\textsuperscript{85} National Corrections Guidelines Paragraph 1.32 , page 15.
2. **Custodial Health and Safety of Detainees in Policy Custody (Recommendations 125-149)**

To reduce the number of deaths in police custody, the RCIADIC highlighted the importance of the following steps:\(^{86}\)

(a) monitoring and recording information on the physical and mental condition of detainees;

(b) providing better access to medical care;

(c) staff training on health issues and risk assessment;

(d) improving the standard of police cell accommodation;

(e) modifying the treatment of ‘at risk’ detainees; and

(f) sharing information.

2.1. **Monitoring and recording information on the physical and mental condition of detainees**

2.1.1. **Screening forms on reception (Recommendations 125 and 126)**

The RCIADIC strongly recommended the introduction of screening forms on reception of a detainee into police custody to assess the mental and physical state of detainees. A detailed assessment should take place before the detainee is placed in a cell and be based on staff observations from one-to-one interviews.\(^{87}\) The RCIADIC highlighted that police officers are not medical experts and therefore a checklist in the form of a screening form would serve to help officers to:

- identify prisoners at risk of illness or self-harm;
- provide useful information for any future custodial purpose; and
- disseminate information to officers, particularly during a change of shift (provided the forms are accessible).

**Recommendation 125:** That in all jurisdictions a screening form be introduced as a routine element in the reception of persons into police custody. The effectiveness of such forms and of procedures adopted with respect to the completion of such should be evaluated in the light of the experience of the use of such forms in other jurisdictions.

**Recommendation 126:** That in every case of a person being taken into custody, and immediately before that person is placed in a cell, a screening form should be completed and a risk assessment made by a police officer or such other person, not being a police officer, who is trained and designated as the person responsible for

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\(^{86}\) RCIADIC National Report, 1991, paragraphs 24.3.1; 24.3.2.

\(^{87}\) RCIADIC National Report, 1991, recommendations 125 and 126.
the completion of such forms and the assessment of prisoners. The assessment of a detainee and other procedures relating to the completion of the screening form should be completed with care and thoroughness.

The Report’s findings reveal that New South Wales has fully implemented this Recommendation by placing detainees immediately before the custody manager/assistant and using screening forms to make a detailed assessment of the detainee. In Western Australia, members in charge are required to ensure that all prisoners admitted into custody are adequately screened to assess their needs, including the completion of a Lockup Admission Form P10A (screening, however, is not required to take place before prisoners are placed in their cells, save that those in need of medical treatment or who are unconscious or semi-conscious are not to be admitted to a lock up until they have received medical attention). In Victoria and Queensland, police members who take a person into custody must assess the person against a medical checklist and obtain medical assistance if required. The National Police Guidelines and the Australian Capital Territory Guidelines require an initial assessment of detainees but it is not clear whether such an assessment is conducted before detainees are placed in cells. No other States or Territories have implemented this Recommendation.

2.1.2. Regular physical checks & recording of assessment (Recommendations 137, 138 and 139)

The RCIADIC’s investigations found that human interaction played a vital role in maintaining the morale of detainees, particularly those at risk from self-harm. The RCIADIC noted that 52 per cent of deaths in police custody occurred in the first six hours with 21 out of 63 occurring within two hours or less.

Accordingly, the RCIADIC recommended that police guidelines require staff to make careful and thorough checks of detainees as follows:

- **No substitute for human interaction**: electronic surveillance equipment should only be used as a monitoring aid and not as a...
substitute for human interaction between custodial staff and prisoners.

- **Intervals of checks for non ‘at risk’ detainees**: detainees not ‘at risk’ to be checked at standard intervals of the following frequencies:
  
  - Not greater than 15 minutes, during the first two hours of detention.
  
  - Not greater than one hour, after the first two hours of detention.

- **Intervals of checks for ‘at risk’ detainees**: detainees identified as ‘at risk’ to be checked more frequently and thoroughly than the standard intervals.

- **Method of physical checks**: standard physical checks to involve:
  
  - If awake, a conversation with the detainee.
  
  - If asleep, an assessment of the detainee’s breathing and posture or,
  
  - If asleep and showing signs of injury or distress, the officer should wake up the detainee and check the detainee.

- **Recording observations**: Information regarding the behaviour of detainees, any medical attention provided or requested and any complaints relating to the mental or physical health of detainees should be accurately recorded together with a log of the cell checks conducted.

**Recommendation 137**: That:

(a) **Police instructions and training should require that regular, careful and thorough checks of all detainees in police custody be made**;

(b) **During the first two hours of detention, a detainee should be checked at intervals of not greater than fifteen minutes and that thereafter checks should be conducted at intervals of no greater than one hour**;

(c) **Notwithstanding the provision of electronic surveillance equipment, the monitoring of such persons in the periods described above should at all times be made in person. Where a detainee is awake, the check should involve conversation with that person. Where the person is sleeping the officer checking should ensure that the person is breathing comfortably and is in a safe posture and otherwise appears not to be at risk. Where there is any reason for the inspecting officer to be concerned about the physical or mental condition of a detainee, that person should be woken and checked**; and
(d) Where any detainee has been identified as, or is suspected to be, a prisoner at risk then the prisoner or detainee should be subject to checking which is closer and more frequent than the standard.

Recommendation 138: That police instructions should require the adequate recording, in relevant journals, of observations and information regarding complaints, requests or behaviour relating to mental or physical health, medical attention offered and/or provided to detainees and any other matters relating to the wellbeing of detainees. Instructions should also require the recording of all cell checks conducted.

Recommendation 139: The Commission notes recent moves by Police Services to install TV monitoring devices in police cells. The Commission recommends that:

(a) The emphasis in any consideration of proper systems for surveillance of those in custody should be on human interaction rather than on high technology. The psychological impact of the use of such equipment on a detainee must be borne in mind, as should its impact on that person’s privacy. It is preferable that police cells be designed to maximise direct visual surveillance. Where such equipment has been installed it should be used only as a monitoring aid and not as a substitute for human interaction between the detainee and his/her custodians; and

(b) Police instructions specifically direct that, even where electronic monitoring cameras are installed in police cells, personal cell checks be maintained.

Tasmania implemented this Recommendation in full.94 Note that, as at April 2015, the Tasmanian Police Manual appears to no longer be publicly available and as a result its currency has not been verified. New South Wales, Victoria, Queensland, the Australian Capital Territory and Western Australia have partially implemented this Recommendation.

New South Wales Police Guidelines refer to checking ‘at risk’ detainees every 30 minutes or more frequently if required according to the individual’s needs and always in person.95 According to the Victoria Police Manual, detainees who are assessed to be needing constant supervision are to be physically checked every 30 minutes, or as advised by a medical practitioner, and constantly observed by CCTV.96 The Queensland Police Service Operational Procedures Manual requires prisoners to be inspected regularly at varying intervals (the intervals between inspections is to be no greater than one hour).97 The ACT Policing Watch-house Operations Manual and ACT Policing Practical Guide on Persons in Custody refer to checking non ‘at risk’ detainees every 30 minutes in person, and ‘at risk’ detainees every 15 minutes during the first two hours of detention, and

94 Tasmania Police Manual, section 7.3.6.
95 NSW Police Force: Code of Practice for CRIME (Custody, Rights, Investigation, Management & Evidence), 2012, pp. 40, 45, 53.
97 Section 16.9.5.
thereafter at intervals of no greater than one hour.\textsuperscript{98} Note that, as at April 2015, this manual and guide appear no longer to be publicly available and as a result their currency has not been verified.

Victoria, Queensland, Western Australia and New South Wales guideline intervals are less frequent than the RCIADIC’s Recommendation, but give detailed guidance on the method of checking the detainee and require findings to be recorded.\textsuperscript{99} In all other States and Territories, police operation manuals are not publicly available and checks on detainees are not referred to in legislation.

2.1.3. 24-hour surveillance & raising the alarm (Recommendations 140 and 141)

Alarmingly, the RCIADIC noted that detainees were left overnight in some police watch-houses in remote areas without supervision and without means of raising the alarm in an emergency.\textsuperscript{100} The RCIADIC recommended that:

- no person should be detained in a police cell unless a person capable of providing care and supervision is in attendance; and
- alarm or intercom systems should be installed in all cells to provide direct communication between detainees and custodians.

**Recommendation 140:** That as soon as practicable, all cells should be equipped with an alarm or intercom system which gives direct communication to custodians. This should be pursued as a matter of urgency at those police watch-houses where surveillance resources are limited.

**Recommendation 141:** That no person should be detained in a police cell unless a police officer is in attendance at the watch-house and is able to perform duties of care and supervision of the detainee. Where a person is detained in a police cell and a police officer is not so available then the watch-house should be attended by a person capable of providing care and supervision of persons detained.

\textsuperscript{98} ACT Policing Watch-house Operations Manual, paragraph 5.8. Note that as at April 2015, this manual appears not to be publicly available and as a result its currency has not been verified.


\textsuperscript{100} The RCIADIC recognised that implementing the requisite 24-hour service would have cost implications and therefore made several suggestions to achieve adequate human surveillance, including rostering additional staff on duty on a needs basis, employing trained civilian staff to supervise prisoners, transferring detainees to 24-hour facilities (already implemented in Victoria, NSW and Tasmania) and granting bail.

15. CUSTODIAL HEALTH AND SAFETY (RECOMMENDATIONS 122 - 167)
A physical inspection of police watch-houses would be required to assess whether the RCIADIC’s Recommendation has now been implemented, which is beyond the scope of this Report. 101

2.1.4. Use of breath analysis equipment to confirm drunkenness (Recommendation 129)

Recommendation 129: That the use of breath analysis equipment to test the blood alcohol levels at the time of reception of persons taken into custody be thoroughly evaluated by Police Services in consultation with Aboriginal Legal Services, Aboriginal Health Services, health departments and relevant agencies.

The RCIADIC recommended that the use of breath analysis equipment to test the blood alcohol levels at the time of reception of persons taken into custody be thoroughly evaluated by Police Services in consultation with Aboriginal Legal Services, Aboriginal Health Services, health departments and relevant agencies. 102 This Recommendation was made in response to cases where people died in custody after being charged with public drunkenness but were found not to be intoxicated. 103

This Report found no evidence that any such evaluation has taken place. However, both the New South Wales and Victorian police guidelines note that someone who appears to be drunk may appear this way due to other circumstances, such as a head injury. 104 The New South Wales guidelines specifically require a doctor to be contacted in cases of doubt. 105 In other jurisdictions, police guidelines do not appear to include any similar references or the guidelines are not publicly available as at April 2015.

101 Under section 16.12.9 of the Queensland Police Service Operational Procedures Manual, December 2014, officers are not to leave persons in custody unattended where a suitable alternative exists. The Western Australian Police Manual at section DC -1 (Duty of Care) only partially implements this recommendation, by requiring a member to be vigilant and consistent in preventing a detainee or person in custody from suffering illness, injury or death and not leaving a prisoner or detainee unattended in a police lock up (save where there is an urgent need for the police to respond to a life threatening emergency, the prisoner is assessed as having no risk of self-harm and other officers can be recalled to duty within one hour to provide custodial care).


2.2. Providing better access to medical care

2.2.1. Medical staff presence (Recommendation 127) and emergency treatment (Recommendations 135 and 136)

The RCIADIC recognised the limitation of police officers’ medical expertise and highlighted that the identification of detainees who are at risk of illness, injury or self-harm at the time of reception would help staff to provide the requisite level of management and supervision and assist in preventing deaths in custody. Accordingly, the RCIADIC identified the need for the following:

- Greater access to medically trained personnel at police watch-houses under the following arrangements:
  - Regular medical or nursing presence at principal watch-houses in major cities; and
  - Medical practitioners or trained nurses readily available to attend watch-houses outside major cities.
- Immediate medical attention where detainees are unconscious or not easily roused as the detainee may be suffering from serious medical conditions including alcohol intoxication, epilepsy, diabetes, a drug overdose or severe head injuries.

Recommendation 127: That Police Services should move immediately in negotiation with Aboriginal Health Services and government health and medical agencies to examine the delivery of medical services to persons in police custody. Such examination should include, but not be limited to, the following:

(a) The introduction of a regular medical or nursing presence in all principal watch-houses in capital cities and in such other major centres as have substantial numbers detained;

(b) In other locations, the establishment of arrangements to have medical practitioners or trained nurses readily available to attend police watch-houses for the purpose of identifying those prisoners who are at risk through illness, injury or self-harm at the time of reception;

(c) The involvement of Aboriginal Health Services in the provision of health and medical advice, assistance and care with respect to Aboriginal detainees and the funding arrangements necessary for them to facilitate their greater involvement;

(d) The establishment of locally based protocols between police, medical and para-medical agencies to facilitate the provision of medical assistance to all persons in police custody where the need arises;

(e) The establishment of proper systems of liaison between Aboriginal Health Services and police so as to ensure the transfer of information relevant to
the health, medical needs and risk status of Aboriginal persons taken into police custody; and

(f) The development of protocols for the care and management of Aboriginal prisoners at risk, with attention to be given to the specific action to be taken by officers with respect to the management of:

(i) intoxicated persons;

(ii) persons who are known to suffer from illnesses such as epilepsy, diabetes or heart disease or other serious medical conditions;

(iii) persons who make any attempt to harm themselves or who exhibit a tendency to violent, irrational or potentially self-injurious behaviour,

(iv) persons with an impaired state of consciousness;

(v) angry, aggressive or otherwise disturbed persons;

(vi) persons suffering from mental illness;

(vii) other serious medical conditions;

(viii) persons in possession of, or requiring access to, medication; and

(ix) such other persons or situations as agreed.

Recommendation 135: In no case should a person be transported by police to a watch-house when that person is either unconscious or not easily roused. Such persons must be immediately taken to a hospital or medical practitioner or, if neither is available, to a nurse or other person qualified to assess their health.

Recommendation 136: That a person found to be unconscious or not easily rousable whilst in a watch-house or cell must be immediately conveyed to a hospital, medical practitioner or a nurse. (Where quicker medical aid can be summoned to the watch-house or cell or there are reasons for believing that movement may be dangerous for the health of the detainee, such medical attendance should be sought).

It is beyond the scope of this Report to consider the access to medical staff in every police watch-house.¹⁰⁶

Regarding emergency medical attention, Victoria,¹⁰⁷ Queensland,¹⁰⁸ New South Wales¹⁰⁹ and the Australian Capital Territory¹¹⁰ have fully

¹⁰⁶ The Aboriginal and Torres Strait Islander Commission (reporting in 1996) found that coroners’ reports had noted that in 7 of the 61 investigated cases located in NSW, QLD and WA it was evident that there was no regular medical staff presence in watch-houses, which suggests that this recommendation has not been fully implemented. (Indigenous Deaths in Custody 1989-1996, A report prepared by the Office of the Aboriginal & Torres Strait Islander Social Justice. Commissioner for the Aboriginal & Torres Strait Islander Commission, October 1996, chapter 8, paragraph 2 ‘Custodial Health and Safety: Police’.)

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implemented this Recommendation and Western Australia\textsuperscript{111} has partially implemented this Recommendation. The Tasmania Police Manual at section 7.6.1 states that “it is believed that some Aboriginal persons affected by alcohol drugs or incarceration have a predisposition to suicide or self-injury. Members should exercise special vigilance and precautions to ensure the safety and well-being of Aboriginal persons should there be a need to detain them in police custody.” The manual also states at section 7.2.10 that “members shall ensure immediate medical treatment or care is sought if there is any doubt concerning the medical condition of a person in custody”, but no mention is made of greater access to, or availability of, medically trained personnel. Note that as at April 2015, this manual appears no longer to be publicly available and as a result its currency has no longer been verified.

In Western Australia, legislation requires procedures to be put in place to provide first aid and emergency medical care to detainees in police lock-ups or court custodial centres and the officer in charge of a lock up to arrange any medical attention necessary for the health, safety and welfare of a prisoner.\textsuperscript{112} Prisoners or detainees who are in need of medical treatment are not to be admitted to a lockup.\textsuperscript{113}

Alarmingly, legislation in the Northern Territory only requires intoxicated persons to be assessed by a health practitioner if they are still intoxicated after six hours.\textsuperscript{114} The Northern Territory Police guidelines have not been made publicly available but the findings in the Coroner's Report for Mr Briscoe, released on 17 September 2012, suggest that either the Recommendations have not been incorporated into the guidelines or that the guidelines are not adhered to.\textsuperscript{115}

This Report found no evidence of this Recommendation being implemented in South Australia.

\textsuperscript{107} Victoria Police Manual: Safe management of persons in police care or custody, sections 2.1 (Medical checklist) and 8.4 (Medical treatment and attention).
\textsuperscript{109} Law Enforcement (Powers and responsibilities) Act 2002 (NSW), s.129 ‘Right to medical attention’;
NSW Police Force: Code of Practice for CRIME (Custody, Rights, Investigation, Management & Evidence), 2012, p.54-57.
\textsuperscript{110} ACT Policing Watch-house Operations Manual, paragraph 2.7. Note that as at April 2015, this manual appears not to be publicly available and as a result its currency has not been verified.
\textsuperscript{111} Western Australian Police Manual (22 August 2014), LP-14.01 (Medical).
\textsuperscript{112} Court Security and Custodial Services Regulations 1999 (WA), Regulation 11 ‘First aid and emergency medical care’, Western Australian Police Manual (22 August 2014), section LP - 14.01 (Medical).
\textsuperscript{113} Western Australian Police Manual (22 August 2014), section LP 4.04 (Medical Treatment Prior to Admission).
\textsuperscript{114} Police Administration Act (NT), s.132, ‘Continued detention of persons taken into custody under section 128’.


15. CUSTODIAL HEALTH AND SAFETY (RECOMMENDATIONS 122 - 167)
2.2.2. Detainees held in police watch-houses on behalf of Corrective Services authority (Recommendation 128)

The RCIADIC identified that some police watch-houses were being used as ‘Police prisons’ on behalf of Corrective Services authorities and recommended that prisoners held under this arrangement should be provided with medical services no less adequate than those provided in correctional institutions.

**Recommendation 128:** That where persons are held in police watch-houses on behalf of a Corrective Services authority, that authority arrange, in consultation with Police Services, for medical services (and as far as possible other services) to be provided not less adequate than those that are provided in correctional institutions.

Police guidelines and legislation in all other States and Territories failed to reference the standard of medical services provided in watch-houses to that of correctional institutions. The National Police Guidelines and Australian Capital Territory guidelines recognise that detainees are entitled to the same standard of medical care as any other member of public, and New South Wales has legislated that detainees have a right to medical attention. However, this standard may not be sufficient, as the Australian Medical Association has recently highlighted that prisoners have far greater health needs than the general population.

2.2.3. Feeding intoxicated persons (Recommendation 143)

The RCIADIC found that the practice of some States to withhold food from intoxicated persons was likely to increase the risk of danger to the welfare of detainees, due to the relationship between alcohol misuse, diabetes, hypoglycaemia and malnutrition. Accordingly, the RCIADIC recommended that all persons taken into custody must be supplied with a meal at regular meal times.

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116 Paragraph 17.
117 ACT Watch-house Operations Manual, paragraph 2.7. Note that as at April 2015, this manual appears not to be publicly available and as a result its currency has not been verified.
118 NSW: *Law Enforcement (Powers and Responsibilities) Act 2002*, s.129 (right to immediate medical attention where custody manager believes is necessary). See also NSW Police Force: Code of Practice for CRIME (Custody, Rights, Investigation, Management & Evidence) 2012, p. 55.
120 RCIADIC National Report, 1991, paragraph 24.3.106 (Feeding Intoxicated Persons), where the Commission stated, "It became apparent during the hearings that it is the practice in some States and the Territory for persons detained for protective custody on the basis of public intoxication not to be provided with meals during the period of detention. In South Australia, for example, I have been informed that Station Sergeants have been specifically instructed not to provide meals to persons who are detained for intoxication under the; Public Intoxication Act 1984 (SA)."
**Recommendation 143:** All persons taken into custody, including those persons detained for intoxication, should be provided with a proper meal at regular meal times. The practice operating in some jurisdictions of excluding persons detained for intoxication from being provided with meals should be reviewed as a matter of priority.

New South Wales has implemented this Recommendation, and Queensland has some guidelines pertaining to the provision of meals to people in custody. New South Wales legislation provides that intoxicated persons are to be provided with necessary food and drink appropriate to the person's needs and the New South Wales Police Code sets out the number of meals required within a 24 hour period (but does not specify whether all meal times are applicable to intoxicated persons). The Queensland Police Service Operational Procedures Manual requires the watchhouse manager to provide prisoners with meals three times a day (but also does not specify whether all meal times are applicable to intoxicated persons).

This Report found no publicly available evidence that the National Police Guidelines or guidelines of the remaining States and Territories have implemented this Recommendation. Indeed, the Australian Capital Territory Watch-House Guidelines specify that food for intoxicated persons is at the discretion of the watch-house Sergeant and may be refused, depending on the level of intoxication. Similarly, although the Western Australia Police Manual provides that where a prisoner is detained in a police lockup facility at a time coinciding with a prescribed meal period the member in charge of that facility is required to provide the prisoner with a meal, the definition of 'prisoner' in this section expressly excludes 'drunk detainees'. In normal circumstances, no meals will be supplied to 'drunk detainees', however the member in charge of a lockup facility has the discretion to provide a meal during a prescribed meal period prior to release.

The Victoria Police Manual does not specifically address feeding intoxicated persons, but does require that, where an Aboriginal or Torres Strait Islander person is being held in police cells and appears intoxicated, the local Aboriginal Community Justice Panel and Sobering Up Centre should be notified and the relevant detainee should be released into their custody if appropriate.

### 2.2.4. Staff training on health issues and risk assessment (Recommendation 133)

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122 Law Enforcement (Powers and Responsibilities Act) 2002 (NSW), s. 207(2)(e); NSW Police Force: Code of Practice for CRIME (Custody, Rights, Investigation, Management & Evidence, 2012, p.47.
124 ACT Watch-house Operations Manual paragraph 5.6. Note that as at April 2015, these guidelines appear not to be publicly available and as a result its currency has not been verified.
125 Western Australian Police Manual (22 August 2014), section LP - 13.01.1 (Provision of Meals).
126 Ibid.

15. CUSTODIAL HEALTH AND SAFETY (RECOMMENDATIONS 122 - 167)
The RCIADIC found that training was essential to assist police officers to identify persons at risk of death or injury through illness (such as epilepsy, diabetes, heart and respiratory diseases, withdrawal of alcohol and alcohol poisoning), injury or self-harm. In particular, the RCIADIC recognised that specialised training is required to identify detainees who may self-harm or may suffer from certain illnesses or injuries (which may mimic or be masked by the symptoms of intoxication). Accordingly, the RCIADIC recommended that:

- All police officers receive training at both recruit and in-service levels to identify persons ‘at risk’. Training should include:
  - general health status of Indigenous persons;
  - dangers associated with intoxication;
  - dangers associated with detaining unconscious or semi-rousable persons; and
  - specific action required under the protocols.
- Intensive and specialised training regarding health matters for prison officers whose principal duties relate to cell guard duties.

Recommendation 133: That:

(a) All police officers should receive training at both recruit and in-service levels to enable them to identify persons in distress or at risk of death or injury through illness, injury or self-harm;

(b) Such training should include information as to the general health status of the Aboriginal population, the dangers and misconceptions associated with intoxication, the dangers associated with detaining unconscious or semi-rousable persons and the specific action to be taken by officers in relation to those matters which are to be the subject of protocols referred to in Recommendation 127;

(c) In designing and delivering such training programs, custodial authorities should seek the advice and assistance of Aboriginal Health Services and Aboriginal Legal Services; and

(d) Where a police officer or other person is designated or recognised by a police service as being a person whose work is dedicated wholly or substantially to cell guard duties then such person should receive a more intensive and specialised training than would be appropriate for other officers.

The National Police Guidelines do not refer to specific police training regarding the recognition of Indigenous health issues or serious medical

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129 Ibid, recommendation 133.
conditions. It is therefore perhaps not surprising that no State or Territory has published detailed guidelines in connection with identifying health risks of detainees. Indeed, police failure to recognise medical conditions and injuries has been highlighted as a matter of concern for detainees in the Australian Capital Territory.\(^\text{130}\)

In Western Australia, critical skills (police life support) training is compulsory for all police officers, custody officers and commissioned officers (undertaken every two years), as well as for Aboriginal Police Liaison Officers (on induction and in-service where operationally possible).\(^\text{131}\)

### 2.2.5. Improving the standard of police cell accommodation (Recommendation 148 and 149)

The RCIADIC found that some police cell accommodation is entirely substandard and unsuitable for prolonged detention, as some cells lack toilets, exercise areas, adequate ventilation and proper lighting.\(^\text{132}\) In addition to updating cell accommodation over time, the RCIADIC recommended a number of practical alternatives to using substandard facilities, including:

- positive initiatives to reduce the number of Indigenous people in custody;
- the transfer of detainees to alternative accommodation where higher standard facilities are available at no great distance;
- bail procedures; and
- flexible custody arrangements where detainees are able to sit with their family and friends during the day and talk.\(^\text{133}\)

**Recommendation 148:** That whilst there can be little doubt that some police cell accommodation is entirely substandard and must be improved over time, expenditure on positive initiatives to reduce the number of Aboriginal people in custody discussed elsewhere in this report constitutes a more pressing priority as far as resources are concerned. Where cells of a higher standard are available at no

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\(^{131}\)Western Australian Police Manual (28 March 2012), section AD-57 (Critical Skills (Police Life Support) Training and Re-qualification) and AD-1.2.4 (Training) (note that according to an email response from WA Police received on 9 April 2015, AD-1.2.4 has been removed pending review). See also Western Australian police website at <http://www.police.wa.gov.au/AboutUs/Academy/Faculties/tabid/1699/Default.aspx> (accessed 27 March 2015), which briefly describes 14 police training modules.


\(^{133}\)Ibid, recommendation 149. At paragraph 24.3.141, the RCIADIC noted that flexible custody arrangements have already been introduced in certain remote areas and has proved advantageous in minimising detainees’ isolation, providing access to open air and a suitable environment for visits and contact with family and friends and enhancing relations between Police, detainees and community.

15. CUSTODIAL HEALTH AND SAFETY (RECOMMENDATIONS 122 - 167)
great distance, these may be able to be used. More immediate attention must be
given to programs diverting people from custody, to the provision of alternative
accommodation to police cells for intoxicated persons, to bail procedures and to
proceeding by way of summons or caution rather than by way of arrest. All these
initiatives will reduce the call on outmoded cells. The highest priority is to reduce the
numbers for whom cell accommodation is required. Where, however, it is determined
that new cell accommodation must be provided in areas of high Aboriginal
population, the views of the local Aboriginal community and organisations should be
taken into account in the design of such accommodation. The design or re-design of
any police cell should emphasise and facilitate personal interaction between
custodial officers and detainees and between detainees and visitors.

Recommendation 149: That Police Services should recognise, by appropriate
instructions, the need to permit flexible custody arrangements which enable police to
grant greater physical freedoms and practical liberties to Aboriginal detainees. The
Commission recommends that the instructions acknowledge the fact that in
appropriate circumstances it is consistent with the interest of the public and also the
well-being of detainees to permit some freedom of movement within or outside the
confines of watch-houses.

A physical inspection of police cell accommodation would be required to
assess whether the RCIADIC’s Recommendation has now been
implemented, which is outside the scope of this Report. However, for a
review of implementation of the RCIADIC’s Recommendations regarding
flexible custody and bail arrangements, please refer to the Chapters 13 and
14 of this Report.

In NSW, the Aboriginal Offender Strategic Plan (2010-2012) of Corrective
Service NSW (which no longer appears to be publicly available as at March
2015) provided that the key priorities for increasing diversion of Aboriginal
offenders from custody are:

- to engage with Aboriginal communities regarding relevant
  alternatives to custody;
- to utilise knowledge and skills of Aboriginal staff in developing
  innovative diversionary programmes, in conjunction with
  Aboriginal communities where appropriate; and to promote
  sentencing options for Aboriginal offenders which offer
  alternatives to full-time custody.

More recently, the NSW Department of Juvenile Justice's Aboriginal Over-
representation Strategic Plan identified considering options for alternatives
to custody, such as bail hostels, as a key strategy and reported on the Ja-

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In Victoria, the Office of Police Integrity's June 2010 report entitled "Update on Conditions in
Victoria Police Cells", p. 27 concluded that standards of police cells varied greatly between locations,
available at: <http://www.ibac.vic.gov.au/docs/default-source/ opi-parliamentary-reports/update-on-
Biah Bail Accommodation Service which targets Aboriginal young people who would otherwise be held on remand in a Juvenile Justice Centre.\textsuperscript{135}

Tasmania's \textit{Aboriginal Strategic Plan} (2014-2022) identifies as an objective reducing the number of Aboriginal people who are detained in custody, and providing a safe environment should a viable alternative not readily be available. Strategies for achieving this objective include:

- where practicable and as set out in legislation, Aboriginal people should be admitted to bail and not detained in custody;
- where possible, Aboriginal people will be proceeded against through appropriate use of cautions, summons, ‘places of safety’, youth justice and drug diversionary processes; and
- engagement with the Aboriginal community to identify non-custodial options for Aboriginal people.

The ACT \textit{Aboriginal and Torres Strait Islander Justice Agreement 2010-2013 Report Card} at pages 18 and 19 states that diversion is an essential part of reducing over-representation of Aboriginal and Torres Strait Islander people in the justice system. It reported that:

- in 2011 ACT Policing cautioned 12 Aboriginal and Torres Strait Islander people, and that to April 2012 ACT Policing had diverted 10 Aboriginal and Torres Strait Islander people from the criminal justice system and cautioned a further 9; and
- for six months from 1 May 2011, all young Aboriginal and Torres Strait Islander people apprehended by the police were referred to the Restorative Justice Unit for evaluation to enter the diversion program. This was so successful that it was extended for another 12 month trial period.\textsuperscript{136}

3. Treatment of ‘at risk’ detainees

3.1. Measures to reduce despondency and suicides (Recommendations 134, 142, 144 and 165)

The RCIADIC noted that detainees taken into custody experience extreme distress and isolation, exacerbating vulnerability and suicidal tendencies. Accordingly, the RCIADIC made the following Recommendations to reduce the sense of isolation and despondency of detainees and prevent suicides:


• **Courteous treatment:** Police guidelines set out that at all times police officers are required to treat detainees humanely and courteously and any deliberately hurtful or provocative staff behaviour should be regarded as a breach of discipline.\(^{137}\)

• **Padded cells:** The use of padded cells be discontinued immediately as they are found to act as a "sensory deprivation chamber and can markedly increase distress, reactance and experienced isolation".\(^{138}\)

• **Cell placement:** Indigenous detainees be consulted to ascertain whether they wish to share a cell with another Indigenous person to ease the sense of isolation and despondency.\(^{139}\)

• **Scrutiny of equipment and facilities:** Police and Corrective Services authorities should carefully scrutinise equipment and facilities provided at institutions with a view to eliminating and/or reducing the potential for harm. Similarly, steps should be taken to screen hanging points in police and prison cells.\(^{140}\)

**Recommendation 134:** That police instructions should require that, at all times, police should interact with detainees in a manner which is both humane and courteous. Police authorities should regard it as a serious breach of discipline for an officer to speak to a detainee in a deliberately hurtful or provocative manner.

**Recommendation 142:** That the installation and/or use of padded cells in police watch-houses for punitive purposes or for the management of those at risk should be discontinued immediately.

**Recommendation 144:** That in all cases, unless there are substantial grounds for believing that the well-being of the detainee or other persons detained would be prejudiced, an Aboriginal detainee should not be placed alone in a police cell. Wherever possible an Aboriginal detainee should be accommodated with another Aboriginal person. The views of the Aboriginal detainee and such other detainee as may be affected should be sought. Where placement in a cell alone is the only alternative the detainee should thereafter be treated as a person who requires careful surveillance.

**Recommendation 165:** The Commission notes that prisons and police stations may contain equipment which is essential for the provision of services within the institution but which may also be capable, if misused, of causing harm or self-harm to a prisoner or detainee. The Commission notes that in one case death resulted from the inhalation of fumes from a fire extinguisher. Whilst recognising the difficulties of eliminating all such items which may be potentially dangerous the Commission recommends that Police and Corrective Services authorities should carefully scrutinise equipment and facilities provided at institutions with a view to eliminating and/or reducing the potential for harm. Similarly, steps should be taken to screen hanging points in police and prison cells.


\(^{138}\) Ibid, recommendation 144, paragraph 24.3.103.

\(^{139}\) Ibid, recommendation 144.

\(^{140}\) Ibid, recommendation 163.
The RCIADIC’s Recommendation regarding courteous treatment has been included in legislation/guidelines in Western Australia, South Australia, Victoria and New South Wales. Guidelines in Tasmania only refer to dealing with matters in a professional manner displaying sensitivity and understanding, as opposed to the courteous treatment of detainees. Similarly, the Northern Territory Customer Service Charter requires every customer to be treated with courtesy and respect, but does not specifically reference detainees. The National Police Guidelines do not specifically require ‘courteous’ treatment but do state that any person in custody must be treated with humanity, dignity and regard for their civil rights, and not be subjected to cruel, inhumane or degrading treatment. We could not obtain any guidelines in the ACT which required courteous treatment of detainees.

In regard to the discontinuance of padded cells, the National Police Guidelines, Western Australian Police Manual and the Australian Capital Territory Policing: Watch-house Operations Manual refer to padded cells. The National Police Guidelines provides that a person may be placed in a padded cell if they have attempted self-harm or are behaving in a manner that is violent, uncontrollable or likely to cause injury.

In Western Australia, padded cells are not to be used as punishment and may only be used for temporary prisoner management to restrain violent or aggressive prisoners in the interests of their own and others’ safety. Notwithstanding the RCIADIC’s Recommendation, in May 2010, it was announced that the new Pilbara Police Complex in Western Australia would have six police cells, including one padded cell. In Victoria, where necessary, a detainee may be transferred to the Melbourne Custody Centre, where padded cells are used. In Queensland, a prisoner may be placed in a ‘suicide resistant cell’ where assessed as presenting a

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141 Police Force Regulations 1979 (WA), regulation 402(b), which requires every member to behave at all times with courtesy to the public, but does not expressly refer to detainees. See also Western Australian Police Strategic Policy on Police and Aboriginal People, available at: <http://www.police.wa.gov.au/Ourservices/Indigenouscommunities/tabid/995/Default.aspx>, which refers to the provision of equitable policing services.
143 Victoria Police Manual (2015), Persons in police care or custody, section 4.3 (Responsibilities).
147 National Police Guidelines, section 6.
148 Ibid, section 30.
149 Western Australian Lockup Manual (22 August 2014), LP-11.06, LP-01-03 (Responsibilities).
150 Note that, as at April 2015, this manual appears not to be publicly available and as a result its currency has not been verified.
151 National Police Guidelines, section 30.
152 Western Australian Police Manual (22 August 2014), section LP-11.5 (Padded Cells).
154 Victoria Police Manual (2015), Guidelines - Safe management of persons in police care or custody, section 7.5 (Transfers where police facilities are inadequate).
high risk of suicide or self-harming behaviour. It is unclear whether this includes padded cells, although the operating procedures on safety orders indicate that padded cells are used. The Queensland Government Progress Report on Implementation (October 1997) notes, however, that the use of padded cells is not relevant to youth detention centres in Queensland where such devices are not used. The legislation and published guidelines of the remaining States and Territories do not refer to the use of padded cells so it is unclear whether the RCIADIC’s Recommendation has been implemented, although:

- in a written response to a specific inquiry about padded cells, Tasmania Police advised that there are no padded cells in Tasmania;

- in the SAPOL General Order - Arrest and Custody Management at pages 51-53, guidance is given as to the use of padded cells, suggesting that they are still in use in South Australia; and

- a report by the Australian Federal Police and the Commonwealth Ombudsman in June 2007 on a review of ACT Policing's Watch-house Operations described in detail the appearance of a padded cell, and the use to which padded cells were put in the watch-house.

As regards cell placement, New South Wales, Queensland, ACT, South Australia and Western Australian guidelines refer to placing Indigenous Australian detainees together where possible.

Section 37 of the ACT Policing Practical Guide on Persons in Custody states that wherever possible Indigenous Australians will not be placed in a cell by themselves.

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157 Note that, as at April 2015, this report appears not to be publicly available and as a result its currency has not been verified.

158 Note that, as at April 2015, this order appears not to be publicly available and as a result its currency has not been verified.


161 Queensland Police Service Operational Procedures Manual, December 2014, section 16.12.1. The Manual does not specifically mention that the views of the Indigenous detainee and such other detainee as may be affected should be sought or that, where placement in a cell alone is the only alternative, the detainee should thereafter be treated as a person who requires careful surveillance.

162 Note that, as at April 2015, South Australian guidelines appear not to be publicly available and as a result its currency has not been verified.

163 Western Australian Police Manual (22 August 2014), section LP 12.02 (Aboriginal Prisoners), which refers to the encouragement of Indigenous prisoners sharing cells (unless tribal conflicts are likely), but does not specifically refer to seeking their views or treating Indigenous prisoners who are placed alone in cells as requiring careful surveillance.
It is preferable that they are lodged with other Indigenous Australians.\textsuperscript{164} However, the joint report by the Australian Federal Police and the Commonwealth Ombudsman on the review of ACT Policing’s Watch-house Operations (June 2007) found that staff at the watch-house were not clear about best practice, did not have access to a copy of the RCIADIC Recommendations and had differing views about whether two Indigenous detainees were better accommodated in the same cell or in separate cells.\textsuperscript{165}

In South Australia, the SAPOL General Order - Arrest and Custody Management, page 51 reflects the RCIADIC Recommendation 144 in full.\textsuperscript{166}

In regards to scrutiny of cell equipment and facilities, a number of jurisdictions have guidelines in relation to checking cell facilities and screening hanging points.

The Victorian Police Manual requires that, where practicable, custody staff should visually inspect and search detention facilities before a detainee is placed or allowed in them, after the detainee is released and periodically throughout the shift. The staff member conducting the search is specifically required to check that the area is clean and free of articles that may be used to cause injury and that no hanging points are available.\textsuperscript{167}

In New South Wales, every cell should always be searched before and after use for anything that might be used to inflict harm or cause damage. Prompt reports are required to be made if cells are considered to be insecure or hazardous in any way. Exercise yards are also required to be promptly inspected.\textsuperscript{168}

The Queensland Police Services Operational Procedure Manual makes extensive reference to hanging points and requires constant supervision of prisoners who are located in areas that have hanging points, such as exercise yards and shower facilities.\textsuperscript{169} The Manual does include a provision for inspecting facilities, but this is focused on locating items illegally brought to the facility rather than checking generally for equipment that may cause harm.\textsuperscript{170}

The WA Police Manual requires officers to check the condition of a cell before placing a detainee in it and whenever the detainee is removed, but does not make any particular reference to equipment that may be used to cause injury.\textsuperscript{171} Similarly,
the National Police Guidelines require daily facility checks but these checks are merely to ensure that the cell facilities are in "good working order". 172

As at April 2015, Tasmania, the Northern Territory and South Australia do not appear to have any publicly available guidelines that address scrutiny of cell equipment and facilities.

3.2. Visitors (Recommendations 145 and 146)

The RCIADIC’s investigations found that visits from the community assisted the positive behaviour of Indigenous detainees and reduced the incidents of suicide and self-harm. Accordingly, the RCIADIC recommended that throughout Australia, the following be encouraged in consultation with the Indigenous community:

- cell visitor schemes 173 by a support panel of doctors, psychologists and social workers trained in police procedures, legal issues and first aid; and

- visits by family and friends. 174

Recommendation 145: That:

(a) In consultation with Aboriginal communities and their organisations, cell visitor schemes (or schemes serving similar purposes) should be introduced to service police watch-houses wherever practicable;

(b) Where such cell visitor schemes do not presently exist and where there is a need or an expressed interest by Aboriginal persons in the creation of such a scheme, government should undertake negotiations with local Aboriginal groups and organisations towards the establishment of such a scheme. The involvement of the Aboriginal community should be sought in the management and operation of the schemes. Adequate training should be provided to persons participating in such schemes. Governments should ensure that cell visitor schemes receive appropriate funding;

(c) Where police cell visitor schemes are established it should be made clear to police officers performing duties as custodians of those detained in police cells that the operation of the cell visitor scheme does not lessen, to any degree, the duty of care owed by them to detainees; and

(d) Aboriginal participants in cell visitor schemes should be those nominated or approved by appropriate Aboriginal communities and/or organisations as well as by any other person whose approval is required by local practice.

172 National Police Guidelines, paragraph 40 (Facility checks).
173 RCIADIC National Report, recommendation 145. The RCIADIC notes that North Territory, Western Australia, South Australia and Victoria had already implemented similar schemes at paragraph 24.3.111 of the Report.
174 RCIADIC National Report, recommendation 146.
**Recommendation 146:** That police should take all reasonable steps to both encourage and facilitate the visits by family and friends of persons detained in police custody.

As regards cell visitor schemes, this Recommendation has been partially implemented in most States and Territories. However, this Report found that schemes have been set up by independent bodies, which may lack funding and are therefore run on a voluntary basis with volunteers having limited or no appropriate training.

The Commonwealth and Queensland governments have legislated that a legal aid organisation and an interview friend should be contacted on behalf of Indigenous Australians as part of the questioning process. Cell visitor schemes have been established in the Australian Capital Territory, South Australia, Western Australia, Queensland and New South Wales. In Victoria, the Victoria Police Manual provides for the notification of the Victorian Aboriginal Legal Service within 60 minutes of a person identifying as being of Indigenous descent entering police custody.

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175 Cth: Crimes Act 1914, s.23H; Qld: Police Powers & Responsibilities Act 2000, s.420.
179 Pursuant to section 16.22 (Cell Visitors Scheme) of the Queensland Police Service Operational Procedures Manual, December 2014, a cell visitors scheme is seen as a desirable complement to careful prisoner supervision in order to meet the needs of prisoners and the officer in charge of a watchhouse is to encourage the implementation of a cell visitors scheme. According KPMG’s Evaluation of the Community Justice Group Program (Final Report) (November 2010), the Queensland Department of Justice and Attorney-General funded 52 community justice groups in 2010/11, whose non-core functions included visiting prisoners and detention centres: p.34. However, community justice groups indicated that while visiting cells is listed as part of their work with offenders who had been charged, it was not a frequent occurrence: p.52-53 <http://www.justice.qld.gov.au/__data/assets/pdf_file/0003/88905/evaluation-of-the-community-justice-group-program.pdf> (accessed 30 March 2015). Murri Watch Aboriginal and Torres Strait Islander Corporation provides cell visits for Indigenous people held in watch houses in the greater Brisbane area. See, <https://www.qld.gov.au/atsi/legal-support-reporting-crime/support-justice-system/> (accessed 30 March 2015); and <http://www.pronch.com/services.html> (accessed 30 March 2015).
cells. There is also a requirement to notify the local Aboriginal Community Justice Panel in areas where they are located. Western Australia has a similar requirement. The remaining States and Territories have not published guidelines addressing such schemes. In response to a specific request, Tasmania Police have advised in writing that there are no cell visitor schemes in operation in that State.

As regards encouraging relatives to visit detainees, only New South Wales has fully implemented this Recommendation in its guidelines. While the National Police Guidelines and the Australian Capital Territory guidelines refer to visiting times, visits are subject to the Sergeant’s discretion. Queensland has published a strategic direction to support transitions from adult correctional centres by ensuring that all Indigenous offenders in prisons have the opportunity to maintain connections with their families through video link-ups and face-to-face visits where appropriate. In Victoria, the Victoria Police Manual sets out guidelines for visits by family and friends, and provides that "[d]etainees should be allowed to have friends or family visit them". In December 2013, the Victorian Government published a video about visiting family or friends in which the opening line is "Corrections Victoria encourages prisoners to keep in touch with their family and friends". In Western Australia, whilst the Police Manual permits visits to "trusty prisoners", and section 59 of the Prisons Act 1981 (WA), regulation 52 of the Prisons Regulations 1982 (WA) and rule 7 of the Adult Custodial Rules permit visits by family or friends to prisoners, there is no express reference to encouraging visits. Rule 501 of the Youth Custodial Rules, however, expressly refers to the benefits to detainees from visits from family and official visitors and includes both the Aboriginal Visitors Scheme and social visitors and categories of visitors. In addition, the Western Australian Department of Corrective Services website (as last updated on 18 October 2013) states that "[v]isitors are most welcome in all Western Australian (WA) prisons and family and

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181 Victoria Police Manual, Safe management of persons in police care or custody, section 4.3 (Initial assessment and recording).
182 Victoria Police Manual, Guidelines – Attendance & custody modules, section 1.9 (Entering persons identifying as being of Aboriginal/Torres Strait Islander descent on Attendance module).
183 Western Australian Police Manual (22 August 2014), sections AD 1.4 (Aboriginal Legal Service), L-PO2.10 (Aboriginal Legal Service (ALS) Detainee Advice) and LP 14.08 (Aboriginal Legal Service).
184 NSW Police Force: Code of Practice for CRIME (Custody Rights, Investigation, Management & Evidence), 2012, p.50.
185 National Police Guidelines, Paragraph 33; ACT: ACT Policing Watch-house Operations Manual, paragraph 2.18. Note that, as at April 2015, this manual appears not to be publicly available and as a result its currency has not been verified.
187 Victoria Police Manual (2015), Guidelines - Safe management of persons in police care or custody, s.8.9 (Visitors).
189 Western Australian Police Manual, section LP 15.04 (Trusty Prisoners Security). See also and clauses 3.20 - 3.22 of the Standard Guidelines for Corrections in Australia (Revised 2004), which refers to the encouragement of visitors.
friends are encouraged to maintain contact with prisoners throughout their sentence". The South Australian Department for Correctional Services and the Tasmanian Department of Justice provide similar encouragement on their websites.

In South Australia, the SAPOL General Order - Arrest and Custody Management does not specifically address encouraging family members to visit, but states at page 67 that a visitor from the Aboriginal Visitors Scheme should be requested as soon as an Aboriginal or Torres Strait Islander is detained. It goes on to state that notice of a visit by Aboriginal Visitor Scheme visitors is not required and they may enter all areas where prisoners are located. At page 65, it says that in circumstances where a prisoner displays signs of depression or indicates that they may engage in an act that could cause their death or injury, they should be asked whether they would like a visit from a relative, friend or other suitable person. This falls short of implementing the Recommendation in full. Note that, as at April 2015, this order appears to be no longer publicly available and as a result its currency has not been verified.

### 3.3. Notification of relatives if ‘at risk’ (Recommendation 147)

The RCIADIC recommended that police guidelines be amended to make it mandatory for staff to notify a detainee’s family immediately if that detainee is regarded as being ‘at risk’ or is transferred to hospital.

**Recommendation 147:** That police instructions should be amended to make it mandatory for police to immediately notify the relatives of a detainee who is regarded as being ‘at risk’, or who has been transferred to hospital.

The Report’s findings reveal that only the National Police Guidelines and guidelines in New South Wales have fully implemented this Recommendation.

The National Police Guidelines require next of kin to be notified as soon as practicable if a person in custody suffers serious injury but do not expressly provide for this requirement in regards to detainees that are ‘at risk’ or being transferred to hospital.

In the ACT, paragraph 5.10 of the ACT Police Watch-house Operations Manual requires that the Aboriginal Legal Service be notified whenever an Aboriginal or Torres Strait Islander person (who is also categorised as a ‘person at risk’) is brought to a watch-house. The ACT Policing Practical Guide: Persons in Custody is not publicly available, but references to it in other documents state that section 19 of that document provides that when a person in custody is considered to be a person at risk or conveyed to hospital, a member is to endeavour to notify a member of that

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194 RCIADIC Report, Recommendation 147.

195 National Police Guidelines, paragraph 21.


15. CUSTODIAL HEALTH AND SAFETY (RECOMMENDATIONS 122 - 167)
person's family. Note that, as at April 2015, this manual appears to no longer be publicly available and as a result its currency has not been verified.

In Victoria, if a person in police custody is taken to hospital for medical treatment, police officers must ask the person whether they want relatives or friends notified.\textsuperscript{197}

In Western Australia, in the event of serious illness, injury or attempted suicide in police lock up, members are required to promptly notify the next of kin or person nominated by the prisoner.\textsuperscript{198}

4. Sharing Information

4.1. Transfer of medical information (Recommendations 129, 130, 152, 157 and 166)

The RCIADIC identified that the exchange of information between Custodial Authorities has very positive benefits for reducing deaths in custody.\textsuperscript{199} Therefore, the RCIADIC recommended that Custodial Authorities liaise with Aboriginal Legal and Health Services to establish protocols for the transfer of information regarding any medical factors which may increase the risk of death or injury to an Indigenous detainee. Subject to the detainee’s right to privacy and confidentiality, the RCIADIC recommended medical information should be shared between the police, Corrective Services, medical staff, hospitals and health services.

\textbf{Recommendation 129:} That the use of breath analysis equipment to test the blood alcohol levels at the time of reception of persons taken into custody be thoroughly evaluated by Police Services in consultation with Aboriginal Legal Services, Aboriginal Health Services, health departments and relevant agencies.

\textbf{Recommendation 130:} That:

\begin{enumerate}
\item[(a)] Protocols be established for the transfer between Police and Corrective Services of information about the physical or mental condition of an Aboriginal person which may create or increase the risks of death or injury to that person when in custody;
\item[(b)] In developing such protocols, Police Services, Corrective Services and health authorities with Aboriginal Legal Services and Aboriginal Health Services should establish procedures for the transfer of such information and establish necessary safe-guards to protect the rights of privacy and confidentiality of individual prisoners to the extent compatible with adequate care; and
\item[(c)] Such protocols should be subject to relevant ministerial approval.
\end{enumerate}

\textsuperscript{197} Victoria Police Manual, Guidelines - Safe Management of persons in police care or custody, section 2.3.
\textsuperscript{198} Western Australian Police Manual, section LP 3.1 (Duties).
\textsuperscript{199} RCIADIC, National Report, 1991, Chapter 24.3.33.

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**Recommendation 152:** That Corrective Services in conjunction with Aboriginal Health Services and such other bodies as may be appropriate should review the provision of health services to Aboriginal prisoners in correctional institutions and have regard to, and report upon, the following matters together with other matters thought appropriate:

(a) The standard of general and mental health care available to Aboriginal prisoners in each correctional institution;

(b) The extent to which services provided are culturally appropriate for and are used by Aboriginal inmates. Particular attention should be given to drug and alcohol treatment, rehabilitative and preventative education and counselling programs for Aboriginal prisoners. Such programs should be provided, where possible, by Aboriginal people;

(c) The involvement of Aboriginal Health Services in the provision of general and mental health care to Aboriginal prisoners;

(d) The development of appropriate facilities for the behaviourally disturbed;

(e) The exchange of relevant information between prison medical staff and external health and medical agencies, including Aboriginal Health Services, as to risk factors in the detention of any Aboriginal inmate, and as to the protection of the rights of privacy and confidentiality of such inmates so far as is consistent with their proper care;

(f) The establishment of detailed guidelines governing the exchange of information between prison medical staff, corrections officers and corrections administrators with respect to the health and safety of prisoners. Such guidelines must recognise both the rights of prisoners to confidentiality and privacy and the responsibilities of corrections officers for the informed care of prisoners. Such guidelines must also be public and be available to prisoners; and

(g) The development of protocols detailing the specific action to be taken by officers with respect to the care and management of:

(i) persons identified at the screening assessment on reception as being at risk or requiring any special consideration for whatever reason;

(ii) intoxicated or drug affected persons, or persons with drug or alcohol related conditions;

(iii) persons who are known to suffer from any serious illnesses or conditions such as epilepsy, diabetes or

(iv) persons who have made any attempt to harm themselves or who exhibit, or are believed to have exhibited, a tendency to violent, irrational or potentially self-injurious behaviour,

(v) apparently angry, aggressive or disturbed persons;
(vi) persons suffering from mental illness;

(vii) other serious medical conditions;

(viii) persons on medication; and

(ix) such other persons or situations as agreed.

Recommendation 153: That:

(a) Prison Medical Services should be the subject of ongoing review in the light of experiences in all jurisdictions;

(b) The issue of confidentiality between prison medical staff and prisoners should be addressed by the relevant bodies, including prisoner groups; and

(c) Whatever administrative model for the delivery of prison medical services is adopted, it is essential that medical staff should be responsible to professional medical officers rather than to prison administrators.

Recommendation 157: That, as part of the assessment procedure outlined in Recommendation 156, efforts must be made by the Prison Medical Service to obtain a comprehensive medical history for the prisoner including medical records from a previous occasion of imprisonment, and where necessary, prior treatment records from hospitals and health services. In order to facilitate this process, procedures should be established to ensure that a prisoner’s medical history files accompany the prisoner on transfer to other institutions and upon re-admission and that negotiations are undertaken between prison medical, hospital and health services to establish guidelines for the transfer of such information.

Recommendation 166: That machinery should be put in place for the exchange, between Police and Corrective Services authorities, of information relating to the care of prisoners.

This Report’s findings reveal that whereas Corrective Services legislation/guidelines throughout Australia refer to access to medical information from other agencies, only police guidelines in New South Wales and the Australian Capital Territory have implemented this Recommendation. Specific legislation and guidelines have been introduced in New South Wales\(^{200}\), Western Australia\(^{201}\), Queensland\(^{202}\) and the

\(^{200}\) NSW has established memoranda of understanding between the NSW Police, NSW Health and Ambulance Service and a computerised Operational Policing System, which records significant health issues such as suicide attempts. Corrective Services have access to information on COPs. Medical records are held by Justice Health (a medical corps of NSW Correctional Services) and are only disclosed in accordance with strict guidelines. See, Corrective Services NSW – Privacy Management Plan, Edition 2, 1 July 2010; Corrective Services NSW Operations Procedures Manual, 7.3. Privacy and Personal Information Protection Act 1998, the Health Records and Information Privacy Act 2002 and Regulation.297(2) of the Crimes (Administration of Sentences) Regulations 2008 require a detainee’s consent to be obtained and the adherence to strict guidelines prior to transferring medical information.

\(^{201}\) Police access to prison medical records usually requires a written application to be made (; Court Security and Custodial Services Act 1999, s.96).

\(^{202}\) Queensland Corrective Services, Healthy Prisons Handbook - Version 1 (November 2007), paragraph 16.20. Also, medical records travel with the prisoner where transferred, paragraph 1.10.
Australian Capital Territory\textsuperscript{203} to allow access to medical records by prisons, provided the disclosure of medical information is in accordance with confidentiality and privacy laws. Corrective services websites in Tasmania, Victoria, South Australia, Western Australia and the Australian Capital Territory refer to the Corrections Guidelines (see footnote 14), which govern the provision of medical information in certain circumstances, subject to confidentiality and privacy law requirements.\textsuperscript{204} Victoria has also legislated on the privacy requirements of this Recommendation\textsuperscript{205} and implemented E*Justice software, part of a Criminal Justice Enhancement Program to be used by police, prosecutions, corrections and legal aid officers, with a focus on managing information about accused persons and handling briefs of evidence.\textsuperscript{206}

According to the 1999 Report of the NSW Government’s Implementation of the RCIADIC:

- a Prisoner Admission and Management Form (‘PAMF’) was introduced by the NSW Police Service in 1994 to collect health information about detainees, particularly any known physical or psychological condition of the person that might create or increase the risk of death or injury whilst in custody. The PAMF accompanies every prisoner transferred from police custody into the custody of another authority. In at least two inquests into Aboriginal deaths in custody, the Coroner has noted that the PAMF was not always filled out fully or transferred to the Department of Corrective Services as required by police policy. Consequently, the Coroner has recommended that the Police Service continue to remind police that they must adhere to the Commissioner’s Instructions on this issue and that there should be further education on the importance of this practice.

- in cases where police identify that a person is likely to be at risk of self-harm, or to be suffering a chronic illness or condition which requires close monitoring, they enter this information on a “warning screen” within the On-Line Charge computer program. The “warning screen” provides an alert to the relevant police officers if the person is taken into custody again.

- information exchange occurs between police and the Department of Corrective Services. Police provide a hard copy of information containing a detailed account of the detainee’s assessment on admission (which is updated at least hourly throughout the custody period), together with a record of all visits, medical and other treatments.

\begin{footnotes}
\textsuperscript{203} ACT Watch-house Operations Manual paragraph 2.9; (ACT Corrective Services has also entered into an AFP Memorandum of understanding regarding the transfer of information about the health or risk status of detainees to ensure their continuing safe care). Note that, as at April 2015, this manual appears not to be publicly available and as a result its currency has not been verified.
\textsuperscript{204} Ibid paragraph 2.42. In addition, Victoria has Victorian Corrections Health Care Standards however they are not publicly available.
\textsuperscript{205} Health Records Act 2001 (VIC); Freedom of Information Act 1982 (VIC).
\end{footnotes}
However, it is uncertain whether the balance between privacy and the need to obtain medical records to comply with the duty of care has been met. Coronial inquiries in New South Wales have highlighted instances where guidelines regarding the exchange of information between police services and custodial bodies have not been adhered to, resulting in untimely delivery of information. In particular, the State Coroner found that there appears to be a lack of information transferred by Juvenile Justice to Corrective Services about potentially suicidal inmates.

4.2. Involvement of Aboriginal Health Services (Recommendation 127 and 152)

The RCIADIC also recommended the involvement of Aboriginal Health Services, which may have specific knowledge of the medical history of Indigenous detainees whom they have previously treated.

Refer to Section 2.5 of this Chapter for the text of Recommendation 127 and Section 2.13 of this Chapter for the text of Recommendation 152.

This Report's findings reveal that New South Wales has implemented these Recommendations. Queensland police have entered into partnerships with other health service providers, but these do not appear to be specific to Aboriginal Health Services. In Western Australia, the police are required to utilise the expertise of the Aboriginal Medical Service for Indigenous prisoners, where this service is available and the Strategic Policy on Police and Aboriginal People refers to a general policy statement on improving links with the Indigenous Community but not specifically the health of Indigenous detainees.

Similarly Tasmania and South Australia police have published information regarding strengthening relations with the Indigenous community but do not refer specifically to Aboriginal Health Services. The remaining States and Territories have not published information regarding partnerships with Aboriginal Health Services.

4.3. Handover of shifts (Recommendations 131 and 132)

The investigations of the RCIADIC found that police watch-houses frequently lacked the ability to permanently record information and pass on information regarding the

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208 Ibid.
210 The Mental Health Intervention Project is a partnership between the Queensland Police Service, Queensland Health and the Queensland Ambulance Service. These partnerships are not specific to Aboriginal Health Services.
211 Western Australian Police Manual, section AD 1.8.
213 Aboriginal strategic plan refers generally to liaising with Indigenous community to ensure safety in custody, p.93.
214 The SAPOL Aboriginal & Multicultural Unit ('AMU') develops policies and provides services to support policing which meets the expectations and needs of a diverse, open and cohesive South Australian community.
welfare of detainees. Accordingly, the RCIADIC made the following Recommendations:

- that recorded information regarding the medical condition of detainees, together with screening forms, are to be readily accessible to other officers; and

- that police guidelines instruct officers during the handover of a shift to run through a written checklist to pass on any information regarding the welfare of detainees, including any medical attention which may be required.

**Recommendation 131:** That where police officers in charge of prisoners acquire information relating to the medical condition of a prisoner, either because they observe that condition or because the information is voluntarily disclosed to them, such information should be recorded where it may be accessed by any other police officer charged with the supervision of that prisoner. Such information should be added to the screening form referred to in Recommendation 126 or filed in association with it.

**Recommendation 132:** That:

(a) Police instructions should require that the officer in charge of an outgoing shift draw to the attention of the officer in charge of the incoming shift any information relating to the well-being of any prisoner or detainee and, in particular, any medical attention required by any prisoner or detainee;

(b) A written check list should be devised setting out those matters which should be addressed, both in writing and orally, at the time of any such handover of shift; and

(c) Police services should assess the need for an appropriate form or process of record keeping to be devised to ensure adequate and appropriate notation of such matters.

This Report’s findings reveal that only New South Wales, Queensland and the Australian Capital Territory have accessible recorded information regarding serious incidents. The New South Wales guidelines set out a procedure for handing over shifts, which involve physically inspecting each detainee. The Queensland Police Service Operational Procedures Manual requires an officer relinquishing custody of a prisoner to advise the person receiving the prisoner of any information that may assist in providing appropriate treatment for the prisoner, including the prisoner’s medical condition. Any information obtained is to be scanned as an attachment to the relevant QPRIME Custody Report or Custody Report (Full). The National Police

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215 ACT: ACT Watch-house Operations Manual, paragraph 2.9. paragraph 1.32; Relevant information regarding detainees is recorded in PROMIS, Cell Management/Apprehension Records. Note that, as at April 2015, this manual appears not to be publicly available and as a result its currency has not been verified; NSW: COPS- recording information.


217 Queensland Police Service Operational Procedures Manual, sections 16.9.3 and 16.15. See also section 16.21.1 regarding the responsibilities of watchhouse managers at change of shifts.

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Guidelines\textsuperscript{218} require the Watch-house Sergeant to fully brief his or her replacement on medical matters, while the Australian Capital Territory guidelines\textsuperscript{219} require each member to do the same. However, the Australian Capital Territory Guidelines have been criticised for not referring to any checklist or formal structured handover arrangements.\textsuperscript{220}

Victoria claims to have fully implemented this Recommendation in its self-assessment, however, without the publication of its police guidelines this Report is unable to verify this.\textsuperscript{221}

The Western Australian Police Manual requires any medical attention received by a prisoner to be recorded on the detainee running sheet,\textsuperscript{222} but does not expressly refer to conveying information on a handover of a shift.

Similarly, section 7.2.10 of the Tasmania Police Manual (extract obtained on formal request for information) states that where a member of the police acquires information relating to a medical condition of a person in custody, that information is to be recorded where any other member charged with the supervision of that person may access it. Again, it does not expressly refer to conveying information on handover of a shift.

The remaining States and Territories have not published guidelines detailing the requirement for accessible records or any formal handover mechanism.

5. Prison Health and Safety (Recommendations 150 - 157)

The RCIADIC highlighted that a comprehensive prison health and medical service can help to reduce the number of deaths in custody by addressing the distinct health needs of the prison population. In particular, the RCIADIC highlighted that a large proportion of prisoners suffered psychiatric illness, substance abuse, reactive depression and stress associated with incarceration and found serious inadequacies in the availability and effectiveness of mental health services in prisons.

The RCIADIC recommended an overall review\textsuperscript{223} of the healthcare system in prisons, conducted in consultation with Aboriginal Health Services, with a focus on the following key issues:

- standard of general and mental healthcare and services available to Indigenous prisoners;
- staff training; and

\textsuperscript{218} National Police Guidelines on person in custody and police custodial facilities, p.39.
\textsuperscript{219} ACT Watch-house Operations Manual, paragraph 2.9. Note that, as at April 2015, this manual appears not to be publicly available and as a result its currency has not been verified.
\textsuperscript{220} Review of ACT Policing’s Watchhouse operations, A Joint Report by the Australian Federal Police and the Commonwealth Ombudsman (June 2007), paragraph 4.29.
\textsuperscript{222} Western Australian Police Manual at sections LP 4.04 (Medical Treatment Prior to Admission).
\textsuperscript{223} RCIADIC, National Report, 1991, recommendation 152.
exchange of information between prison medical staff and corrections
officers, with regard to a prisoner’s right to privacy and confidentiality.

5.1. Standard of general and mental healthcare and services available to
Indigenous prisoners (Recommendations 150, 151 and 156)

The RCIADIC noted that failing to provide adequate 24 hour-a-day healthcare to
prisoners is contrary to the UN Standard Minimum Rules for Treatment of
Prisoners\textsuperscript{224} and may result in:

- a delay in a person being thoroughly assessed at the time of reception; and
- placing the responsibility for identifying those ‘at risk’ on corrections staff,
  who have limited medical training and knowledge.

Accordingly, the RCIADIC recommended that prisoners should have access to:

- 24 hour-a-day healthcare service of an equivalent standard to that available
to the general public, including medical, dental, mental health, drug and
alcohol services;\textsuperscript{225}
- wherever possible, psychiatric assessment or treatment by a psychiatrist
  with knowledge and experience of Indigenous persons;\textsuperscript{226} and
- a thorough medical assessment on initial reception at a prison to be
  provided by:\textsuperscript{227}
  - a medical practitioner or trained nurse within 24 hours of reception;
  - a medical practitioner within 72 hours of reception, where initially assessed
    by a trained nurse; and
  - a psychiatrist at the earliest opportunity, where deemed necessary by the
    medical practitioner or trained nurse.

\textbf{Recommendation 150:} That the health care available to persons in correctional
institutions should be of an equivalent standard to that available to the general
public. Services provided to inmates of correctional institutions should include
medical, dental, mental health, drug and alcohol services provided either within the
correctional institution or made available by ready access to community facilities and
services. Health services provided within correctional institutions should be
adequately resourced and be staffed by appropriately qualified and competent
personnel. Such services should be both accessible and appropriate to Aboriginal

\textsuperscript{224} Standard Minimum Rules for the Treatment of Prisoners, Adopted by the First United Nations
Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and
approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and

\textsuperscript{225} RCIADIC, National Report, 1991, recommendation 150.

\textsuperscript{226} RCIADIC, National Report, 1991, recommendation 151.

\textsuperscript{227} RCIADIC, National Report, 1991, Recommendation 156.
prisoners. Correctional institutions should provide 24 hour a day access to medical practitioners and nursing staff who are either available on the premises, or on call.

**Recommendation 151:** That, wherever possible, Aboriginal prisoners or detainees requiring psychiatric assessment or treatment should be referred to a psychiatrist with knowledge and experience of Aboriginal persons. The Commission recognises that there are limited numbers of psychiatrists with such experience. The Commission notes that, in many instances, medical practitioners who are or have been employed by Aboriginal Health Services are not specialists in psychiatry, but have experience and knowledge which would benefit inmates requiring psychiatric assessment or care.

**Recommendation 156:** That upon initial reception at a prison all Aboriginal prisoners should be subject to a thorough medical assessment with a view to determining whether the prisoner is at risk of injury, illness or self-harm. Such assessment on initial reception should be provided, wherever possible, by a medical practitioner. Where this is not possible, it should be performed within 24 hours by a medical practitioner or trained nurse. Where such assessment is performed by a trained nurse rather than a medical practitioner then examination by a medical practitioner should be provided within 72 hours of reception or at such earlier time as is requested by the trained nurse who performed such earlier assessment, or by the prisoner. Where upon assessment by a medical practitioner, trained nurse or such other person as performs an assessment within 72 hours of prisoners' reception it is believed that psychiatric assessment is required then the Prison Medical Service should ensure that the prisoner is examined by a psychiatrist at the earliest possible opportunity. In this case, the matters referred to in Recommendation 151 should be taken into account.

This Report's findings reveal that although some States and Territories have legislated that prisoners have the right to reasonable medical care, few specify that correctional services must provide 24 hour-a-day healthcare. For example, the Australian Capital Territory legislation requires a doctor to be appointed for each correctional centre, however, the doctor is only required to provide health services to detainees once each week. On the other hand, section 53 of the *Corrections Management Act 2007* (ACT) says that the chief executive must ensure that detainees have a standard of health care equivalent to that available to other people in the territory. In particular, the chief executive must ensure that detainees have timely treatment where necessary, particularly in urgent circumstances, and hospital care where necessary.

New South Wales, Queensland and Western Australia guidelines require medical facilities to be made available on a 24-hour basis. Further, Queensland and New

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228 Tasmania: *Corrections Act 1997*, s.29(1)(f); ACT: *Corrections Management Act 2007*, s.12(1)(j); Victoria: *Corrections Act 1986*, s.47(1)(f); WA: *Prisons Act 1981*, s.95A(1). See also s. 95(5) regarding the provision of services to Indigenous prisoners.

229 *Corrections Management Act 2007* (ACT), s.21.

230 Qld: Healthy Prisons Handbook, Version 1, November 2007 paragraph 16.7, and the 1997 Queensland Government Progress Report on Implementation, which states that every secure centre has a 24 hour nursing service and an on-call service for visiting medical officers; WA - Code of Inspection Standards for Adult Custodial Services, Office of the Inspector of Custodial Services, 19 April 2007, paragraph. 85; NSW: All correctional centres have access to the public health system of
South Wales Guidelines and Victorian legislation require medical care to be of an equivalent standard to that in the community.231

Victoria, Tasmania, South Australia and the Australian Capital Territory have not published guidelines addressing this Recommendation but refer to the Corrections Guidelines on their Correctional Services websites. The Corrections Guidelines require prisoners to have 24-hour access to health services (including psychiatric, dental, optical and radiological diagnostic services) and to meet community standards of care.232 The Corrections Guidelines are a general benchmark and, where State guidelines have not been published, it is difficult to gauge how far these have been implemented.233 In particular, the Australian Capital Territory correctional centres have been criticised for the lack of access to mental health care.234

As regards psychiatric assessment or treatment by a psychiatrist with knowledge and experience of Indigenous persons, Western Australia has implemented this Recommendation.235 The New South Wales and Victorian guidelines refer to access to general Aboriginal Health Services for indigenous prisoners but do not specifically refer to psychiatric care.236 The remaining States and Territories have not published guidelines in respect of this Recommendation and the Corrections Guidelines do not specifically refer to medical practitioners with knowledge of Indigenous culture.237

As regards medical assessments of prisoners on reception, the Australian Capital Territory, Victoria and Western Australia have implemented this Recommendation

233 The Victoria Corrections Health Care Standards require that all prisons have a 24 hour emergency response procedure, or arrangements with a local hospital to provide 24 hour emergency health care, however these standards are not publicly available. More information is available on the Department of Justice website see http://www.corrections.vic.gov.au/home/prison/health+care/)
234 Community Coalition on Corrections, submission to AMC Reviews, October 2010, p.22, clause 65 ‘Ready access to mental health professionals’.
235 Prisons Act 1981 WA, s.95(5) (services meet the needs of Indigenous prisoners); Inspection Standards for Aboriginal Prisoners, Office of the Inspector of Custodial Services, Government of Western Australia, Version 1, July 2008, A15, A16 & A17 (require culturally informed mental health services to be made available and employ an Indigenous health worker); Standard Guidelines for Corrections in Australia (Revised 2012) item 2.31, p.27 (every prisoner to have access to evidence-based health services provided by a competent, registered health professional who will provide a standard of health services comparable to that of the general community and access to services of specialist medical practitioners).
236 NSW: Custodial Corrections - Operating Procedure Manual, paragraph 7.3.7 (on request, indigenous prisoner may see practitioner from Aboriginal Health Services); Victoria: Correctional Management Standards for Men’s Prisons in Victoria, Version 2.0, July 2014 paragraph 2.2(2) (indigenous prisoners have access to an Aboriginal wellbeing officer); Standards for the Management of Women Prisoners in Victoria, Version 1.2.0, July 2014, paragraph 16.2.5 (5) (aboriginal wellness officer involved in development of at risk management plans) & 2.2(2) (access to aboriginal wellness officer).
237 National Corrections Guidelines, paragraph 8 (correctional services should effect partnerships with indigenous communities and organisations in the delivery of programmes and services).
according to the timeframes specified in the RCIADIC. In Queensland, all prisoners must be seen on reception by a Queensland Health registered nurse for the purpose of clinical and at risk assessments and, if any conditions are identified, referred to the visiting doctor for review at the next available clinical session. South Australia and New South Wales legislation/guidelines refer to the requirement for medical assessments on reception but do not specify the timescale in which such assessments are to be completed, although the Corrective Services NSW Offender Classification and Case Management Policy and Procedures Manual says "upon completion of reception procedures, each newly received inmate is to undergo a 'Reception Triage Process' by a JH nurse to identify medical needs and any treatment which may be necessary". The CMF must accompany the inmate to the JH interview as this contains the information collected so far. In some 24 hour cell locations, JH staff are available to commence this process, which will be finalised at the receiving centre." Tasmania and the Northern Territory have not addressed this Recommendation in their guidelines.

5.2. Staff Training (Recommendations 154 and 155)

The RCIADIC found that the pattern of Indigenous mortality and morbidity is different from that of the non-Indigenous population and prison health services are under used by the Indigenous population. Accordingly, the RCIADIC recommended that:

- all staff of prison medical services should be trained, in consultation with Aboriginal Health Services, regarding Indigenous culture and health issues; and
- prison officers should be trained at recruit and in-service levels regarding:
  - the general health status of Indigenous people; and
  - recognition of persons in distress or at risk of death or harm through illness, injury or self-harm.

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238 WA: *Prisons Act 1981*, s.95B (on the request of the CEO); Code of Inspection Standards for Adult Custodial Services, Office of the Inspector of Custodial Services, 19 April 2007, Cl.83 (within 72 hours); Standard Guidelines for Corrections in Australia (Revised 2012) item 2.41, page 27; ACT: *Corrections Management Act 2007*, s.68 (health assessment made within 24 hours of admission); Victoria: *Corrections Act 1986*, s.29; Standards for Men's Prisons in Victoria, Version 2.0, July 2014, paragraph 9.2.1(7) (health assessment within 24 hours); Standards for the Management of Women Prisoners in Victoria, Version 1.2.0, July paragraph 9.2.1(7), (comprehensive screening within 24 hours).

239 Department of Corrective Services Offender Management Procedure, sections 9.

240 SA *Correctional Services Act 1982*, s.23(3)(b) (as soon as practicable after admission, prisoners undergo an initial assessment regarding medical/psychiatric treatment); NSW: Corrective Services New South Wales Operations Procedure Manuals, May 2012, Version.1.2, paragraph 10.3.2.7 (medical screening required for all new inmates but no time frames specified).


242 However, Tasmania’s corrective Services website refers to the Corrections Guidelines, which comply with the timeframes of the RCIADIC’s recommendation.
**Recommendation 154:** That:

(a) All staff of Prison Medical Services should receive training to ensure that they have an understanding and appreciation of those issues which relate to Aboriginal health, including Aboriginal history, culture and life-style so as to assist them in their dealings with Aboriginal people;

(b) Prison Medical Services consult with Aboriginal Health Services as to the information and training which would be appropriate for staff of Prison Medical Services in their dealings with Aboriginal people; and

(c) Those agencies responsible for the delivery of health services in correctional institutions should endeavour to employ Aboriginal persons in those services.

**Recommendation 155:** That recruit and in-service training of prison officers should include information as to the general health status of Aboriginal people and be designed to alert such officers to the foreseeable risk of Aboriginal people in their care suffering from those illnesses and conditions endemic to the Aboriginal population. Officers should also be trained to better enable them to identify persons in distress or at risk of death or harm through illness, injury or self-harm. Such training should also include training in the specific action to be taken in relation to the matters which are to be the subject of protocols referred to in Recommendation 152(g).

The Corrections Guidelines merely refer to the need to establish partnerships with Indigenous organisations and consult advisers on Indigenous issues in the development of policies, as opposed to setting out specific training requirements.\(^{243}\) Not surprisingly, therefore, few States and Territories have implemented this Recommendation.

Victoria has implemented this Recommendation.\(^ {244}\) The ACT Aboriginal and Torres Strait Islander Justice Agreement 2010-2012 Report Card states that the Justice and Community Safety Directorate (‘JACS’) has identified Aboriginal and Torres Strait Islander Cultural Awareness as core training since 2009-2010 and all staff are encouraged to attend this training. Since this time, there has been a significant increase in staff participation in the Cultural Awareness Training. In addition, Cultural Awareness Training was specifically delivered to all new operational staff of the ACT Corrective Services as part of induction. In 2012-2013, JACS was to invest $48,000 for staff participation in cultural awareness training. The program will be mandatory for staff that have Aboriginal and Torres Strait Islander colleagues, volunteers and/or clients.

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\(^{243}\) National Correction Guidelines 1.7 & 8.

\(^{244}\) Correctional Management Standards for Men’s Prisons in Victoria, Version 2.0, July 2014, paragraph 2.2(7) (training staff to develop understanding of the cultural needs of such prisoners & access to Aboriginal welfare officer/liaison officer); Standards for the Management of Women Prisoners in Victoria, Version 1.2.0, July 2014, paragraph 2.2(7) (training staff to develop their understanding of cultural needs of indigenous prisoners).
Also, Victoria and South Australia refer to partnerships formed with the Indigenous community. According to the Government of South Australia Department for Correctional Services Annual Report 2010-2011, the Aboriginal Services Unit co-ordinates the Prevention of Aboriginal Deaths in Custody Forum, which is held every six weeks at different prisons. The Forum has an ongoing commitment to the Recommendations of the RCIADIC. It is chaired by the chief executive and provides an opportunity for Aboriginal prisoners to communicate issues important to them. It also provides advanced cultural awareness training across the department as well as development and training opportunities to Aboriginal staff members. As a result of these strategies, Aboriginal deaths in custody have drastically decreased. Up to 14 June 2011, there was only one death of an Aboriginal prisoner as a result of suicide since 2003.

Queensland and Western Australia guidelines require medical practitioners to be trained in cultural issues. However, Western Australia has been criticised for not meeting these standards. The Western Australia Inspector of Custodial Services noted in his inspection of Casuarina prison in 2010 that there was a paucity of training provided in respect of Indigenous health issues and prison officers learn by experience rather than training.

The Tasmania Prison Service Director's Standing Order 2.01 - Suicide and Self-Harm Prevention has given rise to various Interim Standard Operating Procedures which are extremely detailed. They do not deal specifically with Aboriginal or Torres Strait Islander detainees, but the general nature of the protocols used does mean that at risk patients should be able to be identified and supported.

No other States or Territories have published Guidelines implementing this Recommendation.

5.3. Transfer of information (Recommendations 152, 157 and 166)

Please refer to Section 2.13 of this Chapter.

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245 SA: Government of South Australia Dept. of Correctional Services, Annual Report 2009-10, p.14 (Aboriginal Services Unit established to provide cultural awareness training to the Correctional Services Department’s staff) and more recently in the Government of South Australia Dept. of Correctional Services, Annual Report 2014-15, p.29 (developing a cultural competence program for departmental staff) ; Victoria: Victorian Aboriginal Justice Agreement, a partnership between the Victorian Government and the Koori community, paragraph 2.3 page 36 (includes cultural awareness training of correctional staff).

246 The more recent Government of South Australia Dept. of Correctional Services, Annual Report 2014-15, says that in the year, 9 Prevention of Aboriginal Deaths in Custody forums were held in prisons across South Australia conducted by the Aboriginal Services Unit.


249 However, we note that NSW claims to have implemented this recommendation but have been unable to independently verify this (Report on the NSW Government’s Implementation of the Recommendations of the RCIADIC 1.6.4, Corrective Services: Aboriginal Health issues are included in Primary training course for new recruits, together with duty of care, suicide prevention and First Aid courses).
6. Police and Prison Health and Safety (Recommendations 158 - 166)

Resuscitation (Recommendations 158, 159 and 160) The RCIADIC found that on discovering a scene of death, resuscitation was not attempted in many cases. Furthermore, the RCIADIC noted that the location of resuscitation equipment was not widely known among staff. Accordingly, the RCIADIC made the following recommendations regarding resuscitation:

- guidelines to set out that staff are required to attempt resuscitation of prisoners and seek medical assistance;\(^{250}\)
- all prisons and police watch-houses to have readily available resuscitation equipment and staff trained in such equipment;\(^{251}\)
- all police and prison officers to receive basic resuscitation training at recruit level;\(^{252}\) and
- all prison officers and those police officers who routinely have the care of detainees, to receive annual refresher courses in first aid.\(^{253}\)

**Recommendation 158:** That, while recognising the importance of preserving the scene of a death in custody for forensic examination, the first priority for officers finding a person, apparently dead, should be to attempt resuscitation and to seek medical assistance.

**Recommendation 159:** That all prisons and police watch-houses should have resuscitation equipment of the safest and most effective type readily available in the event of emergency and staff who are trained in the use of such equipment.

**Recommendation 160:** That:

(a) All police and prison officers should receive basic training at recruit level in resuscitative measures, including mouth to mouth and cardiac massage, and should be trained to know when it is appropriate to attempt resuscitation; and

(b) Annual refresher courses in first aid be provided to all prison officers, and to those police officers who routinely have the care of persons in custody.

6.1.1. Police

The Australian Capital Territory has previously published guidelines detailing that all staff are required to hold a current first aid certificate.\(^{254}\)

The Victorian Police Manual provides that Station Commanders are to

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\(^{251}\) Ibid, recommendation 159.

\(^{252}\) Ibid, recommendation 160.

\(^{253}\) Ibid.

\(^{254}\) ACT Policing Watch-house Operations Manual, paragraph 1.29 Use of Force / First Aid certification / Accoutrements (all watch-house staff are required to hold a current first aid certificate).

Note that, as at April 2015, this manual appears not to be publicly available and as a result its currency has not been verified.
ensure that members are suitably trained in first aid and have access to first
aid equipment. Similarly, the Queensland Police Service Operational
Procedures Manual requires that watch-house staff are properly trained to
use first aid and resuscitation equipment. Although New South Wales
guidelines outline when resuscitation should be applied, the guidelines do
not specify any training requirements or the frequency of such training.

The New South Wales Government has stated that all police recruits are
required to have a current St John’s First Aid certificate and that the Police
Resuscitation Training Unit conducts annual refresher courses in
resuscitation in all local area commands. However, this Report has been
unable to independently verify this. In Western Australia, obtaining a
‘Provide First Aid’ Certificate is a pre-requisite to becoming a police recruit
in Western Australia. The Western Australian Police Manual provides
that members of the police are required to undertake compulsory first aid
and resuscitation training on induction, and every two years for members
who use fire arms or force options, and that Officers in Charge of a
lockup will ensure that adequate first aid and resuscitation equipment is
available and that staff receive training in its use. The Tasmania Police
Manual at section 7.4 ("Death or Life-Threatening Injury in Custody") has
contained detailed guidelines to be followed in the event of death or life-
threatening injury in custody, including step-by-step description of initial
action to be taken.

6.1.2. Correctional Services

Only New South Wales, Western Australia and Queensland have published
guidelines regarding resuscitation training. However, although New
South Wales Correctional Services provide resuscitation training,
resuscitation equipment may be used without such training.

6.1. Immediate medical attention (Recommendation 161)

Custody, s.11.6.
256 Queensland Police Service Operational Procedures Manual (Issue 46 – December 2014), section
16.21.3.
258 Aboriginal Justice Advisory Council (NSW) (2000), Report on NSW Government’s Implementation
of the Recommendations of RCIADIC, chapter 1, preventing deaths in custody, 1.8, responding to
incidents of illness, self-harm or attempted suicide- 1.82.
260 Western Australian Police Manual, section AD-57 (Critical Skills (Police Life Support) Training and
261 Western Australian Police Manual, section LP-01.03 (amended 22 August 2014).
262 Note that, as at April 2015, this manual is not publicly available and, as a result, its currency has
not been verified.
Corrective Services Operations Procedures Manual published under the Government Information
(Public Access) Act 2009 (NSW), paragraph 7.3.2.3; WA: The Department of Corrective Services in
Western Australia provides training to employees in advanced first aid: see Annual Report 2011/12,
264 NSW Corrective Services Operations Procedures Manual published under the Government
Information (Public Access) Act 2009 (NSW), paragraph 7.3.2.3(3).
The RCIADIC’s investigations found that in some cases a number of delays have contributed to the severity of cases, which could have been alleviated by the timely provision of medical care. Custodial staff should be well versed in medical emergency procedures by regular drill-type training to ensure a sense of confidence in officers to respond promptly. The RCIADIC recommended that guidelines specify that police and prison officers must seek immediate medical attention if any doubt arises as to a detainee’s condition.

**Recommendation 161:** That police and prison officers should be instructed to immediately seek medical attention if any doubt arises as to a detainee’s condition.

### 6.2.1. Police

New South Wales and Western Australia have enacted legislation requiring detainees to receive immediate medical attention where necessary. The Western Australian Police Manual also requires members in charge of lock ups to arrange any necessary medical attention for detainees. New South Wales, Victoria and the Australian Capital Territory Police guidelines and the National Police Guidelines also require immediate medical attention to be arranged if necessary. The Australian Capital Territory, Victoria, Queensland, Western Australian and NSW guidelines require police officers to seek medical advice if they have any doubt regarding a detainee’s health.

### 6.2.2. Correctional Services

The Corrections Guidelines, New South Wales, Western Australia and the Australian Capital Territory have implemented this Recommendation.

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265 NSW: *Law Enforcement (Powers and Responsibilities) Act* 2002, s.129 (right to immediate medical attention where custody manager believes is necessary); WA: *Court Security and Custodial Services Regulations 1999* (WA), Regulation 11 (emergency medical care procedures in place).

266 Western Australian Police Manual at section LP-14.01 – Medical (amended 22 August 2014).


269 Corrections Guidelines, paragraph 1.28; NSW: NSW Corrective Services Operations Procedures Manual published under the *Government Information (Public Access) Act* 2009 (NSW), paragraph 7.3.2.3 (medical care of inmates); WA: Policy Directive 32 (May 2010) (also policy directive refers to At Risk Management System / Support and Monitoring System, which outline clear procedures for staff to assist in the identification and management of prisoners at risk but have not been made publicly available); Youth Custodial Rule 710 section 4 (March 2014) - arrangements for medical treatment; see also *Prisons Act 1981* (WA), ss. 95A and 95B; ACT: *Corrections Management Act 2007*, s.53(2)(b) (detainees have access to timely treatment where necessary, particularly in urgent circumstances).
Queensland guidelines have partially implemented this Recommendation and require staff to be trained on the requisite action to take in an emergency and suicide prevention. Victorian guidelines have partially implemented this Recommendation and require staff to be trained on the requisite action to take in suicide and self-harm prevention and response. No other States or Territories have published guidelines in connection with this Recommendation.

6.2. Training in safe use of firearms (Recommendation 162)

The RCIADIC commented that it is necessary to balance the protection of the public against the rights which prisoners of whatever race enjoy as citizens of Australia and recommended that:

- guidelines and laws specify the circumstances in which Custodial Authorities may use firearms; and
- all officers using firearms be trained to minimise the risk of accidental discharge.

**Recommendation 162:** That governments give careful consideration to laws and standing orders or instructions relating to the circumstances in which police or prison officers may discharge firearms to effect arrests or to prevent escapes or otherwise. All officers who use firearms should be trained in methods of weapons retention that minimise the risk of accidental discharge.

6.3.1. Police

This Report's findings reveal that only Victoria, Queensland, Western Australia and the Australian Federal Police have published clear guidelines regarding firearms training for police. The Australian Capital Territory Watch-house Operations Manual requires all staff to have a ‘Use of Force Permit’ but does not elaborate on whether this includes firearms training.

6.3.2. Correctional Services

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271 Correctional Management Standards for Men’s Prisons in Victoria (July 2014), section 40.2.3;
272 AFP: AFP Commissioner’s Order on Operational Safety (C03)-16 (June 2012) – (AFP employees may only use and carry munitions and equipment that they are qualified to use in accordance with AFP training; 24 AFP employees are required to take an Operational Safety Assessment; Victoria: Victoria Police Manual (2015), Policy Rules - Operational Safety and Equipment, ss.1, 3, 4.3; Victoria Police Manual (2015), Procedures and Guidelines - Management of Victoria Police Issue Firearms, s.1; QLD: Queensland Police Service Operational Procedures Manual (Issue 46 – December 2014), Chapter 14 and the Corrective Services Act 2006 (QLD), Chapter 3, Part 5; WA: The Western Australian Police Force has an Operational Safety & Tactics Training Unit, which provides training in the use of firearms, see,
<http://www.police.wa.gov.au/Aboutus/Academy/Faculties/tabid/1699/Default.aspx>; see also Western Australian Police Manual at sections FR 1.2.5 (Critical Skills (Weapon Training) and Requalification) and FR 1.2.7 (Safety of Weapons) and Police Force Regulations 1979 (WA), r. 403.
273 ACT Policing Watch-house Operations Manual, paragraph 1.29 ‘Use of Force’ / First Aid certification / Accoutrements’. Note that, as at April 2015, this manual appears not to be publicly available and as a result its currency has not been verified.
The Report's findings reveal that most States have implemented this Recommendation. Queensland, New South Wales and the Australian Capital Territory have set out in legislation the requirement that only trained officers may use weapons. By the Corrections Guidelines, Western Australia and Victoria have implemented this Recommendation. However, South Australia, Tasmania and the Northern Territory have not published guidelines relating to this Recommendation.

6.3. Training of restraint techniques (Recommendation 163)

The RCIADIC found that the lack of training in restraint techniques and the use of restraint aids were factors in a number of custodial deaths. Accordingly, the RCIADIC recommended that police and prison officers should only use physical restraint as a last resort and be trained in restraint techniques and the application of restraint equipment.

**Recommendation 163:** That police and prison officers should receive regular training in restraint techniques, including the application of restraint equipment. The Commission further recommends that the training of prison and police officers in the use of restraint techniques should be complemented with training which positively discourages the use of physical restraint methods except in circumstances where the use of force is unavoidable. Restraint aids should only be used as a last resort.

6.4.1. Police

This Report's findings reveal that Western Australia, Victoria, Queensland and the Australian Federal Police have implemented this Recommendation. The Australian Capital Territory Watch-house Operations Manual requires all staff to have a 'Use of Force Permit' but does not elaborate on whether this includes training on restraints techniques.

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275 Corrections Guidelines, paragraph 1.63; WA: Adult Custodial Rule 15 (December 2003), Prisons Regulations 1982 (WA) r 24 (a prison officer may be required to undertake training in the use of firearms and ammunition); Victoria: Correctional Management Standards for Men's Prisons in Victoria (July 2014), paragraph 15.2.4; Standards for the Management of Women Prisoners in Victoria (July 2014), paragraph 15.2.3.
276 WA: Court Security and Custodial Services Regulations 1999 (WA), Regulation 20 (restraint devices can only be used by authorised persons who have successfully undergone training); the Western Australian Police Force has an Operational Safety & Tactics Training Unit, which provides training in the use of restraints, see, <http://www.police.wa.gov.au/Aboutus/Academy/Faculties/tabid/1699/Default.aspx>; see also Police Manual at section FR 1.1.2 (Use of Head or Neck Holds); Vic: Corrections Act 1986 (Vic), s.23, Victoria Police Manual (2015), Procedures and Guidelines - Operational Safety and Tactics Training Qualifications, s.1 and s.3; QLD: Queensland Police Service Operational Procedures Manual (Issue 46 – December 2014), Chapter 14, and the Queensland Corrective Services Custodial Operations Standard Operating Procedure – Use of Force, section 1; AFP: AFP Commissioner’s Order on Operational Safety (C03) 11.1- (AFP employees may only use restraints in accordance with AFP training).
277 ACT Policing Watch-house Operations Manual, paragraph 1.29, 'Use of Force / First Aid certification / Accoutrements'. Note that, as at April 2015, this manual appears not to be publicly available and as a result its currency has not been verified.
6.4.2. Correctional Services

Victoria, Western Australia and the Australian Capital Territory have enacted legislation implementing this Recommendation with Victoria and Western Australia also specifying a training requirement in guidelines. The Corrections Guidelines and Queensland guidelines also specify that prison officers are to be trained to use approved techniques. No other States or Territories have published guidelines implementing this Recommendation.

6.4. Laying charges against a person in relation to an act of self-injury (Recommendation 164)

The RCIADIC found that charging detainees with an offence in relation to an act of self-injury showed a lack of empathy towards those who attempt self-injury and could heighten the distress already felt by that person. The RCIADIC recommended that extreme caution be exercised in laying such charges and no such charges should be laid where self-harm actually results.

Recommendation 164: The Commission has noted that research has revealed that in a significant number of cases detainees or prisoners who had inflicted self-harm were subsequently charged with an offence arising from the incident. The Commission recommends that great care be exercised in laying any charges arising out of incidents of attempted self-harm and further recommends that no such charges be laid, at all, where self-harm actually results from the action of the prisoner or detainee (subject to a possible exception where there is clear evidence that the harm was occasioned for the purpose of gaining some second advantage).

This Report's findings are that only Queensland has implemented this Recommendation. The Queensland Police Service Operational Procedures Manual requires officers to exercise discretion when deciding to charge persons in custody or in police company with minor criminal or regulatory offences (e.g. damage to property) arising from incidents where self-harm or suicide was solely the intended outcome of the unlawful conduct.

Police or Correctional Services guidelines of the other States and Territories do not refer to laying charges in incidents of self-harm.

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278 Victoria: Corrections Regulations 2009 (Vic), Regulation 15; Correctional Management Standards for Men's Prisons in Victoria (July 2014), paragraph 15; Standards for the Management of Women Prisoners in Victoria (July 2014), paragraph 15; WA: Prisons Act 1981 (WA) s 42; Youth Custodial Rule 102 provides that "force or instruments of restraint are used on a young person only in response to an unacceptable risk of escape" – however, note that as at April 2015, this rule is under review; Corrections Guidelines, paragraph 1.68; ACT: Corrections Management Act 2007, s.140(3)(a).

279 Corrections Guidelines, paragraph 1.62 (also specifies that training should be ongoing); Qld: Healthy Prisons Handbook, Version 1, November 2007, paragraph 21.17.

280 However, we note that NSW Corrective Services Operational Manual Part D: Serious Incident Response, Using Force on Inmates regarding guidelines on restraint and use of force formerly set out guidelines in relation to restraining prisoners but has been deleted as per the Summary of Affairs, 8 June 2010.

7. **Juvenile Care (Recommendation 167)**

The RCIADIC identified that the care and supervision of Indigenous youth in juvenile detention centres should at least meet the same standards of watch-houses and prisons. In particular, the RCIADIC focused on the following areas:

- close and careful supervision, particularly for those identified ‘at risk’;
- proper training of care workers to identify and care for those ‘at risk’;
- need for a safe physical environment;
- importance of human interaction between care workers and detainees;
- adequate support systems, particularly access to family and friends; and
- ready access to proper medical and psychiatric care.

**Recommendation 167:** That the practices and procedures operating in juvenile detention centres be reviewed in light of the principles underlying the recommendations relating to police and prison custody in this report, with a view to ensuring that no lesser standards of care are applied in such centres.

Numerous reviews of juvenile detention operations and procedure in Western Australia were undertaken largely in the 1980’s, some of which led to the implementation of changes aligning with the Recommendations from the RCIADIC (for example, the *Young Offenders Act 1994* (WA)). None of those sighted, however, appear to have been undertaken to specifically address the Recommendations of the RCIADIC in particular, Recommendation 167. The most relevant recent review undertaken in Western Australia was the Auditor General’s 2008 Performance Examination "The Juvenile Justice System: Dealing with Young People under the Young Offenders Act 1994" (some of the 13 recommendations were implemented). Western Australian youth justice department policies and procedures are reviewed to ensure compliance with the Australasian Juvenile Justice Administrator’s National Standards.

As noted by the Australian Law Reform Commission in a 1997 report, the NSW Ombudsman has in the past expressed concern that the above Recommendations of the RCIADIC had not yet been implemented by State governments. Since then the NSW Government has reported to the Australian Law Reform Commission that the recommendations of the NSW Ombudsman’s Inquiry into Juvenile Detention Centres...
(1996) are to be used as the "blueprint for reform" of the juvenile detention system in NSW. The NSW Ombudsman's Office has indicated that in Stage One of that process, each juvenile detention centre was provided with a list of recommendations to implement. In May 1997, all centres provided progress reports, and the Ombudsman found that each of the centres had developed initiatives for implementing the recommendations. Stage two (involving each centre nominating its own area of priority) was subsequently implemented and reporting was to occur in October 1997.