16. THE PRISON EXPERIENCE
(RECOMMENDATIONS 168-187)

The RCIADIC identified the "Prison Experience" as contributing to the disproportionate representation of Indigenous people in Australian prisons, an increased likelihood of premature death and a propensity for self-harm and self-inflicted death amongst many Indigenous prisoners.¹

Specifically, the RCIADIC looked to the "artificial" environment of correctional institutions becoming a replacement for the family and community environment denied to the prisoner,² and the associated difficulties with reintegration of offenders into the community and society so caused. Having regard to these matters, Chapter 25 of the National Report considered the impact of environmental factors on the wellbeing of Indigenous prisoners, including factors such as:

- "double punishment";
- the cultural significance of separation of imprisoned Indigenous people from their family, friends and environment;
- racism in prisons;
- the impact of internal prison discipline; and
- access to prisoner employment and training opportunities.

Based on the environmental matters canvassed, the RCIADIC made Recommendations to improve the "Prison Experience" for Indigenous prisoners. The Recommendations made relate, generally, to improvements to the processes and operations of Corrective Services Authorities under the following 10 categories:

This Chapter examines the extent to which these Recommendations have been implemented by the Federal, State and Territory governments. The findings highlight the significant differences that divide the explicit implementation of Recommendations with respect to the "prison experience".³

1. Access to Kin, Community and Country (Recommendations 168 - 172)

**Recommendation 168:** That Corrective Services effect the placement and transfer of Aboriginal prisoners according to the principle that, where possible, an Aboriginal prisoner should be placed in an institution as close as possible to the place of residence of his or her family. Where an Aboriginal prisoner is subject to a transfer to an institution further away from his or her family the prisoner should be given the right to appeal that decision.

² Royal Commission into Aboriginal Deaths in Custody, National Report, 1991, Volume 3, Chapter 25, [25.1.6].
³ It is noted that a number of the Recommendations in this Chapter are not applicable to review from the Commonwealth jurisdiction perspective.
**Recommendation 169:** That where it is found to be impossible to place a prisoner in the prison nearest to his or her family sympathetic consideration should be given to providing financial assistance to the family, to visit the prisoner from time to time.

**Recommendation 170:** That all correctional institutions should have adequate facilities for the conduct of visits by friends and family. Such facilities should enable prisoners to enjoy visits in relative privacy and should provide facilities for children that enable relatively normal family interaction to occur. The intervention of correctional officers in the conduct of such visits should be minimal, although these visits should be subject to adequate security arrangements.

**Recommendation 171:** That Corrective Services give recognition to the special kinship and family obligations of Aboriginal prisoners which extend beyond the immediate family and give favourable consideration to requests for permission to attend funeral services and burials and other occasions of very special family significance.

**Recommendation 172:** That Aboriginal prisoners should be entitled to receive periodic visits from representatives of Aboriginal organisations, including Aboriginal Legal Services.

The RCIADIC identified that, while enforced separation from family, friends and domestic environment is traumatic for all prisoners, “the greater significance of kin and community relations in Aboriginal cultures exacerbates the trauma of separation for Aboriginal people”. 4

This separation is compounded for Indigenous prisoners from more traditional Indigenous communities who fear potential retribution and punishment from their communities as a result of the actions which led to imprisonment. 5

1.1 **Location of Prisons and Prisoner Transfer (Recommendation 168)**

Having regard to the significance of kin and community relations in Indigenous cultures, the RCIADIC addressed the importance of providing adequate access for Indigenous prisoners to their family, friends and associates. The RCIADIC also observed the difficulties with providing such access where prisoners are placed or transferred to prisons geographically distant from their communities. 6

To ensure adequate access and visitation, the RCIADIC recommended “that Corrective Services effect placement and transfer of Aboriginal prisoners according to the principle that, where possible, an Aboriginal prisoner should be placed in an institution as close as possible to the place of residence of his or her family. Where

---

4 Royal Commission into Aboriginal Deaths in Custody, National Report, 1991, Volume 3, Chapter 25, [25.2.6].
5 Royal Commission into Aboriginal Deaths in Custody, National Report, 1991, Volume 3, Chapter 25, [25.2.6].
an Aboriginal prisoner is subject to a transfer to an institution further away from his or her family, the prisoner should be given the right to appeal that decision.”

The Recommendation has, in large part, been adopted in Western Australia, New South Wales, Queensland, Tasmania and Victoria. Adoption of the Recommendation is not apparent in the legislative or procedural regimes in the Commonwealth, Northern Territory, South Australia or ACT jurisdictions.

1.1.1 Western Australia

In Western Australia, the Office of the Inspector of Custodial Services has codified standards for Adult Custodial Services. Both the general "Code of Inspection Standards for Adult Custodial Services" and the "Inspection Standards for Aboriginal Prisoners" address placement of prisoners as close as possible to family and community. More specifically, the Inspection Standards for Aboriginal Prisoners prescribe the principle that "Aboriginal persons should be able to serve out their sentence within their own country". Both standards recognise the importance of Indigenous attachment to land and require particular consideration to be given to placement of Indigenous persons to avoid distress they may suffer if placed "out of country".

In respect of the transfer of Indigenous prisoners out of country, the Inspection Standards for Aboriginal Prisoners provides that the transport of prisoners should only be undertaken where absolutely necessary and after making provision for the high level of stress that such journeys generally cause. The Standards also provide that prisons "should" establish procedures to ensure prisoners have sufficient notice of transfers to appeal the transfer, or to advise their families of the transfer.

Despite development of the standards to address the RCIADIC’s Recommendation, it appears that implementation issues remain. A 2010 Inspector of Custodial Services report in respect of Casuarina prison shows that over 60% of the prison's population were being held "out of country".

1.1.2 New South Wales

In relation to New South Wales, this Report has found that the Recommendation appears to have been substantively implemented. The Corrective Services NSW Aboriginal Offender Strategic Plan acknowledges the importance of land, kinship, culture and obligations to community when

---

10 Ibid.
11 Ibid.

16. THE PRISON EXPERIENCE (RECOMMENDATIONS 168-187)
providing services and programs to Indigenous offenders. This is taken into account in the location and design of new correctional facilities. Also, the Aboriginal and Torres Strait Islander Inmate Handbook provides that a prisoner may ask to be placed as close to family as possible, subject to the classification of the prisoner and the relevant correctional centre.

1.1.3 Queensland

In Queensland, the RCIADIC's Recommendation has been implemented through the Corrective Services Regulation 2006, the Corrective Services Act 2006 (Qld) and the Department of Community Safety Offender Management Procedure - Transfer of Prisoners.

In respect of the placement of Indigenous prisoners, the Corrective Services Regulation provides that "an Aboriginal or Torres Strait Island prisoner is to be accommodated in a corrective services facility as close as practicable to the prisoner's family unless the chief executive is satisfied the prisoner does not want to be accommodated near the prisoner's family." Transfer of all prisoners (Indigenous and non-Indigenous) is subject to the Corrective Services Act 2006 (Qld) and its Regulations which provide a mechanism for appeal of a transfer decision. Our research did not identify any data or other indication on the effectiveness of implementation of the legislative and procedural requirements in Queensland prisons.

1.1.4 Victoria

In Victoria, the RCIADIC's Recommendation has been implemented through the Corrections Victoria Sentence Management Manual and the Corrections Regulation 2009 (Vic). The Sentence Management Manual requires Sentence Management Staff to ensure the prisoner is able to engage in the discussion regarding placement options. The Manual also requires consideration to be given to placement at a location at which the prisoner may maintain cultural links. In practice, Corrections Victoria advised that " Aboriginal prisoners are placed in the prison closest to their family wherever possible."

1.1.5 Tasmania

In Tasmania, the RCIADIC's Recommendation has been implemented through the:

a) the Corrections Act 1997 (Tas) - particularly sections 42(1)(f) and 42(1)(g); and

b) Tasmania Prison Service, Director's Standing Orders, specifically:
   i. 2.04 - Classification (issued 9 February 2009), provision 5.16;
   ii. 2.05 - Accommodation Placement (issued 23 October 2006), provision 4.4; and

13 Corrective Services Regulation 2006 (Qld), r 4(1).
14 Corrective Services Act 2006, s 71; Corrective Services Regulation 2006 (Qld), r 4.
15 Corrections Victoria Sentence Management Manual (Part 2- AC 4- Section 2.8).

May 2015
iii. 2.12 - Aboriginal and Torres Strait Islander Prisoners/Detainees (issued 23 October 2006), provision 4.6.

It is particularly relevant to note the Director of Corrections' ability to allow a prisoner who is Indigenous to attend events significant to the Aboriginal community\textsuperscript{16} and participate in programs designed to maintain family ties whilst incarcerated\textsuperscript{17}. Furthermore, Tasmania provides that Indigenous detainees may request to be accommodated amongst their peers, provided that the security or good order of the prison is not compromised. Indigenous detainees may also request 'buddy cells'.\textsuperscript{18}

1.1.6 Northern Territory

The RCIADIC's Recommendation has not been expressly adopted in the Northern Territory. In respect of placement of prisoners, placement is at the discretion of the Court at the time of sentencing, pursuant to the \textit{Sentencing Act 1995 (NT)}. While there is no statutory requirement to consider personal circumstances such as family, the considerations are likely to be within the Court's discretion. The Northern Territory does not appear to have a specific legislative or procedural regime allowing a prisoner to appeal against a transfer. However, case law indicates that administrative review of a transfer decision is technically available.\textsuperscript{19} In practical terms, administrative review will have only limited application.

1.1.7 South Australia

Similarly, there is no express adoption of the Recommendation in South Australia’s \textit{Correctional Services Act 1982 (SA)}, which deals with initial and periodic assessment of prisoners for the purposes of determining prisoner location. However, while no direct reference is made to placing Indigenous prisoners close to their community, the assessment for determining the transfer of prisoners under section 23 of the \textit{Correctional Services Act 1982 (SA)} takes into account family ties.

1.1.8 Australian Capital Territory (ACT)

This Report has not identified any legislation or policy indicating that the Recommendation has been implemented in the ACT or Commonwealth jurisdictions.

1.2 Financial Assistance for Prison Visits (Recommendation 169)

In addition to its Recommendations pertaining to the location of prisoners, the RCIADIC made Recommendations on the practical and cultural issues associated with Corrective Services policies and practices regulating prison visits. These

\textsuperscript{16} Corrections Act 1997 (Tas), s42(1)(g).
\textsuperscript{17} Ibid.
\textsuperscript{18} Tasmania Prison Service, Director's Standing Order 2.12 - Aboriginal and Torres Strait Islander Prisoners/Detainees (issued 23 October 2006), provision 4.6.
\textsuperscript{19} Kirkman v Moore (Commissioner for Correctional Services) [2001] NTCA 10.
Recommendations aim to address the impact of these policies and procedures on adequate access for visitation by friends and family of Indigenous prisoners.

Relevantly, the RCIADIC identified difficulties faced by the families of Indigenous prisoners who live a long distance from the jail. As a means of addressing difficulties with prison visits by families living in remote areas, the New South Wales Aboriginal Issues Unit (‘AIU’) proposed that those families be provided with low cost accommodation to better facilitate visits. Based on this proposal, the RCIADIC recommended that, "where it is found to be impossible to place a prisoner in the prison nearest to his or her family sympathetic consideration should be given to providing financial assistance to the family, to visit the prisoner from time to time".

On the whole, there has been limited implementation of Recommendation 169. Victoria and New South Wales are the only jurisdictions where a financial assistance program has been implemented. Other States and Territories have sought to implement free video-conferencing and similar services in recognition of the difficulties faced by families of Indigenous visitors living in remote locations. This Report has not identified any legislation or policy indicating that the Recommendation has been implemented at a Commonwealth level.

1.2.1 Western Australia

The Recommendation 169 has not been fully implemented in Western Australia. However, the Code of Inspection Standards for Adult Custodial Sentences does take account of the visitation difficulties faced by families of Indigenous prisoners where the prisoner is placed out of country. Relevantly, Standard 13.5 provides that, "where such out of country placement is unavoidable, compensatory measures such as video telephone calls to family and periodic transfer to a prison that will enable family visits". In addition, the Inspection Standards for Aboriginal Prisoners provide that Indigenous prisoners from remote areas should be able to access appropriate compensatory arrangements, including the provision of alternative arrangements from normal telephone access rules and free access to video or Skype contact.

Notwithstanding the provisions made in the Standards, it appears that policy implementation remains a challenge due to the associated costs to prisoners of telephone and video services.

1.2.2 Queensland

In Queensland, the Financial Assistance Recommendation does not appear to have been enacted in any legislation, regulation or policy. It is understood that a "Family Support Program" became operational in 1994 to

give effect to the Recommendation, however, it is unclear whether this program is ongoing.

1.2.3 Northern Territory

In the Northern Territory there is no evidence of implementation of Recommendation 169 with respect to family members. However, there appears to be a free video-conferencing service available to Indigenous prisoners based on the same conditions as personal visits.

1.2.4 Victoria

Recommendation 169 has been implemented in Victoria through "Activity 3.3.3" of the Victorian Aboriginal Justice Agreement Phase 2 as the "Aboriginal Family Visits Program". The program which is funded by the Koori Unit, Department of Justice, provides for the cost of travel and accommodation to family members when visiting Indigenous prisoners in custody.

1.2.5 New South Wales

Similarly, New South Wales has implemented a “Travel & Accommodation Assistance Scheme” which provides assistance to immediate family members seeking to visit an inmate serving a term of imprisonment of at least six (6) months where the journey is more than 200 kilometres one way. The Scheme is only available to persons already receiving a Commonwealth benefit.

1.2.6 South Australia and Australian Capital Territory (ACT)

It appears that South Australia and the ACT have developed some programs in support of Recommendation 169. In South Australia, the Legal Services Commission Law Handbook identifies the assistance provided by the Aboriginal Prisoners and Offenders Support Services Inc (APOSS), an organisation funded through the South Australian Department of Families and Communities. Once each month APOSS provides a 7-12 seat bus to transport families to Port Augusta and Cadell Prisons to visit prisoners. In the ACT, one of the formal objectives of “Prisoners Aid” is to "provide support for the families of prisoners and to facilitate visits to prisoners by family members". Vouchers and financial subsidies are provided to cover the costs associated with transport to prisons. Other than as set out above the extent of any financial assistance provided by APOSS and Prisoners Aid to families seeking to visit prisoners is unclear.

1.2.7 Tasmania

24 Aboriginal Prisoners and Offenders Support Services Inc., Services http://www.aposs.net.au/services/general-services/

16. THE PRISON EXPERIENCE (RECOMMENDATIONS 168-187)
In respect of Tasmania, this Report did not identify any active implementation of the Recommendation beyond the high level strategies designed to improve the interaction between all prisoners and their families.  

1.3 Prison Visit Facilities (Recommendation 170)

In respect of visitation by prison families, the RCIADIC referred to a submission of the Sansbury Association addressing the role of adequate family visits in maintaining the cohesion of prisoner's families. From the submissions, the RCIADIC identified a need for correctional administrators to consider the need of the family as a unit, and to create a sensitive and humane environment for prison interaction with families and friends. To recreate "normal and personally meaningful conditions for regular interaction", the RCIADIC recommended "that all correctional institutions should have adequate facilities for the conduct of visits by friends and family. Such facilities should enable prisoners to enjoy visits in relative privacy and should provide facilities for children that enable relatively normal family interaction to occur. The intervention of correctional officers in the conduct of such visits should be minimal, although these visits should be subject to adequate security arrangements."

The Standard Guidelines for Corrections in Australia apply to all States and Territories and represent goals to be achieved rather than an absolute set of standards to be enforced. Relevantly, those guidelines encourage contact between prisoners and the community in recognition of the important role families and communities have in assisting with reintegration of prisoners upon release. In respect of the visitation, and the facilities for visitation, the Guidelines require that visitors be treated with respect and "visiting facilities should be provided that are conducive to prisoners receiving visitors in as dignified a manner as is consistent with the security and good order of the prison."

Further, the Guidelines provide that, where possible, prisons should provide visitors with refreshments and suitable "play facilities, equipment and toys" for visiting children.

1.3.1 Western Australia

In Western Australia, the Recommendation has been implemented through the Code of Inspection Standards for Adult Custodial Services which, relevantly, provides that "visiting facilities within the prison should be comfortable, pro-social and safe environments that maximise ease of contact between prisoners and their visitors." The Standards also provide for access to refreshments for visitors and play areas for children. They state that security arrangements should not unnecessarily encroach on privacy. Our findings indicate that implementation of this policy has been

inconsistent across the Western Australia prisons though, in general, our findings show that it continues to improve.

1.3.2 Queensland

In Queensland, implementation of the Recommendation has been much more limited. Section 150 of the Corrective Services Act 2006 (Qld) requires that, when establishing a new prison, the chief executive must ensure appropriate provision of a meeting place for Indigenous prisoners that "promotes communication". The section also requires provision of areas "suitable for children visiting their parents". These requirements apply only in respect of new prisons. This Report has not yielded information regarding compliance with these statutory requirements.

1.3.3 Australian Capital Territory (ACT)

The Recommendation does not appear to have been specifically implemented into law or policy in the ACT. We note however that it appears that the new prison (the Alexander Maconochie Centre) was designed with the Recommendation in mind, with visit areas being noted as being non-threatening and child-friendly. Visits facilities are stated to include family rooms, child play areas and barbeque facilities. 30

1.3.4 Northern Territory

In the Northern Territory, the Recommendation has not been implemented through the Custodial Standards, or otherwise through legislation or regulation. The Northern Territory Correctional Services Visitor Information Darwin Correctional Centre website details rules in respect of prison visits, and states that "a selection of toys and games is available in the visits area for children". This Report has also identified efforts made by Northern Territory Corrections to create family friendly visitor areas, though these improvements do not appear to have been triggered by any Territory-wide formal policy or statutory requirement.

1.3.5 South Australia

This Report has not identified any information in respect of the relevant practices in South Australia.

1.3.6 New South Wales

In New South Wales, the Recommendation has been implemented. Corrective Services NSW notes that it is "committed to providing child and family friendly visits areas, to facilitating regular visits of families to correctional centres, and to providing access to video conferencing facilities to enable meaningful contact between inmates and their families." 31

states that activity packs for children are available in the visits area in prisons in New South Wales. Some visits areas also have play equipment for young children.

### 1.3.7 Victoria

The Victoria Implementation Review of Recommendations shows that the Recommendation in respect of provision of facilities for visitation by family and friends has been "fully implemented". "Corrections Victoria - Public Prisons - Deputy Commissioner's Instruction No. 3.04" acknowledges the importance to prisons of maintaining family ties and friendships and states that Corrections Victoria will provide facilities for personal and professional visits for all prisoners. In practice, Corrections Victoria has reported that each prison has designated areas for conduct of personal and professional contact and non-contact visits, including "appropriately decorated" indoor and outdoor contact visits facilities, generally located in a garden environment, with some locations providing play equipment for the children visiting prisoners.

### 1.3.8 Tasmania

In Tasmania the Tasmania Prison Service Director's Standing Order 4.04 specifically identifies the privacy interests of the prisoners/detainees by stating that, where appropriate, visits should be "without physical barrier" in a "friendly and relaxed environment". The Department of Justice also notes on its website that contact visit areas in each of the Tasmanian prisons have limited toys and play facilities for young children.

### 1.3.9 Commonwealth

The Commonwealth perspective with respect to facilities for visitation by friends and family is limited to guidelines produced by the Australian Federal Police. These guidelines focus upon visitors to watch-houses and confirms a right to visitation and that visiting times should not be "unreasonably restrictive." Beyond this, we have not identified any legislation or policy indicating the extent to which the Recommendation has been implemented on the Commonwealth level.

### 1.4 Permission to attend occasions of family significance

(Recommendation 171)

The RCIADIC further recognised the special kinship and family obligations of Indigenous prisoners through its Recommendation "that Corrective Services give recognition to the special kinship and family obligations for Aboriginal prisoners which extend beyond the immediate family and give favourable consideration to

---

32 Visits (Personal) (issued 23 October 2006), [4.1], [4.2], [4.4] and [4.5].
requests for permission to attend funeral services and burials and other occasions of very special family significance".\(^{35}\) The Recommendation has been at least partially implemented in all jurisdictions.

### 1.4.1 Western Australia

In Western Australia, the Recommendation has been implemented through the *Prisons Act 1981* (WA) and the *Prisons Regulations 1982* (WA), as complemented by relevant policy directives and the Inspection Standards for Aboriginal Prisoners. Specifically, the *Prisons Act 1981* (WA) provides for the issue of "absence permits" for the purposes and in the circumstances prescribed by regulations.\(^{36}\) The *Prisons Regulations 1982* (WA) permit the issue of absence permits to facilitate the maintenance by a prisoner of cultural ties, to enable the prisoner to meet cultural obligations and to facilitate the observance by a prisoner of religious or spiritual beliefs or practices. They also permit the issue of absence permits on compassionate grounds.\(^{37}\)

However, Policy Directive 9 (issued by the head of the Department of Corrective Services) only allows absence permits on compassionate grounds if they meet the prescribed financial limitation, and only immediate family relationships will be considered favourably. This is not in accordance with the Recommendation which specifically provides that family obligations for Aboriginal prisoners extend beyond the immediate family. The Inspection Standards, on the other hand, provide that prisons must give recognition to the special kinship and family obligations of Aboriginal prisoners which extend beyond the immediate family, in accordance with the Recommendation. They also provide that culturally appropriate criteria for leave to attend family funerals should be established and implemented for Indigenous prisoners and require that favourable consideration be given to requests for permission to attend funeral services and burials and other occasions of special family significance.\(^{38}\)

### 1.4.2 Queensland

A similar approach has been implemented in Queensland for the grant of "compassionate leave" to enable a prisoner to attend a relative's funeral in accordance with section 73 of the *Corrective Services Act 2006* (Qld). However, the *Corrective Services Act 2006* (Qld) limits leave for this purpose to attendance at a relative's funeral.\(^{39}\) This does not take account of Indigenous prisoners' extended family and "kinship" connections. However, there is a specific procedure for funeral attendance by Indigenous prisoners set out on the Queensland Corrective Services website. This specifically recognises the special kinship and family obligations of

---


\(^{36}\) Prisons Act 1981 (WA), s 83(3)).

\(^{37}\) Prisons Regulations 1982 (WA), r 54D.


\(^{39}\) Corrective Services Act 2006 (Qld), s 73.
Indigenous prisoners that extend beyond the immediate family in accordance with Recommendation.40

1.4.3 Australian Capital Territory (ACT)

The ACT has implemented Recommendation 171 through a system involving "local leave permits".41 These permits allow a full-time detainee to be absent from a correctional centre for a purpose that the director-general considers "appropriate".42 The system applies to all detainees and prisoners and is not specific to Indigenous prisoners. Standard Guidelines for Corrections in Australia which are applicable in ACT prisons give express recognition or the kinship and family obligations of Indigenous prisoners that extend beyond the immediate family in accordance with the Recommendation.43

1.4.4 New South Wales

The Recommendation has been expressly implemented in NSW in the Corrective Services Operations Procedures Manual and the Aboriginal and Torres Strait Islander Inmate Handbook. The Procedures Manual provides for a system of "local leave permits" for specific purposes, which include attending occasions of special family or cultural significance and the funeral service or burial of an extended family member where special kinship of cultural obligations have been verified and confirmed. It specifically notes that for Aboriginal inmates, extended family must be considered the same as immediate family, consistent with the Recommendation.44

1.4.5 South Australia

In South Australia, the Chief Executive of the Department of Corrections is entitled to grant leave for a “compassionate purpose”, as the Chief Executive sees fit.45 While this does not expressly refer to the special kinship relationship of Indigenous prisoners, the Chief Executive’s power could be utilised to implement the Recommendation. This Report has not found whether the power has been utilised for this purpose to date. Like the ACT, the Standard Guidelines for Corrections in Australia are applicable in South Australia and are in accordance with the Recommendation.

40 Queensland Corrective Services, Procedure - Funeral Attendance by Indigenous Prisoners, 28 August 2006
41 Corrections Management Act 2007 (ACT) s205.
42 Corrections Management Act 2007 (ACT) s205: "Examples of purposes
1 to attend a health or rehabilitation service
2 to take part in work or work-related activities
3 for compassionate reasons"
45 Correctional Services Act 1982 (SA) ss27 and 27A.
1.4.6 Northern Territory

The Northern Territory's implementation of the Recommendation has been reasonably limited. The Northern Territory's response regarding the Recommendation refers only to:

- the establishment of a "sorry camp" at Alice Springs Correctional Centre at which prisoners of all classifications may attend funeral services; and
- legislative power allowing the Commissioner of Correctional Services to grant leave a purpose the Commissioner considers appropriate, including compassionate reasons.

1.4.7 Victoria

The Recommendation has been fully implemented in Victoria through the grant of "custodial interstate community permits" under the Corrections Act 1986 (Vic) and the Correctional Management Standards for Men's Prisons in Victoria. Relevantly, section 82 of the Corrections Act 1986 (Vic) provides that a custodial interstate community permit may be issued for any compassionate purpose including, "in the case of an Aboriginal prisoner, to enable the prisoner to be present at an occasion of special significance to the prisoner's immediate or extended family".

1.4.8 Tasmania

Like other jurisdictions, Tasmania authorises the Director of Corrective Services to grant an absence in the form of a "leave permit" for those 'purposes' identified in the legislation. Relevantly, while the Corrections Act 1997 (Tas) notes that a purpose includes leave for sickness of specified persons and funeral attendance, specific provision is made for an Indigenous detainee to attend events of "special cultural significance to the Aboriginal community."

Our findings with respect to Recommendation 171 above appear to show at least partial implementation across all jurisdictions. However, it is interesting to note a 1994 report which observed at that time that while "jurisdictions claim implementation of this Recommendation [t]here was no information from the case profiles on attendance at funerals or very special family occasions."

1.5 Access to Indigenous service organisations (Recommendation 172)

47 Correctional Services Act 2014 (NT) s118.
48 Corrections Act 1997 (Tas) s 42(1).

16. THE PRISON EXPERIENCE (RECOMMENDATIONS 168-187)
The RCIADIC’s final Recommendation in respect of prison visits related to the need for Indigenous prisoners to have access to Indigenous service organisations. The RCIADIC recommended that Indigenous prisoners be entitled to receive periodic visits from representatives of Indigenous organisations, including Indigenous Legal Services.\(^{50}\)

### 1.5.1 Western Australia

The Recommendation has not been fully implemented in Western Australia as prisoners do not have an "entitlement" to periodic visits. However, the Department of Corrective Services has an Aboriginal Visitors Scheme (‘AVS’), being a group of Indigenous staff who visit prisons and detention centres around the state, providing support and counselling to Indigenous people in custody. These visitors cannot help with money, legal or medical matters, but can make referrals to appropriate agencies\(^{51}\). The aim of the AVS is to ensure means are provided for reducing the likelihood of deaths and/or self-harm, to ensure conditions of those in custody improve through consultation, advice and information to decision-makers, and to ensure Aboriginal community groups are properly informed on conditions of custody.\(^{52}\)

In addition, lawyers and Court Officers from the Aboriginal Legal Service of Western Australia (which is funded by the Australian Government through the Commonwealth Attorney-General’s Department) visit prison and detention centres to provide prisoners with legal advice and representation\(^{53}\). Legal Aid WA also offers a ‘Prison Visiting Service’ where representatives from Legal Aid WA can attend certain WA prisons to provide information and assistance in circumstances where the individual does not already have a lawyer.\(^{54}\)

### 1.5.2 Queensland

Again, in Queensland the Recommendation has not been implemented to provide prisoners with an entitlement to periodic visits of the nature recommended by the RCIADIC. The Aboriginal & Torres Strait Islander Legal Service (QLD) (which has funding from the Commonwealth Attorney-General’s Department) has a prisoner throughcare program the goal of which is to support prisoners and youth detainees (both before and after release from prison/detention) in addressing their offending behaviour, and therefore reduce the prospects of them returning to prison/detention after

---

\(^{50}\) Royal Commission into Aboriginal Deaths in Custody, National Report, 1991, Volume 3, Chapter 25, Recommendation 172.


\(^{54}\) Legal Aid Western Australia, Information for Prisoners - Legal Aid WA Services, March 2012 http://www.legalaid.wa.gov.au/LegalAidServices/Documents/Information%20for%20prisoners%20-%20Legal%20Aid%20WA%20services.PDF, 3.4.
their release. Only a limited number of prisoners or youth detainees can participate in this program due to limited resources.\textsuperscript{55}

1.5.3 Northern Territory

The Northern Territory has not implemented a formal regulatory regime in respect of periodic visits by Indigenous organisations. However, a number of programs operate in the Northern Territory to allow for visitation, including the Elders Visiting Program. In addition, the Central Australian Aboriginal Legal Aid Service and North Australian Aboriginal Justice Agency (‘NAAJA’) provides free legal aid to Indigenous detainees. The NAAJA commenced a ‘Prisoner Support Project’ in 2009 and a ‘Throughcare Project’ in 2010 aimed at reducing repeat offending by addressing the throughcare needs of adult prisoners and juvenile detainees.\textsuperscript{56}

1.5.4 Victoria

Victoria has more formally implemented the Recommendation. Under regulation 60 of the \textit{Correction Regulations 2009 (Vic)}\textsuperscript{57}, a lawyer acting in the course of a lawyer’s practice may enter a prison and visit a prisoner. Further, regulation 61 provides that any prisoner who is in the custody of a prison officer or an escort officer and is at court awaiting trial must be given an opportunity to have access to a lawyer.\textsuperscript{58}

Pursuant to section 9.2.1 of the Corrections Management Standards for Men’s Prisons in Victoria, a prison general manager has particular obligations to an Indigenous prisoner which include:

- providing the prisoner with access to an Aboriginal Wellbeing Officer/Aboriginal Liaison Officer within 24 hours of reception into the prison system;\textsuperscript{59} and
- providing programs for prisoners which incorporate links to community-based organisations and/or culturally identified programs.\textsuperscript{60}

In the Victoria Implementation Review of Recommendations, Corrections Victoria describes that it provides an environment that fosters the maintenance of cultural and community links for Indigenous prisoners by ensuring that they have unfettered access to the Aboriginal Well-being Officers, the Aboriginal Liaison Officer and the Indigenous Services Officers. Corrections Victoria endeavours to create links and partnerships with a range of Indigenous community agencies and to facilitate visits between these agencies and prisoners. Representatives from Aboriginal


\textsuperscript{57} Correction Regulations 2009 (Vic).

\textsuperscript{58} Correction Regulations 2009 (Vic) r61.

\textsuperscript{59} Corrections Management Standards for Men’s Prisons in Victoria, 4 July 2014, s 3, clause 2.2.

\textsuperscript{60} Corrections Management Standards for Men’s Prisons in Victoria, 4 July 2014, s 8, clause 2.2.

16. THE PRISON EXPERIENCE (RECOMMENDATIONS 168-187)
organisations who visit prisons on a regular basis have received passes, ensuring ease of access to the prison and Indigenous prisoners. Corrections Victoria's Operating Procedure 2.07 on Aboriginal and Torres Strait Islander Prisoners reinforces the importance of ensuring that representatives from Indigenous organisations are encouraged to access Indigenous prisoners accommodated in Corrections Victoria prisons.\(^{61}\)

Access is also prescribed by the Victoria Aboriginal Justice Agreement Phase 3. Activity 3.6.5(b) provides that the Department of Justice (Corrections Victoria) aims to strengthen access to the Aboriginal Family Visits Programs enhancing the connection of Koori offenders with their families and communities.\(^{62}\)

1.5.5 New South Wales

The Recommendation also appears to have been formally implemented in New South Wales. Under the Crimes (Administration of Sentences) Regulation 2014 (NSW), the general manager of a correctional centre may permit a person to visit the centre, either generally or for the purpose of seeing a particular inmate at the centre\(^ {63}\). In addition to these visits an inmate who is an Indigenous person may be visited by:

- a field officer of the Aboriginal Legal Service; or
- a field officer of any other organisation that provides legal or other assistance to Indigenous persons and is approved by the Commissioner.\(^ {64}\)

In addition, the Corrections Services NSW Operations Procedures Manual permits field officers of the Coalition of Aboriginal Legal Services to visit all Australian Indigenous inmates (including those in confinement to cells).\(^ {65}\)

1.5.6 Australian Capital Territory (ACT)

In the ACT, the Corrections Management (Official Visitor) Policy 2011 provides for the appointment of a person as an “Indigenous Official Visitor” who is to, among other things, receive and investigate complaints from Indigenous prisoners. Any request from a prisoner to see an Indigenous

---


\(^{63}\) Crimes (Administration of Sentences) Regulation 2014 (NSW) r74.

\(^{64}\) Crimes (Administration of Sentences) Regulation 2014 (NSW) r84.

Official Visitor is to be passed on as soon as practicable, and the prisoner is not required to explain the basis for the request.  

1.5.7 South Australia

In South Australia, the Aboriginal Prisoners and Offenders Support Service Inc (‘APOSS’) have been established whose core business is crime prevention and diversion. They achieve this through regular visits to all eight prisons across South Australia, and ‘through care’ service provided to prisoners exiting prison in the ensuing six months. Indigenous prisoners can request a professional visit by APOSS to address any presenting issues or concerns.

1.5.8 Tasmania

Our findings suggest that the Recommendation has not been explicitly implemented in Tasmania.

2. Access to Other Indigenous Prisoners (Recommendation 173)

Recommendation 173: That initiatives directed to providing a more humane environment through introducing shared accommodation facilities for community living, and other means should be supported, and pursued in accordance with experience and subject to security requirements.

In addition to its discussion on the need for Indigenous prisoners to have access to kin, community and country, the RCIADIC considered the benefits of prisoner access to other Indigenous prisoners. Based on the evidence placed before it, the RCIADIC surmised that Indigenous prisoners place a very high value on access to other Indigenous prisoners and indicated that a "relatively high degree of mobility within prisons can succeed in generating a less stressful and more relaxed atmosphere for prisoners".

2.1 Western Australia

In Western Australia, the Office of the Inspector of Custodial Services inspects prisons in the state in accordance with its Inspection Standards for Aboriginal Prisoners. Standard A2 provides that "prison buildings and the layout of the prison should be culturally appropriate for the prisoner population". Standard A2.5 provides that particular consideration should be given to the provision of adequate shared accommodation. In practice, this means that there has been an initiative directed towards providing a more humane environment through introducing share accommodation facilities for Indigenous prisoners in Western Australia. This Report

---

70 Ibid Standard A2.5.

16. THE PRISON EXPERIENCE (RECOMMENDATIONS 168-187)
has found that these facilities have been inconsistently made available in Western Australia.\textsuperscript{71}

2.2 Victoria

The Recommendation has been implemented in Victoria. Implementation has been achieved through the Correctional Management Standards\textsuperscript{72} which sets the minimum requirements for correctional services in Victorian prisons. The Correctional Management Standards require the Prison General Manager to accommodate Indigenous prisoners together where possible and appropriate.\textsuperscript{73} In 2005 Corrections Victoria advised the Victorian Department of Justice that a number of minimum and medium security prisons contain the option of shared, cottage style accommodation for prisoners assessed as suitable according to classification and security requirements, and that these shared options are available to Indigenous prisoners depending on their security classification.\textsuperscript{74}

2.3 Australian Capital Territory (ACT)

This Recommendation has also been implemented in the Australian Capital Territory through the Corrections Management (Aboriginal and Torres Strait Islander Detainees) Policy (No 2) 2011 (ACT) and the associated Corrections Management (PDC: Shared Accommodation) Policy 2011 (ACT). Under these policies, at the Alexander Maconochie Centre, ACT Corrective Services should give particular consideration to the impact of separate confinement on Indigenous detainees, including the potential impact segregation may have on the health and wellbeing of the prisoner, and Indigenous prisoners should be accommodated together where requested and where operational requirements, and other factors, permit.

2.4 South Australia

The Recommendation has not been formally implemented in South Australia, although in practice there is dedicated provision of shared accommodation for Indigenous prisoners in the state at the Pakani Arangka unit in the Port Augusta prison, which is set-up as a 12 person, dual occupancy unit.

2.5 New South Wales

Similarly, it does not appear that formal steps have been taken to implement the Recommendation in New South Wales. However, section 7.17.4 of the Corrective Services New South Wales Operations Procedures Manual\textsuperscript{75} allows an inmate

\textsuperscript{71} The Office of the Inspector of Custodial Services has reported that an excessive number of Indigenous prisoners were detained out of country, and that Indigenous prisoners were unable to support each other because of the lack of dedicated accommodation; Office of the Inspector of Custodial Services (WA), Report of an Announced Inspection of Casuarina Prison (2014) [2.17], [4.16]–[4.17] and [9.31]–[9.32].

\textsuperscript{72} Victorian Department of Corrections, Correctional Management Standards for Men’s Prisons in Victoria (2014) and the Victorian Department of Corrections, Correctional Management Standards for Women’s Prisons in Victoria (2014).

\textsuperscript{73} Ibid [2.2].

\textsuperscript{74} Victorian Department of Justice, *Victorian Implementation* Review of Recommendations from the Royal Commission into Aboriginal Deaths in Custody 1991 (October 2005) 590 - 592.

(whether Indigenous or non-Indigenous) to request to share a cell with another inmate or multiple inmates. The manual also allows a "two-out" cell to be utilised to accommodate an at-risk inmate and an inmate companion, or an inmate with special needs and a companion inmate. This discretion to permit sharing could be utilised to assist Indigenous prisoners.

2.6 Queensland, Northern Territory and Tasmania

This Report has not identified any legislation or policy that implements the Recommendation in Queensland, the Northern Territory or Tasmania.


**Recommendation 174**: That all Corrective Services authorities employ Aboriginal Welfare Officers to assist Aboriginal prisoners, not only with respect to any problems they might be experiencing inside the institution but also in respect of welfare matters extending outside the institution, and that such an officer be located at or frequently visit each institution with a significant Aboriginal population.  

**Recommendation 175**: That consideration be given to the principle involved in the submission made by the Western Australian Prison Officers' Union that there be a short transition period in a custodial setting for prisoners prior to them entering prison routine.

**Recommendation 176** That consideration should be given to the establishment in respect of each prison within a State or Territory of a Complaints Officer whose function is:

(a) To attend at the prison at regular (perhaps weekly) intervals or on special request for the purpose of receiving from any prisoner any complaint concerning any matter internal to the institution, which complaint shall be lodged in person by the complainant;
(b) To take such action as the officer thinks appropriate in the circumstances;
(c) To require any person to make enquiries and report to the officer,
(d) To attempt to settle the complaint;
(e) To reach a finding (if possible) on the substance of the complaint and to recommend what action if any, should be taken arising out of the complaint; and
(f) To report to the complainant, the senior officer of the prison and the appointing Minister (see below) the terms of the complaint, the action taken and the findings made.

This person should be appointed by, be responsible to and report to the Ombudsman, Attorney-General or Minister for Justice. Complaints receivable by this

---


person should include, without in any way limiting the scope of complaints, a complaint from an earlier complainant that he or she has suffered some disadvantage as a consequence of such earlier complaint.’

The RCIADIC identified that the trauma associated with the trial, sentence and incarceration of prisoners results in the need for extensive welfare and support, especially amongst Indigenous prisoners. Having identified the welfare and support needs, the RCIADIC considered how those needs are best met and noted, based on the evidence before it, of the value in Indigenous people providing welfare services to Indigenous prisoners, as they are best placed to respond to the welfare and support needs of Indigenous prisoners in the prison.

In reaching this conclusion, the RCIADIC considered that the exacerbation in failing to meet the welfare needs of Indigenous prisoners at Western Australian prisons coincided with the abolition of Indigenous welfare officers at those prisons.

3.1 Aboriginal Welfare Officers (Recommendation 174)

3.1.1 Western Australia

This Report has not identified any legislation in Western Australia that requires the Department of Custodial Services to comply with Recommendation 174. Instead prisons in Western Australia are inspected against a standard that encompasses the Recommendation. Standard A35 of the Inspection Standards for Aboriginal Prisoners provides that in prisons where the population is predominantly Indigenous, the Department of Corrective Services should employ at least one Prison Support Officer (‘PSO’) who is able to communicate effectively with all groups of Indigenous prisoners. PSOs include Indigenous employees of the Department of Corrective Services who work at prisons around the state. Their main role is suicide prevention through the identification and supports of vulnerable prisoners, in particular those at risk of self-harm, and they work closely with prison officers, nursing staff and the Prison Counselling Service.

3.1.2 South Australia

The South Australian Department for Correctional Services has taken steps to implement the Recommendation by employing "Aboriginal Liaison Officers" who visit prisons throughout the state providing a range of culturally appropriate services to Indigenous prisoners. This program is a product of the "Aboriginal Services Unit" established by the Department in 1995. That unit advises and develops at the policy and operational level the provision to Indigenous prisoners and offenders of culturally appropriate

---

78 Commonwealth, Royal Commission into Aboriginal Deaths in Custody, National Report (1991) Volume 3, Chapter 25, [25.5.5].
79 Such a policy is also not referred to in either the Department of Corrective Services (WA), Policy Directives (WA) (9 March 2015) or Department of Corrective Services (WA), Adult Custodial Rules (WA) (29 April 2014), which are said to operate under the Prisons Act 1981 (WA), http://www.correctiveservices.wa.gov.au/prisons/adult-custodial-rules/default.aspx.
80 Office of the Inspector of Custodial Services (WA), Inspection Standards for Aboriginal Prisoners (July 2008), Standard A35.
services, and monitors the implementation of Recommendations of the RCIADIC.81

3.1.3 New South Wales

Similarly, in New South Wales section 7.19 of the Corrective Services New South Wales Operations Procedures Manual82 provides that in correctional centres where there is a significant Indigenous inmate population the General Manager of a correctional centre shall employ an "Aboriginal Inmate Delegate" who is to support Indigenous inmates experiencing personal difficulty when necessary, which may include sharing accommodation.

3.1.4 Queensland

Implementation in Queensland has been more limited as there are no dedicated Indigenous Welfare Officers or any equivalent. Under section 286 of the Corrective Services Act 2006 (Qld) if a significant proportion of prisoners are Indigenous, at least 1 of the “official visitors” assigned to visit the facility is to be an Indigenous person. The role of an "official visitor" does not extend to assisting an Indigenous prisoner with welfare matters including those extending outside the prison. Rather, the role is focussed on assisting with and investigating complaints and matters relating to the act or omission of a prison officer.

However, under sections 3 and 266 of the Corrective Services Act 2006 (Qld), programs and services provided in prison must take into consideration the needs of Indigenous prisoners. Queensland Corrective Services implements this legal requirement through the Offender Management Procedures and Custodial Operations Standing Operating Procedure, specifically those parts related to the assessment of prisoners,83 the intensive management of those considered to be of concern84 and those that are at risk of self-harm or suicide.85

81 The Department of Correctional Services (SA) has signed a Declaration for Reconciliation 2011 in which the Department undertakes to manage Indigenous people in the Department’s care and custody with respect and compassion, and to provide services and support where possible that recognises Indigenous peoples’ diverse cultural needs, and address the accumulated trauma that many have suffered in their lives to the best of its ability.
85 Queensland Corrective Services, 'Procedure — At-Risk Management (Self Harm/Suicide)’ Offender Management Procedure, Version 8 (15 December 2012)

16. THE PRISON EXPERIENCE (RECOMMENDATIONS 168-187)
3.1.5 Northern Territory

In the Northern Territory, the Recommendation has not been formally implemented through legislation or policy. This Report is unable to confirm if Indigenous Welfare Officers or any equivalent are engaged by the Department of Corrective Services, and what (if any) procedures it implements that may be aimed at providing Indigenous prisoners with welfare support.

3.1.6 Australian Capital Territory (ACT)

In the ACT, our findings suggest that there is yet to be formal implementation through legislation. However, Indigenous staff is available to support Indigenous prisoners and offenders, which includes an Indigenous liaison officer at the Alexander Maconochie Centre.\(^86\)

3.1.7 Victoria

The Recommendation has, been implemented in Victoria through the Correctional Management Standards,\(^87\) which is the policy document that sets the minimum requirements for correctional services in Victorian prisons. Section 36.2 provides that Indigenous prisoners will be provided with access to an “Aboriginal Welfare Officer/Aboriginal Liaison Officer”.

3.1.8 Tasmania

In Tasmania there are no dedicated Indigenous Welfare Officers. The Tasmanian Prison Service operate an Integrated Offender Management (‘IOM’) Unit which is responsible for the provision of therapeutic, rehabilitation and reintegration services. These services include the provision of psychologists and counsellors who liaise with the Correctional Primary Health Service, assisting all prisoners to adjust to the prison environment and providing advice about the management of vulnerable and at-risk prisoners. An “Aboriginal Liaison Officer” is employed in the Case Coordination Unit of the IOM.

3.2 Short Transition Period (Recommendation 175)

3.2.1 Western Australia

This Report has not identified any legislation that implements a short transition period in a custodial setting for prisoners prior to them entering

---

86 Department of Justice and Community Safety (ACT) and the ACT Aboriginal and Torres Strait Islander Elected Body, Aboriginal and Torres Strait Islander Law and Justice Services in the ACT – A practical guide (August 2010)

87 Victorian Department of Justice, Correctional Management Standards for Men’s Prisons in Victoria (2014) [2.2] and Victorian Department of Justice, Correctional Management Standards for Women’s Prisons in Victoria (2014) [2.2].
the prison routine in Western Australia. Instead prisons in Western Australia are inspected against a standard that encompasses the Recommendation. Relevantly, the Code of Inspection Standards for Adult Custodial Services provides that "newly admitted prisoners (other than prisoners transferred into minimum-security from another prison) should be accommodated separately from the general population during the admission and orientation process." The Code of Inspection Standards for Adult Custodial Services also provides that reception and admission staff should be appropriately trained to deal with anxious and vulnerable newly received prisoners, and the vulnerability of prisoners must be ascertained and appropriately safeguarded.

### 3.2.2 Queensland

In Queensland, implementation of the Recommendation also appears to be quite limited. The only relevant legislative or policy provision appears to be in the Offender Management Procedure, which requires an immediate risk needs assessment to be conducted individually with each prisoner on admission with a view to identifying any immediate and ongoing intervention requirements and action them. The Offender Management Procedure does not, however, provide for a “transitional” period.

### 3.2.3 New South Wales

Similarly, in New South Wales there is no express provision for a “transitional period” in legislation or policy. However, the Corrective Services New South Wales Operations Procedures Manual sets out the activities to be undertaken by the “Aboriginal Inmate Committee” in relation to induction of Indigenous Prisoners. The process requires the “Aboriginal Inmate Committee” to do various things, including:

- supporting all Indigenous inmates received at the Centre;
- developing and presenting an investment program for all inmates received at the Centre; and
- providing support to prisoners experiencing personal difficulty.

---

88 Such a policy is also not referred to in either the Department of Corrective Services (WA), Policy Directives (WA) (9 March 2015) or Department of Corrective Services (WA), Adult Custodial Rules (WA) (29 April 2014), which are said to operate under the Prisons Act 1981 (WA), http://www.correctiveservices.wa.gov.au/prisons/adult-custodial-rules/default.aspx.
90 Ibid, Standards 2.4 and 2.5.

16. THE PRISON EXPERIENCE (RECOMMENDATIONS 168-187)
3.2.4 Victoria

In Victoria, the Department of Justice reported that recommendation 175 has been fully implemented. The Victorian Government was advised in 2005 by Corrections Victoria that the majority of Corrections Victoria prisons have dedicated orientation units. Newly received prisoners are accommodated in these orientation units for two to five days, during which time prisoners are additionally supported in adjusting to imprisonment, with the exceptions being Beechworth, Won Wron and Tarrengower Prisons.

This Report does find that consideration has been given in Victoria to providing Indigenous prisoners (and non-Indigenous prisoners) with a short transition period on arrival at prisons but cannot identify any legislation or policy document that formally implements the practice.

3.2.5 Northern Territory, South Australia, Tasmania and Australian Capital Territory (ACT)

This Report has not identified any legislation or policy indicating that the Recommendation has been implemented in the Northern Territory, South Australia, Tasmania or the ACT.

3.3 The Role of Indigenous Visitors (Recommendation 176)

The RCIADIC considered the role of Indigenous visitor schemes as they were then operating and concluded that if they "are to operate as an effective grievance investigation and general monitoring mechanism, then their members must be given sufficient power and resources to investigate, and sufficient power to ensure the satisfaction of genuine complaints. Moreover, it appears likely that a scheme that was not independent of prison authorities might be regarded with suspicion by Aboriginal and non-Aboriginal prisoners".

3.3.1 Western Australia

In Western Australia the establishment of a complaints' officer position at each prison in the state has not been implemented. However, under the Inspector of Custodial Services Act 2003 (WA) an independent visitor is to visit and inspect each prison at least once every three months, record any complaint made to the visitor by or on behalf of a prisoner and report his or her findings and any complaints made by prisoners to the Inspector of Custodial Services.

---

94 Ibid.
95 For recent comment on the prisoner complaints handling system in the Northern Territory see Ombudsman for the Northern Territory, Thirty Sixth Annual Report 2013/14 (22 September 2014) 11.
96 Ibid [25.5.9].
97 Inspector of Custodial Services Act 2003 (WA) s 39. Section 19 mandates that an inspection by the Inspector of Custodial Services of each prison in the state take place once every three years, and under section 21 the Inspector of Custodial Services has the power to inspect a prison at any other time and on any number of occasions.
The application of this law is monitored by the Office of the Inspector of Custodial Services in accordance with its Code of Inspection Standards for Adult Custodial Services. Standard 53 states that there should be regular visits by officially appointed independent visitors who should be accessible to all prisoners at the prisoners request to listen in confidence to their requests and complaints.\textsuperscript{98} In addition, Standard 50.4 provides that there should be a "simple but confidential process ... whereby prisoners may make a complaint or representation to an external competent authority that has a mandate to respond to such complaints or representations."\textsuperscript{99}

### 3.3.2 Queensland

The Recommendation has also only been partially implemented in Queensland where the \textit{Corrective Services Act 2006 (Qld)} establish an "official visitor" procedure and requirements in respect of complaint handling.\textsuperscript{100} Section 286 of the \textit{Corrective Services Act 2006 (Qld)} requires the official visitor assigned to a prison to visit once a month, and if a prison has a significant proportion of Indigenous prisoners that at least one of the official visitors must be Indigenous. A prisoner may request to see an official visitor whose function includes investigating certain classes of complaints made by prisoners. An official visitor is required to act impartially when investigating a complaint and once completed he or she may make recommendations to the chief executive and advise the prisoner that he or she has done so. This process is not independent of Queensland Corrective Services as required by Recommendation 176.

### 3.3.3 Northern Territory

The Recommendation has been partially implemented in the Northern Territory. The \textit{Ombudsman Act 2009 (NT)} applies for the making of a complaint by a prisoner. A complaint may be made by the aggrieved person, by a person with first-hand knowledge of the matter, by a representative of the aggrieved person or a representative of the person with first-hand knowledge.\textsuperscript{101} The legislation does not, however, allow for the appointment of a specified complaints officer. Rather, the \textit{Ombudsman Act 2009 (NT)} simply places obligations on the officer in charge of the place in which the prisoner is detained to assist in making complaints to the Ombudsman which is inconsistent with Recommendation 176.

### 3.3.4 Australia Capital Territory

In the ACT, this Recommendation has in part been adopted by the operation of section 56 of the \textit{Corrections Management Act 2007 (ACT)}, the \textit{Official Visitor Act 2012 (ACT)} and the \textit{Corrections Management (Official Visitor) Policy 2011 (ACT)}. The \textit{Official Visitor Act 2012 (ACT)} prescribes the role of an "Official Visitor" (which includes investigation of prisoner

\textsuperscript{99} Ibid Standard 50.4.
\textsuperscript{100} Corrective Services Act 2006 (Qld) ss 285–292.
\textsuperscript{101} Ombudsman Act 2009 (NT) s 26.

16. THE PRISON EXPERIENCE (RECOMMENDATIONS 168-187)
complaints and inspections of correctional centres) who is appointed by
and reports to the Minister. The Policy provides for a person to be
appointed as an "Indigenous Official Visitor" to perform the functions of an
Visitors receive and investigate complaints and grievances from Indigenous
prisoners, and inspect correctional centres and places outside correctional
centres where Indigenous prisoners are, or have been directed to work or
participate in an activity.

3.3.5 Tasmania

Tasmania has adopted a similar arrangement to that of the ACT. Under
section 10 of the Corrections Act 1997 (Tas), an "official visitor" is
authorised to visit and make enquiries into the treatment and conditions
prisoners are subject to and investigate complaints made by prisoners.
Relevantly, and largely in accordance with the Recommendation, an
"official visitor" is appointed by the relevant Minister and may report to
either the Minister or the Director of Corrective Services. Through the
official visitor, access is also provided to the Ombudsman's formal
complaint process, which, depending on the nature and seriousness of the
detainees claim, may result in a response being required from the prison's
management.102

3.3.6 Victoria

In Victoria, the Recommendation has been partially implemented by the
creation of the state wide official visitor program through the Corrections Act
1986 (Vic), Corrections Regulations 2009 (Vic) and related Correctional
Management Standards.103 Official visitors are appointed by the Minister for
Corrections, and their role includes being accessible to "prisoners to listen
to their concerns, in particular those issues relating to the management and
operation of the prison".104 In 2005 Corrections Victoria reported to the
Victorian Government105 that in addition to the official visitor program it had
also recently established the role of "Aboriginal Official Visitor" who would
deal specifically with complaints raised by Indigenous prisoners.

3.3.7 New South Wales

The Recommendation has in part been implemented in New South Wales.
In that state "Official Visitors" are appointed by the Minister for Corrective
Services and are independent from Corrective Services New South Wales.
Official Visitors are said to visit approximately once a fortnight to hear

---

102 Official Visitor, Prison Official Visitor Programs,
103 Corrections Act 1986 (Vic) ss 35 and 36, Corrections Regulations 2009 (Vic) reg 63 and Victorian
Department of Justice, 'Independent Prison Visitors', Correctional Management Standards for Men's
Prisons in Victoria (2014) s 20 and Victorian Department of Justice, 'Independent Prison Visitors',
104 Victorian Implementation Review of Recommendations from the Royal Commission into Aboriginal
105 Ibid.
complaints from prisoners personally, and where those complaints cannot be resolved through engagement of prison staff the Official Visitor brings the issues to the attention of the Commissioner or Minister in their quarterly and half yearly reports. The statutory requirement for the appointment of Official Visitors and their role are set out in section 228 of the Crimes (Administration of Sentences) Act 1999 (NSW) and clauses 155-157 of the Crimes (Administration of Sentences) Regulation 2008 (NSW).

3.3.8 South Australia

An independent complaints' officer system as outlined in the Recommendation has not been implemented in South Australia. There are internal and external avenues available to Indigenous prisoners to voice complaints as a matter of practice. The "Aboriginal Liaison Officer" role, which works within the South Australian Department for Correctional Services does incorporate the handling of complaints and that officer is commonly the person to whom complaints by Indigenous prisoners are initially directed. As at 2011 there were 12 Aboriginal Liaison Officers to serve 9 prisons located throughout South Australia.

4. Racism in Prisons (Recommendations 177 - 178)

**Recommendation 177:** That appropriate screening procedures should be implemented to ensure that potential officers who will have contact with Aboriginal people in their duties are not recruited or retained by police and prison departments whilst holding racist views which cannot be eliminated by training or re-training programs. In addition Corrective Services authorities should ensure that all correctional officers receive cross-cultural education and an understanding of Aboriginal-non-Aboriginal relations in the past and the present. Where possible, that aspect of training should be conducted by Aboriginal people (including Aboriginal ex-prisoners). Such training should be aimed at enhancing the correctional officers' skills in cross-cultural communication with and relating to Aboriginal prisoners.

**Recommendation 178:** That Corrective Services make efforts to recruit Aboriginal staff not only as correctional officers but to all employment classifications within Corrective Services.

The RCIADIC identified racism in prison, both in the form of racist attitudes of some correctional staff and from non-Indigenous prisoners, as being a difficulty faced by Indigenous prisoners, despite a general attitude in some prisons that racism is not an issue for Indigenous prisoners on the basis that complaints in relation to racism are few. The RCIADIC relied on evidence presented to Commissioner Wooten to the effect that the assertion that racism is not an issue fails to "appreciate that aggrieved Aboriginal prisoners are unlikely to complain to non-Aboriginal prison authorities and

---


107 Ombudsman SA, An Audit of Prisoner Complaint Handling in the South Australian Department for Correctional Services (June 2012) 16 - 17.
fails to appreciate that racism can be structural and covert as well as explicit and overt.\textsuperscript{108}

4.1 Correctional Officer Screening and Education (Recommendation 177)

In relation to racism in prisons, the RCIADIC considered the prevalence of racist attitudes amongst some correctional officers and a general lack of understanding or experience dealing with Indigenous people as being a key issue.

In relation to racist attitudes, the RCIADIC received evidence alleging the commonality of racist taunts by correctional officers, and racism in the context of "day-to-day treatment of prisoners and in the discriminatory allocation of resources, privileges and services".\textsuperscript{109}

In respect of the general lack of understanding of Indigenous people prevalent amongst some correctional officers, the RCIADIC considered evidence contained in the Sansbury Association's Interim Submission to the RCIADIC identifying the need for potential prison officers to undertake an "Aboriginal awareness course".\textsuperscript{110} The RCIADIC also looked to the existing training provided to correctional officers and noted "alarming deficiencies" in some jurisdictions and identified an "urgent need" to establish proper and effective training programs.\textsuperscript{111}

Based on the evidence before it, the RCIADIC recommended "that appropriate screening should be implemented to ensure that potential officers who will have contact with Indigenous people in their duties are not recruited or retained by police or prison departments whilst holding racist views which cannot be eliminated by training or re-training programs. In addition, Corrective Services authorities should ensure that all correctional officers receive cross-cultural education and an understanding of Aboriginal and non-Aboriginal relations in the past and the present. Where possible, that aspect of training should be conducted by Aboriginal people (including Aboriginal ex-prisoners). Such training should be aimed at enhancing the correctional officers' skills in cross-cultural communication with and relating to Aboriginal prisoners."\textsuperscript{112}

4.1.1 Western Australia

In Western Australia, that part of the Recommendation pertaining to screening of potential officers has not been implemented. However, that part of the Recommendation pertaining to corrective officer education has

\textsuperscript{108} Royal Commission into Aboriginal Deaths in Custody, National Report, 1991, Volume 3, Chapter 25, [25.6.3].
\textsuperscript{109} Royal Commission into Aboriginal Deaths in Custody, National Report, 1991, Volume 3, Chapter 25, [25.6.1].
\textsuperscript{110} Royal Commission into Aboriginal Deaths in Custody, National Report, 1991, Volume 3, Chapter 25, [25.6.4].
\textsuperscript{111} Royal Commission into Aboriginal Deaths in Custody, National Report, 1991, Volume 3, Chapter 25, [25.6.8].
\textsuperscript{112} Royal Commission into Aboriginal Deaths in Custody, National Report, 1991, Volume 3, Chapter 25, Recommendation 177.
been implemented in the Inspection Standards for Aboriginal Prisoners.\textsuperscript{113} These Standards require that:

- appropriate staff training requirements should be established as a pre-requisite to transfer into and working at each Indigenous prison;
- new recruits should undergo cultural training specific to the cultural prisoner profile for the prison;
- periodic refresher cultural training should be scheduled for staff already working in prisons with a predominantly Indigenous population; and
- key performance indicators for each prison should address and report on processes to address racism, including structural racism.

However, notwithstanding the Standards, there is some question over the practical implementation of the correctional officer training. Relevantly, in relation to the Casuarina prison, the Inspector of Custodial Services reported in 2008 "that little training in culturally appropriate custodial management has been provided to staff".\textsuperscript{114} The Inspector of Custodial Services recommended that "[u]sing a consultative approach, the Department and the Prison should develop and implement a detailed strategy with measurable outcomes for the culturally appropriate management of all Aboriginal prisoners. Consultation could involve volunteers and elders, Prison Support Officers, Aboriginal Visitor Scheme staff, and the Coordinator Aboriginal Services".\textsuperscript{115} In 2014, the Inspector of Custodial Services reported that the Department's implementation of this Recommendation as at July 2013 was 'less than acceptable'.\textsuperscript{116} Furthermore, in a survey conducted of prisoner and staff perceptions of WA custodial facilities from 2010 to 2012, 53.7\% of Aboriginal prisoners who responded to the survey felt that staff neither respected nor understood their culture.\textsuperscript{117}

4.1.2 Tasmania

In, Tasmania it does not appear that any formal steps have been taken to implement a screening process for potential correctional officers to assess racist attitudes. The application to be a correctional officer contains a suitability self-assessment questionnaire, which asks the applicant to consider whether they can treat people "humanely and fairly, regardless of their status, background, culture, beliefs or gender".\textsuperscript{118} However information is limited as to how this is evaluated or measured. While it remains unclear as to the extent to which Tasmania has explicitly implemented the Recommendation in terms of its correctional officer staff, the Aboriginal

\textsuperscript{117} Prisoner and staff perceptions of WA custodial facilities from 2010-2012.
\textsuperscript{118} http://www.justice.tas.gov.au/prisonservice/careers/applying_to_be_a_correctional_officer/suitability_questionnaire.
Strategic Plan\(^{119}\) does however list as a strategy for police recruitment the screening of all police applicants for racist attitudes and discriminatory behaviour. Another stated objective of the Aboriginal Strategic Plan is to ensure that all members of the Tasmania Police and state service employees (implicitly including correctional officers) receive appropriate cultural awareness training.

### 4.1.3 Queensland

The Queensland Corrective Services' Social Responsibility Charter provides that "[c]ultural awareness training is provided for staff to increase knowledge of Aboriginal and Torres Strait Islander issues and promote cultural diversity throughout the Agency."\(^{120}\) Furthermore, in relation to correctional officer training, in Queensland the Probation and Parole Operation Standards also provide that "staff are trained in cultural awareness to assist in managing Aboriginal and Torres Strait Islander offenders."\(^{121}\)

In relation to correctional officer training, in Queensland the Probation and Parole Operation Standards provide that "staff is trained in cultural awareness to assist in managing Indigenous offenders."\(^{122}\)

### 4.1.4 Australia Capital Territory (ACT)

In the ACT, the Australian Federal Police Indigenous Employment Strategy provides, as an “aim of the strategy”, for cultural awareness training for all staff involved with Indigenous prisoners. The outcome of the strategy is stated as increased awareness of Indigenous culture and extended family support structures. In 2014, Legislative Assembly for the ACT, reported that all new operation staff of the ACT Corrective Services were provided with Aboriginal and Torres Strait Islander Cultural Awareness training as part of their induction. In the ACT Justice and Community Safety Annual Report 2013/2014, it was reported that eight Aboriginal and Torres Strait Islander Cultural Awareness Training programs were provided in 2013 and 2014 and 132 staff attended.\(^{123}\)

### 4.1.5 New South Wales

In New South Wales, Objective 3 of the Aboriginal Strategic Plan lists a “Corporate Aboriginal Cultural Awareness Strategy” as being provided to all police. In 2012-2013 the Corrective Services Aboriginal Support and Planning Unit developed the Aboriginal Awareness Training e-learning module for NSW Corrective Services employees. The training highlights the importance of family links and underlying issues for offending for Aboriginal

\(^{119}\) Department of Police and Emergency Management - Aboriginal Strategic Plan 2014-2022

\(^{120}\) Queensland Corrective Services, Social Responsibility Charter.

\(^{121}\) Probation and Parole Operational Standards (2010), Section 7.c.5.

\(^{122}\) Probation and Parole Operational Standards (2010), Section 7.c.5.

\(^{123}\) ACT Legislative Assembly, Government Response to the Standing Committee on Health Ageing, Community and Social Service Report No 2 - Report on the Inquiry to ACT Public Service Aboriginal and Torres Strait Islander Employment (2014).
and Torres Strait Islander offenders and was provided to 255 employees.\textsuperscript{124} The Corrective Services NSW Guide to Conduct and Ethics also provides that employees are expected to treat all people fairly, without reference to their race, gender, ethnic origin, religion, language, disability or sexual orientation. While it remains unclear as to the extent to which Tasmania has explicitly implemented the Recommendation, the Aboriginal Strategic Plan does outline attitudes towards racist and discriminatory behaviour. Further, the application to be a correctional officer contains a suitability self-assessment questionnaire, which asks the applicant to consider whether they can treat people "humanely and fairly, regardless of their status, background, culture, beliefs or gender."\textsuperscript{125}

4.1.6 Northern Territory

There has been limited adoption of the assessment screening Recommendation in the Northern Territory. This Report found that the recruitment process includes "some sort of assessment of Aboriginal sensitivity" and cites its recruitment documentation which provides that "it is essential that prison officers have an awareness and appreciation of Aboriginal and Torres Strait Islander culture".\textsuperscript{126} The nature of the assessment undertaken is unclear. Specifically, it is unclear whether there are any cultural awareness education programs in place in accordance with the RCIADIC's Recommendation.

4.1.7 South Australia

There is also a lack of information in relation to implementation of the Recommendation in South Australia. This Report found that the Department of Corrective Services has some strategies in place to address the implementation of the Recommendation, including policies relevant to the employment of Aboriginal Liaison Officers, recruitment and retention strategies for Indigenous staff and maintaining an Aboriginal Services Unit.\textsuperscript{127} The Aboriginal Services Unit is tasked with monitoring the departments implementation of the RCIADIC Recommendations.\textsuperscript{128} In 2013-2014, the Aboriginal Services Unit, amongst other activities, implemented 18 cultural awareness training sessions for 262 staff members across the South Australian Department of Corrective Services and developed a cultural competence training program for departmental staff.\textsuperscript{129} It is unclear whether these strategies have been given effect, or their

\begin{itemize}
  \item \textsuperscript{124} Department of Attorney General and Justice - 2012-2013 Annual Report, 207.
  \item \textsuperscript{125} http://www.justice.tas.gov.au/prisonservice/careers/applying_to_be_a_correctional_officer/suitability_questionnaire.
  \item \textsuperscript{126} Northern Territory Department of Correctional Services, Recruitment, http://www.nt.gov.au/justice/prison_officers/.
  \item \textsuperscript{127} Department of Corrective Services, Aboriginal Services, http://www.corrections.sa.gov.au/aboriginal-services.
  \item \textsuperscript{128} Department of Corrective Services South Australia, Department for Correctional Services Annual Report 2013-14, 28.
  \item \textsuperscript{129} Department of Corrective Services South Australia, Department for Correctional Services Annual Report 2013-14, 29.
\end{itemize}

16. THE PRISON EXPERIENCE (RECOMMENDATIONS 168-187)
impact. South Australia is also a signatory to the Declaration for Reconciliation 2011, under which it has committed to acting the declaration at a local level by:

- developing the requisite leadership and training to eliminate racism in the workplace; and
- building a culturally competent organisation.

4.1.8 Victoria

The Corrections Victoria Victorian Implementation Review of Recommendations provides that the Recommendation has been "fully implemented in Victoria". In relation to the recruitment screening processes, both the Correctional Management Standards for Men’s Prisons and the Standards for the Management of Women's Prisons in Victoria require the prison manager to "ensure prison staff demonstrate appropriate attitudes and culturally and gender sensitive practices and actively engage prisoners in positive behaviour change". In addition to the Standards, Correction Victoria has advised that, as part of the selection process, applicants are required "to undergo a series of processes to determine suitability for employment by Corrections Victoria in custodial positions". These processes include behavioural interviewing and are designed to identify inappropriate traits, including racist views.

In relation to implementation of correctional officer education, the Men’s and Women’s Standards oblige the prison manager to "train staff members with the aim of their developing an understanding of the cultural needs of such prisoners". More specifically, Corrections Victoria has advised that, during initial recruit training, cross cultural training is provided by the Indigenous Policy and Services Unit. Training is also available in the post-recruitment stage, provided by the Department of Justice. Corrections Victoria is currently working with the Department of Justice to extend this training to tailor to the needs of Corrections Victoria staff.

4.2 Recruitment of Indigenous Correctional Staff (Recommendation 178)

Having regard to the issue of racism in prisons, the RCIADIC considered evidence before it citing the long term benefits that a high level of Indigenous staff may have on Indigenous prisoners. According to the evidence before the RCIADIC, those benefits arise because the high level of Indigenous staff:

- provides a different non-offending role model for Aboriginal people;
- helps other staff appreciate that Aboriginal people can have roles other than that of prisoners;
- provides a line of communication between Indigenous inmates and correctional management;
- opens up a positive communication between corrections and the Indigenous communities;

---

130 Staff Selection, Training and Deployment, Correctional Management Standards for Men’s Prisons, Item 39; Staff Selection, Training and Deployment, Standards for the Management of Women Prisoners in Victoria, Item 42.
highlights the self-determination and the decision-making responsibility that is necessary for the continuation of Indigenous people; and

provides a career structure for Indigenous people. 131

Noting the benefits, the RCIADIC recommended “that Corrective Services make efforts to recruit Aboriginal staff not only as correctional officers but to all employment classifications within Corrective Services.” 132

The Recommendation appears to have been implemented, at least to some degree, in most States and Territories.

4.2.1 Western Australia

In Western Australia, the Inspection Standards for Aboriginal Prisoners provides that prisons with a predominantly Indigenous population should employ a "substantial number of Aboriginal custodial and non-custodial staff". 133 The Department of Corrective Services has set a target of 7.25% employment of Aboriginal people within the Department's employees. The Department has established an Aboriginal Workforce Development Unit tasked with attracting, employing and retaining Aboriginal people. The Inspector of Custodial Services in Western Australia is currently conducting a review of Aboriginal staffing in corrective services. The review will measure employment of Aboriginal people against the Department's target and will assess the effectiveness of strategies used by the Aboriginal Workforce Development Unit to attract, employ and retain Aboriginal people. The Inspector has reaffirmed the Department's commitment to increasing Aboriginal representation in the Department's workforce as a means of improving the management and rehabilitation of Aboriginal offenders. The Inspector anticipates this report to be released in mid-2015. 134

The Department of Corrective Services' 2010/2011 Annual Report demonstrates some of the practical efforts made in the Northern Territory in respect of attracting Indigenous correctional officers. Further, in the 2013/2014 Annual Report, it was reported that the Department has implemented a diversity and inclusion plan, People Plan. It was reported that of 987 employees, 73 employees were of an Aboriginal or Torres Strait Islander background (approximately 7.4% of employees). 135

4.2.2 Queensland


135 Department of Correctional Services, Annual Report 2013/2014, 65, 73.

16. THE PRISON EXPERIENCE (RECOMMENDATIONS 168-187)
In Queensland, the Standard Guidelines for Prisons provides that "the composition of the workforce should provide a gender and ethnicity mix that reflects the prison population where practicable". Queensland Corrective Services has reported that it is committed to increasing the proportion of Aboriginal and Torres Strait Islander employees and will develop strategies to facilitate this goal. Additionally, one of the five appointed members of the Queensland Parole Board must be an Aboriginal or Torres Strait Islander.

### 4.2.3 Northern Territory

The Northern Territory Department of Corrections' Correctional Services Recruitment page on its website states, in respect of prison office recruitment, "Aboriginal and Torres Strait Islanders and people from non-English speaking backgrounds are encouraged to apply". This approach is supported by the Northern Territory's Aboriginal Community Police Officer initiative, which allows the Commissioner to appoint a member of the Police Force to build relationships within the Indigenous community.

### 4.2.4 Australian Capital Territory (ACT)

In the ACT, a Ministerial Direction issued under subsection 37(2) of the Australian Federal Police (AFP) Act 1979 (Cth) provides that the AFP is expected to “build a relationship of trust with the Indigenous community through the expansion of indigenous recruitment …”. In 2013, the ACT Standing Committee on Health, Ageing, Community and Social Services made a number of recommendations relating to the Employment of Aboriginal and Torres Strait Islanders in the ACT public service. In 2014, ACT Legislative Assembly, in its response to the Standing Committee, reported that the ACT Public Service Employment Strategy for Aboriginal and Torres Strait Islander People set a target for the employment levels of Aboriginal and Torres Strait Islanders across the ACT public service to increase from 0.9% (176 employees) in 2010 to 2% (407 employees) in 2015. It is unclear how these recommendations have been implemented in the ACT Department of Corrective Services.

### 4.2.5 South Australia

---

137 Queensland Corrective Services, Delivering Justice - Improving Corrections, 5.
139 Department of Correctional Services, The Department of Correctional Services are Recruiting Prison Officers and Industry Officers in Alice Springs, http://www.correctionalservices.nt.gov.au/PrisonOfficers/Pages/default.aspx.
140 ACT Legislative Assembly, Government Response to the Standing Committee on Health Ageing, Community and Social Service Report No 2 - Report on the Inquiry to ACT Public Service Aboriginal and Torres Strait Islander Employment (2014).
141 ACT Legislative Assembly, Government Response to the Standing Committee on Health Ageing, Community and Social Service Report No 2 - Report on the Inquiry to ACT Public Service Aboriginal and Torres Strait Islander Employment (2014).
As indicated in relation to Recommendation 177 above, South Australia has taken steps to implement some of the Recommendations through its participation as a signatory to the Declaration for Reconciliation 2011. One of the aims of the declaration is to increase opportunities for employment and career advancement of Indigenous people across all levels within the Department. The Aboriginal Services Unit has the responsibility of promoting, within the Aboriginal community, careers in the Department of Correctional Services. The Department of Correctional Services 2013 - 2014 Annual Report notes that, as at 30 June 2014, the Department achieved 3.42% employment of Aboriginal staff, exceeding the State's strategic target of 2% employment of Aboriginal staff in the South Australian public sector.\(^{142}\)

### 4.2.6 New South Wales

In New South Wales, the “Review of NSW Government Implementation of Recommendations” provides:

“... while it is recognised that the Department of Corrective Services and Juvenile Justice do employ Indigenous people neither agency has coordinated effective Indigenous employment strategies. Given the reported high turnover rates of Indigenous staff, policies are needed to fully implement this Recommendation.”\(^{143}\)

With that said, there are some strategies in place that are relevant. The Corrective Services New South Wales Indigenous and Torres Strait Islander Employment and Career Strategy guides the provision of employment and career opportunities for Indigenous persons across all functions of Corrective Services New South Wales. In 2012-2013 it was reported that Corrective Services NSW exceed the NSW Public Sector target of 2.6% employment of Aboriginal and Torres Strait Islanders.\(^{144}\)

### 4.2.7 Victoria

In the Victorian Implementation Review of Recommendations, Corrections Victoria has listed the Recommendations as "partially implemented".\(^{145}\) Victoria has implemented the Recommendation through its Correctional Management Standards for Men's Prisons by imposing an obligation on the prison manager "to endeavour to employ a range of staff taking into account gender and ethnicity".\(^{146}\) The equivalent women's standards require the prison manager to "endeavour to take a proactive approach to the employment of staff who are representative of an appropriate balance of

---

\(^{142}\) Department of Corrective Services South Australia, Department for Correctional Services Annual Report 2013-14, 29.

\(^{143}\) Review of NSW Government Implementation of Recommendations, 18.

\(^{144}\) Department of Attorney General and Justice - 2012-2013 Annual Report, 207.


\(^{146}\) Correctional Management Standards for Men's Prisons, Item 39.2.1 Staff Selection, Training and Deployment.
gender and ethnicity, through an exemption under the Equal Opportunity legislation". Notwithstanding implementation through policy, Corrections Victoria has encountered difficulties with identifying suitably qualified Indigenous candidates.

4.2.8 Tasmania

This Report did not identify any specific data or other indication that any legislation or policy has been implemented in Tasmanian in response to Recommendation 178.

5. Prison Disciplinary Systems (Recommendations 179 - 182)

**Recommendation 179:** That procedures whereby a prisoner appears before an officer for the purpose of making a request, or for the purpose of taking up any matter which can appropriately be taken up by the prisoner before that officer, should be made as simple as possible and that the necessary arrangements should be made as quickly as possible under the circumstances.

**Recommendation 180:** That where a prisoner is charged with an offence which will be dealt with by a Visiting Justice, that Justice should be a Magistrate. A charge involving the possibility of affecting the period of imprisonment should always be dealt with in this way. All charges of offences against the general law should be heard in public courts.

**Recommendation 181:** That Corrective Services should recognise that it is undesirable in the highest degree that an Aboriginal prisoner should be placed in segregation or isolated detention. In any event, Corrective Services authorities should provide certain minimum standards for segregation including fresh air, lighting, daily exercise, adequate clothing and heating, adequate food, water and sanitation facilities and some access to visitors.

**Recommendation 182:** That instructions should require that, at all times, correctional officers should interact with prisoners in a manner which is both humane and courteous. Corrective Services authorities should regard it as a serious breach of discipline for an officer to speak to a prisoner in a deliberately hurtful or provocative manner.

The RCIADIC identified the prison disciplinary system, in particular the abuse of prison disciplinary regulations by correctional officers, as contributing to the relationship difficulties between correctional officers and prisoners and creating a "them and us" mentality. The RCIADIC went further to note that the harshness of prison disciplinary measures, including the lack of accountability of prison officers in respect of disciplinary procedure, have been implicated in deaths in custody.

---

147 Standards for the Management of Women Prisoners in Victoria, Item 42.2 Staff Selection, Training and Deployment.

May 2015
5.1 Prison Procedures (Recommendation 179)

The RCIADIC looked to procedures through which prison officers and prisoners interact as contributing to the poor relations between them. In this regard, the RCIADIC commented on a number of complaints received to the effect that making or responding to a prisoner request can trigger "unnecessarily torturous" procedures, causing delay and frustration.\footnote{Royal Commission into Aboriginal Deaths in Custody, National Report, 1991, Volume 3, Chapter 25, [25.7.7].}

In response to the complaints, and as a measure to improve prison officer/prisoner relations, the RCIADIC recommended "that procedures whereby a prisoner appears before an officer for the purpose of making a request, or for the purpose of taking up any matter which can appropriately be taken up by the prisoner before that officer, should be made as simple as possible and that the necessary arrangements should be made as quickly as possible under the circumstances".\footnote{Royal Commission into Aboriginal Deaths in Custody, National Report, 1991, Volume 3, Chapter 25, Recommendation 179.} Each state and territory has endorsed the Standard Guidelines for Corrections in Australia Revised 2012 that implements the Recommendation as statements of national intent on complaint handling within prisons. The guidelines require that prisoners are informed of procedures for making complaints at the prison and the ability to refer a complaint to external complaint bodies and that any requests or complaints by prisoners should be dealt with promptly and effectively at the prison.\footnote{Standard Guidelines for Corrections in Australia Revised 2012, Standard Guidelines for Prisons, Guidelines 1.22-1.24.} The guidelines represent national intent and each State and Territory may develop its own policies and legislation consistent with that intent.

5.1.1 Western Australia

In Western Australia, the Recommendation has been implemented into policy.\footnote{Department of Corrective Services (WA), Adult Custodial Rule 5, Requests, Complaints and Grievances by Prisoners.} The Code of Inspection Standards for Adult Custodial Services acknowledges the difficulties faced by non-literate prisoners and requires that complaints processes must not be solely dependent upon written forms.\footnote{Office of the Inspector of Custodial Services (WA), Code of Inspection Standards for Adult Custodial Services, April 2007, Standard 51.} The Code also requires prisons to recognise that many Indigenous prisoners from traditional lifestyles may be more accustomed to using group discussion to resolve disputes and issues of concern. The Code of Inspection Standards for Adult Custodial Services is complemented by the Inspection Standards for Aboriginal Prisoners, which requires prisons with a predominantly Indigenous population "to ensure the regime and procedures are appropriate to Aboriginal prisoners".\footnote{Office of the Inspector of Custodial Services (WA), Inspection Standards for Aboriginal Prisoners, July 2008, Standard A37.} More specifically, the Code of Inspection Standards for Aboriginal Prisoners provides that
prisons should seek to supplement written application procedures with clear and simple verbal processes.\textsuperscript{156}

5.1.2 \textbf{New South Wales}

This Report's findings indicate that the Recommendation has also been implemented in New South Wales.\textsuperscript{157} The New South Wales "Complaints Management Policy" and specifically the "Avenues for Inmate Inquiries and Complaints Fact Sheet" provides that, within correctional centres, inmates should raise inquiries or complaints in the first instance directly with correctional centre staff or through the inmate request system. To assist prisoners, New South Wales has implemented the "Corrective Services Support Line", a free telephone support service available to inmates in correctional centres and transitional centres. The needs of Indigenous prisoners are supported by the Corrective services NSW Aboriginal Strategy and Policy Unit. The right of inmates to make complaints is also set out at clause 170 of the Crimes (Administration of Sentences) Regulation 2014 (NSW).

5.1.3 \textbf{Queensland}

Implementation of the Recommendation in Queensland is through the adoption of the World Health Organisation Healthy Prisons concept requiring that "effective request and complaint procedures are in place are easy to access, easy to use and providing timely responses. Prisoners feel safe from repercussions when using these procedures and are aware of an appeal procedure."\textsuperscript{158} The Healthy Prisons Handbook is supplemented by the Queensland Corrective Services "A Guide to Complaints Management" and charging the Office of the Chief Inspector and the Ethical Standards Branch with monitoring the complaints regime and overseeing the official visitor scheme. The official visitor scheme provides prisoners with an additional avenue to take up grievances.

5.1.4 \textbf{South Australia}

In South Australia, section 35AA of the \textit{Correctional Service Act 1992 (SA)} provides for the facilitation of prisoner complaints by prison managers. In addition to directing complaints to correctional staff, Aboriginal prisoner complaints can be directed to Aboriginal Liaison Officers or the Aboriginal Legal Rights Movement. The Prevention of Aboriginal Deaths in Custody Forum provides a forum for Aboriginal prisoners to contribute to policies specific to Aboriginal prisoners and address the resolution of complaints made by Aboriginal prisoners.\textsuperscript{159}

The Aboriginal Services Unit established in 1995 by the South Australian Department of Correctional Services in response to RCIADIC is charged

\textsuperscript{156} Ibid, Standard A37.1.
\textsuperscript{157} Corrective Services NSW, Operations Procedures Manual, ss 8.29 and 8.34.
\textsuperscript{159} Ombudsman SA, An audit of prisoner complaint handling in the South Australian Department for Correctional Services, June 2012, 17.
with advising and developing culturally appropriate services to Aboriginal prisoners.

5.1.5 Victoria

The Recommendation has been formally implemented in Victoria through the Corrections Act 1986 (Vic) and various standards. Most relevantly, the Correctional Management Standards for Men's Prisons in Victoria requires the prison manager to:

- implement procedures in order to resolve issues and conflicts using open and legitimate processes;
- ensure prisoners have access to appropriate parties to resolve issues; and
- ensure that prisoners are informed of the internal and external request and complaint process in a form appropriate to their language and cognitive abilities.\[160]\n
The Standards for Management of Women Prisoners in Victoria impose similar obligations on the prison manager. In practical terms, Corrections Victoria administers the Independent Prison Visitors Scheme which provides an independent process for prisoners to take up complaints. Also, Corrections Victoria advises that, where possible, the staff member receiving the request or complaint will resolve the issue, "referring on only in circumstances where the issue falls outside their role of authority".\[161]\n
5.1.6 Northern Territory

Implementation of the Recommendation in the Northern Territory is reported on generally in the Northern Territory Department of Correctional Services Annual Report where the majority of prisoner complaints are reported to be dealt with using the Official Visitors and most often dealt with on the day of the Official Visitor's visit. The Annual Report also states that prisoner complaints are also made to the Office of the Ombudsman using the Prisoner Telephone System.\[162]\n
The Ombudsman reports further on the handling of complaints by the Northern Territory detailing that prisoners may raise complaints with the superintendent or senior officer within the prison by submitting a form or by telephoning or contacting the Ombudsman.\[163]\n
5.1.7 Tasmania

In Tasmania, implementation of the Recommendation is indicated in the Department of Justice 2009 Breaking the Cycle Discussion Paper that states that three complimentary entities are involved in the handling of complaints from prisoners including the investigation complaints,

\[160]\text{Correctional Management Standards for Men's Prisons in Victoria, Item 42 Requests and Complaints.}
\[161]\text{Ibid.}
\[162]\text{Northern Territory Department of Correctional Services Annual Report 2013-14, 28 and 89.}
\[163]\text{NT Ombudsman Thirty Sixth Annual Report 2013-14, 11-12.}
undertaking inquiries and auditing existing procedures. These entities are the Tasmania Prison Service Compliance Unit, the Official Visitor Scheme and the Office of the Ombudsman.\footnote{Department of Justice (Tasmania), Breaking the Cycle: Tasmania Corrections Plan 2010-2012 Discussion Paper, Chapter 8.}

The Report did not identify any data or other indication on the effectiveness of implementation beyond a general observation noted in the Risdon Prison Complex Inquiry. Relevantly, in that Report, Mr Palme commented:

> Aboriginal and Torres Strait Islander prisoners appear to fare a little better than the general mainstream maximum and medium prison population, with a dedicated Aboriginal Coordinator who is well connected into the Aboriginal community. The current coordinator is able to arrange a number of community excursions to re-introduce Aboriginal prisoners to their culture and community, as well as organising NAIDOC celebrations and funeral attendances. However, few such supports are open to prisoners in medium or maximum security.\footnote{Mick Palme, Inquiry into the Risdon Prison Complex 2011, 116 available at http://www.justice.tas.gov.au/__data/assets/pdf_file/0005/250097/Final_Version_Risdon_Prison_Complex_Inquiry.pdf.}

### 5.1.8 Australia Capital Territory (ACT)

In the ACT, the \textit{Corrections Management Act 2007 (ACT)} and the \textit{Official Visitors Act 2012 (ACT)} implement the Recommendation by providing for complaints management and specifically for an Aboriginal Official Visitor to be available for Aboriginal prisoners.\footnote{Official Visitor Act 2012 (ACT) s 10.} The ACT Corrective Services complaints policy encourages prisoners to "make complaints internally as the most effective and fastest way to resolve their concerns". This complaints policy is supplemented by the Aboriginal and Torres Strait Islander Detainee Policy that states "[i]t is recognised that Aboriginal and Torres Strait Islander detainees have particular cultural needs that differ from the wider prisoner population."\footnote{ACT Corrections Management (Detainee Complaints and Grievances) Policy 2014 (No.1) Notifiable Instrument NI2014-548; Corrections Management (Aboriginal and Torres Strait Islander Detainees) Policy 2011 (No.2) Notifiable Instrument NI2011-723.}

### 5.2 Prison Enforcement Systems (Recommendation 180)

In addition to considering the deficiencies in prisoner request and complaint procedures, the RCIADIC considered the operation and enforcement of prison disciplinary systems. The RCIADIC identified the need for the associated procedures and systems to be kept under review, to ensure that "disciplinary penalties and punishments are not unduly harsh or counter-productive to the process of correction".\footnote{Royal Commission into Aboriginal Deaths in Custody, National Report, 1991, Volume 3, Chapter 25, [25.7.9].}
Referencing submissions made by the Sansbury Association, the RCIADIC recommended "that where a prisoner is charged with an offence which will be dealt with by a Visiting Justice, that Justice should be a Magistrate. A charge involving the possibility of affecting the period of imprisonment should always be dealt with in this way. All charged of offences against the general law should be heard in Court." 169

The extent to which Recommendation 180 has been implemented across the State and Territories is variable.

5.2.1 Western Australia

In Western Australia, the Recommendation has only been partially implemented into policy. In respect of that part of the Recommendation pertaining to visiting justices being magistrates, section 54 of the Prisons Act 1981 (WA) requires only that appointed visiting justices be magistrates or justices of the peace. In relation to aggravated prison offences, the Prisons Act 1981 (WA) gives a visiting justice discretion from the superintendent to commence a prosecution for an aggravated prison offence in a court of summary jurisdiction. There is no requirement that such offences be heard in Court; the visiting justice may inquire into and determine the charge as a minor prison offence. 170

5.2.2 Queensland

In Queensland, the Standard Guidelines for Corrections in Australia require that reports and charges relating to an alleged breach of any prison offence should be presented promptly in writing to the designated authority and the prisoner. 171

Although the Report has not been able to identify any Queensland legislation or policy specifically addressing the appointment of visiting justices, the Standard Guidelines for Corrections in Australia requires that adjudication processes be fair and should incorporate the elements of natural justice, and that in circumstances where punishment may entail an additional sentence, there should be a judicial hearing with a right to legal representation for the prisoner. 172

5.2.3 South Australia

The South Australian Correctional Services Act 1982 (SA) requires the establishment of visiting tribunals, and specifies that either a magistrate or special justice be appointed as a visiting tribunal. 173 The Act also prescribes the procedure at tribunal, which includes relevant natural justice

170 Prisons Act 1981 (WA) s 73.
173 Correctional Services Act 1982 (SA) s 17.

16. THE PRISON EXPERIENCE (RECOMMENDATIONS 168-187)
However, the Report identified that South Australia does not specify whether all charges or offences against the general law should be heard in public courts.

5.2.4 New South Wales

In New South Wales, sections 54 and 55 of the Crimes (Administration of Sentences) Act 1999 (NSW) permit the general manager of a correctional centre to refer an offence to a visiting magistrate for hearing and determination if the general manager considers that, because of the serious nature of the offence, it should be referred to a visiting magistrate. The Criminal Procedure Act 1986 (NSW) applies to proceedings in the same way as it applies to proceedings on a court attendance notice issued for a summary offence before the Local Court. That is, there does not appear to be full implementation of the Recommendation in NSW.

5.2.5 Tasmania

Our research has found that Tasmania also has an internal system through which prison offences are dealt with. By and large the approach seems discretionary with respect to the procedure to take following an internal investigation into an alleged offence. In particular, we note there is not a visiting Justice or Magistrate as recommended by the RCIADIC. Rather, a "disciplinary officer" has core responsibility for dealing with allegations and offences relating to the commission of a prison offence. The extension of a prisoner's term of imprisonment is not a penalty that can be imposed by a disciplinary officer for a prison offence.

5.2.6 Northern Territory

With respect to the Northern Territory, this Report found that no evident differences, procedural or otherwise, existed between prisoners charged with offences as compared against non-prisoners. However, the Report notes that prison misconduct continues to be dealt with internally by the prison's General Manager or a correctional officer nominated by the General Manager.

5.2.7 Australian Capital Territory (ACT)

A visiting justice system does not operate in the ACT, and instead breaches of prison discipline are put before a "presiding officer". The decision of a presiding officer may be reviewed and that reviewers decision may be referred for adjudication by a person with judicial experience (current or former judge or magistrate or other person having at least 5 years’ experience as a legal practitioner). Breaches of prison discipline that amount to criminal offences may be referred by a presiding officer to the

---

174 Correctional Services Act 1982 (SA) s 45.
175 Corrections Act 1997 (Tas) s 59.
176 Corrections Act 1997 (Tas) s 61.
177 Correctional Services Act 2014 (NT) s 71.
178 Corrections Management Act 2007 (ACT) chapter 10.

May 2015
police or the director of public prosecutions. In relation to disciplinary inquiries under the *Corrections Management Act 2007 (ACT)*, the Act specifies that the rules of natural justice must apply.

5.2.8 Victoria

The Victorian Implementation Review of Recommendations lists Recommendation 180 as being "no longer relevant" on the basis that the visiting justice system no longer operates in Victoria. The visiting justice system has been replaced by the Official Prison Visitor Scheme.

5.3 Disciplinary Measures - Isolation and Solitary Confinement (Recommendation 181)

The RCIADIC identified the extreme anxiety suffered by Indigenous prisoners committed to solitary confinement as an issue for consideration in the context of implementing disciplinary measures.

The RCIADIC recommended "that Corrective Services should recognise that it is undesirable in the highest degree that an Indigenous prisoner should be placed in segregation or isolated detention. In any event, Corrective Services authorities should provide certain minimum standards for segregation including fresh air, lighting, daily exercise, adequate clothing and heating, adequate food, water and sanitation facilities and some access to visitors."

5.3.1 Western Australia

In Western Australia and Queensland, the Recommendation has been partially implemented but does not distinguish between the needs of Indigenous and non-Indigenous prisoners.

The Western Australian Code of Inspection Standards for Adult Custodial Services provides, in relation to "protection prisoners", that those prisoners must have daily access to the open air and be able to exercise, the same level of visiting privileges as non-protection prisoners and equitable access to the full range of activities, education, employment and incentive schemes available to other prisoners. The Western Australian Department of Corrective Services Adult Custodial Rules also requires that any prisoner in confinement is kept in a well-ventilated and well lit cell and has access to exercise. The conditions of prisoners in confinement are monitored by the

---

179 *Corrections Management Act 2007 (ACT) s 158.*
180 *Corrections Management Act 2007 (ACT) s 192.*
181 *Victorian Implementation Review of Recommendations, 470.*

16. THE PRISON EXPERIENCE (RECOMMENDATIONS 168-187)
Unit Manager and Designated Superintendent to ensure that prisoner health and welfare is maintained.\textsuperscript{185}

5.3.2 Queensland

In Queensland, the Standard Guidelines for Corrections operate to prohibit prolonged solitary confinement and other inhumane or degrading punishments.\textsuperscript{186} The Standards require that every prisoner placed in segregation be visited daily by a member of the prison management and, as frequently as practicable, by a representative of the medical officer. The Standards also require a prisoner to be provided with continuous access to drinking water and nutritional food adequate for health and wellbeing.\textsuperscript{187} Supplementing the Guidelines are the Custodial Operations Standard Operating Procedure - Safety Orders which require that an Aboriginal health worker, elder or other person nominated by the prisoner is notified and requested to visit that prisoner.\textsuperscript{188}

5.3.3 New South Wales

In New South Wales, section 14 of the Segregated and Protective Policy of the Corrective Services NSW Operations Procedures Manual implements the Recommendation. Section 14.6.14 refers to Recommendation 181 and recognises the distress segregation may cause to Indigenous prisoners. The section requires the General Manager to consider this distress before he/she makes a decision to exercise his/her discretion to segregate an inmate under division 2 of the \textit{Crimes (Administration of Sentences) Act 1999} (NSW).

5.3.4 Victoria

The Victorian response to the Recommendation recognises the specific issues faced by Indigenous prisoners and requires that, where an Indigenous prisoner is placed in a Management Unit, steps are taken to ensure that appropriate support is provided.\textsuperscript{189} Indigenous prisoners must also be provided with access to fresh air, lighting, daily exercise, adequate clothing and basic standards of accommodation. As a matter of policy, segregation of prisoners is dealt with in the Correctional Management Standards for Men's Prisons in Victoria\textsuperscript{190} and the equivalent Standards for the Management of Women Prisoners in Victoria.

5.3.5 South Australia

\textsuperscript{185} Department of Corrective Services (WA), Adult Custodial Rule 1, Management of Prisoners in Confinement.
\textsuperscript{186} Standard Guidelines for Corrections in Australia, Revised 2012, Standard Guidelines for Prisons, Guideline 1.80.
\textsuperscript{188} Queensland Corrective Services, Custodial Operations Standard Operating Procedure - Safety Orders.
\textsuperscript{189} Victorian Implementation Review of Recommendations, 552-553.
\textsuperscript{190} Corrections Victoria, Correctional Management Standards for Men's Prisons, Standard 17.
While the *Correctional Services Act 1982 (SA)* \(^{191}\) permits a prisoner to be placed in segregation in only limited circumstances, the legislation does not draw a distinction between the needs of Indigenous and non-Indigenous prisoners. In this regard, it does not appear that South Australia has implemented the Recommendation.

### 5.3.6 Australia Capital Territory (ACT)

The Report's findings in relation to the ACT indicate that the Recommendation has been implemented. The minimum living conditions for correctional centres generally are specified in the *Corrections Management Act 2007 (ACT)*. \(^{192}\) Section 95 of the *Corrections Management Act 2007 (ACT)* provides that the minimum living conditions apply to prisoners in segregation unless it is "necessary and reasonable for the purpose of the segregation" that those standards do not apply. The ACT recognises the specific needs of Aboriginal prisoners in the *Corrections Management (Aboriginal and Torres Strait Islander Detainees) Policy 2011 (No.2)* \(^{193}\) in which "particular consideration should be given to the impact of separate confinement and segregation on Aboriginal and Torres Strait Islander detainees."

### 5.3.7 Northern Territory

The Report has not identified any evidence of the Recommendation being implemented in the Northern Territory.

### 5.3.8 Tasmania

In Tasmania, section 29 of the *Corrections Act 1997 (Tas)* specifically addresses the rights of prisoners and detainees with respect to the issues identified by the RCIADIC, except for the RCIADIC's reference to segregated and isolated detention. Like other jurisdictions, the provisions are not targeted towards Indigenous detainees and prisoners as a select subset but rather the entire prison population. It is also worth noting that with respect to solitary confinement, our research did find that the extent to which "supervision unit or solitary confinement" remains utilised in Tasmania is quite contentious. \(^{194}\)

### 5.4 Interaction with Prison Officers (Recommendation 182)

The RCIADIC considered evidence of complaints in relation to "petty gestures" \(^{195}\) of correctional officers in their interactions with prisoners as producing further insolence.

---

\(^{191}\) Correctional Services 1982 (SA) s 36.
\(^{192}\) See s.12 and Chapter 6 generally on prisoner's rights and s.160 on investigation segregation in the *Corrections Management Act 2007 (ACT)*.
\(^{193}\) ACT Corrections Management (Aboriginal and Torres Strait Islander Detainees) Policy 2011 (No.2) Notifiable Instrument NI2011-723.
\(^{194}\) PM with Mark Colvin, Supervision unit or solitary confinement?, http://www.abc.net.au/pm/content/2012/s3517924.htm.
\(^{195}\) Royal Commission into Aboriginal Deaths in Custody, National Report, 1991, Volume 3, Chapter 25, [25.7.14].

16. THE PRISON EXPERIENCE (RECOMMENDATIONS 168-187)
in prisoners. The RCIADIC took the view that correctional services should not tolerate misuse of prison disciplinary rules by correctional officers.

On the basis of this view, the RCIADIC recommended "that instructions should require that, at all times, correctional officers should interact with prisoners in a manner which is both humane and courteous. Corrective Services authorities should regard it as a serious breach of discipline for an officer to speak to a prisoner in a deliberately hurtful or provocative manner." 196

That part of the Recommendation relating to officer interaction with prisoners has generally been adopted into policy in all States and Territories. However, the implementation of the Recommendation with respect to discipline of its officers has only been adopted in a limited way.

5.4.1 Western Australia

In Western Australia, the Code of Inspection Standards for Custodial Services provides that "staff should be fair and courteous in their dealings with prisoners and model respectful relations at all times." 197 Despite implementation by the Code, the Western Australian response refers to a report made in respect of the Casuarina Prison which indicated that 80% of prisoners did not consider that officer staff treated prisoners with dignity. Also, the Western Australian response indicates a significant number of complaints made to the Office of Custodial Services and the Ombudsman in respect of officer conduct and bullying of prisoners.

5.4.2 Queensland

In Queensland, the Standard Guidelines for prisons require that "interaction between staff and prisoners should promote dignity and respect". 198 These guidelines also set out the Guiding Principles for Management of Prisoners which require that prisoners are to be treated with respect as human beings and not to be subject to harsh or degrading treatment, physical or psychological abuse.

5.4.3 Northern Territory

Northern Territory Public Sector Principles and Code of Conduct apply to the officers of the Northern Territory Department of Corrective Services requiring them to "exhibit, and be seen to exhibit the highest ethical standards in carrying out his or her duties" 199 Any specific code of conduct applied by the Department of Corrective Services must comply with the Public Sector Code of Conduct. However while officers are subject to a code of conduct, the Ombudsman reports that there were a number of

199 Northern Territory Public Sector Employment Instruction Number 12- Code of Conduct, item 7.
prisoner complaints relating to “allegations of unfair treatment, abuse and excessive force.”

5.4.4 New South Wales

In New South Wales, the “Guide to Conduct and Ethics 2012” provides that Corrective Services New South Wales expects employees to be “accountable, impartial, consistent and fair in their contact with offenders whether in a correctional facility or in a community setting and to act with integrity and compassion towards offenders.” The Report’s findings have not identified any reference to the relationship between these ethical requirements and officer disciplinary matters.

5.4.5 Australia Capital Territory (ACT) and South Australia

In the ACT, section 9 of the Corrections Management Act 2007 (ACT) provides in relation to the treatment of detainees generally and provides that functions under the Act must be exercised to respect and protect detainee’s human rights, and to ensure the detainee’s decent, humane and just treatment. The Report has not identified any evidence of the Recommendation being implemented in South Australia in relation to the conduct of correctional services officers.

The Report’s findings for South Australia and the ACT have not identified any specific disciplinary matters for the actions of officers.

5.4.6 Victoria

Victoria has fully implemented the Recommendation through the Corrections Victoria Code of Conduct and relevant prisoner standards, which require that prisoners are managed and supervised in a humane and just manner. In practical terms, Corrections Victoria, in the Victoria Implementation Review of Recommendations, advised that where staff are alleged to have behaved inappropriately through a failure to act in a humane and courteous manner, such incidents are investigated and, as appropriate, sanctions imposed.

5.4.7 Tasmania

In Tasmania, as with this Report’s findings with respect to Recommendation 179, the Report found little in terms of the implementation of this Recommendation beyond the findings into the Risdon Prison Complex. Relevantly, that Inquiry found that for the most part, prisoners were treated civilly by corrective service officers although, a number of custodial officers

---

200 NT Ombudsman Thirty Sixth Annual Report 2013-14, 36.
201 Corrective Services New South Wales, Guide to Conduct and Ethics 2010, section 2.8.

16. THE PRISON EXPERIENCE (RECOMMENDATIONS 168-187)
were found to be disrespectful in their treatment of prisoners. In this regard, the Inquiry also found that:

"There is no effective staff performance management system and this is contributing to the uneven and, at times, disrespectful treatment of prisoners.

Inconsistent management and standards by custodial staff confuse prisoners and lead to strained relationships.

Prisoner perspectives on their treatment by staff are varied.

“the majority of custodial officers work with prisoners ok”

“...only 20 per cent of staff ...don't have attitude problems...”

“...some custodial officers play cards with you one moment, and then when other prisoners are around their mood changes and they get nasty...”

6. Indigenous Prisoner Groups (Recommendation 183)

Recommendation 183: That Corrective Services authorities should make a formal commitment to allow Aboriginal prisoners to establish and maintain Aboriginal support groups within institutions. Such Aboriginal prisoner support groups should be permitted to hold regular meetings in institutions, liaise with Aboriginal service organisations outside the institution and should receive a modest amount of administrative assistance for the production of group materials and services. Corrective service authorities should negotiate with such groups for the provision of educational and cultural services to Aboriginal prisoners and favourably consider the formal recognition of such bodies as capable of representing the interests and viewpoints of Aboriginal prisoners.

The RCIADIC considered the value of the growing trend toward the formation of Indigenous prisoner groups within prisons, noting the support and assistance that such groups can provide to Indigenous prisoners that non-Indigenous organisations, welfare officers and specialists cannot offer.

Drawing on submissions made by National Aboriginal and Islander Legal Services Secretariat that the development of Indigenous prisoner groups should be "supported and guaranteed", the RCIADIC recommended,

"That the Corrective Services authorities should make a formal commitment to allow Aboriginal prisoners to establish and maintain Aboriginal support groups within institutions. Such Indigenous prisoner support groups should be permitted to hold regular meetings in institutions, liaise with Indigenous service organisations outside the institution and should receive a modest

---

amount of administrative assistance for the protection of group materials and services. Corrective service authorities should negotiate with such groups for the provisions of educational and cultural services to Indigenous prisoners and favourably consider the formal recognition of such bodies as capable of representing the interests and viewpoints of Indigenous prisoners.\(^{207}\)

6.1 Western Australia

The Recommendation has been partially implemented in Western Australia through its 'Inspection Standards for Aboriginal Prisoners' which expressly provide that "prisons where the population is predominantly Aboriginal should have an active peer support group of prisoners which broadly reflects the various gender and skin groups that comprise the prison population."\(^{208}\) However, the Standards do not formally provide for negotiations between Indigenous support groups and Corrective Services to provide education and cultural services to Indigenous prisoners, nor do they provide for favourable consideration of the formal recognition of such bodies as capable of representing the interests and viewpoints of Indigenous prisoners.

6.2 Victoria

The Recommendation has also been partially implemented in Victoria.\(^{209}\) Item 35 of the Victorian Correctional Management Standards for Men's Prisons requires the prison manager to provide Indigenous prisoners with access to an Aboriginal Wellbeing Officer/Aboriginal Liaison Officer. Corrections Victoria has advised that Aboriginal Wellbeing Officers work closely with Indigenous prisoners, custodial staff and programs staff, including through arranging group meetings, effectively indigenous support groups.

6.3 Australia Capital Territory (ACT)

The Recommendation has also been partially implemented in the ACT through the Corrections Management (Aboriginal and Torres Strait Island Detainees) Policy (No 2). Under the Policy, Indigenous detainees of the same gender "will be permitted to meet for the purpose of providing communal, cultural and spiritual support" subject to operational requirements and approval by the Superintendent. The Policy also recognises and permits events to be held (again, subject to the Superintendent’s approval and operational requirements) for significant cultural occasions, including National Sorry Day. The Policy is silent as to whether any administrative assistance is being provided to assist with the production of group materials and services.

6.4 South Australia

In South Australia, this Report’s findings suggest that the Recommendation has not been expressly implemented. With that said, the South Australian Department of Correctional Services Annual Report 2011-12 points to activities undertaken by the


\(^{209}\) Victorian Implementation Review of Recommendations at 529.
Aboriginal Services Unit that are of relevance to the Recommendation. The Unit was established to service the needs of Indigenous stakeholders. Its activities include:

- overseeing the development of culturally appropriate services to Aboriginal prisoners and offenders;
- contributing to policy development for the management and rehabilitation of Aboriginal offenders; and
- participating in the growth of partnerships and support for Indigenous community organisations and other government departments, for the provision of targeted services to Indigenous offenders.

The report also identifies activities scheduled to be undertaken by the Unit in 2012-2013. These activities include continuing the Aboriginal Elders Visiting Program and continuing to engage with Indigenous support programs that offer specific assistance to female Indigenous prisoners and offenders in the community.

6.5 New South Wales

In New South Wales, significant steps have been made toward implementation of the Recommendation. The Department of Corrective Services education branch provides “Aboriginal Peer Support Groups” as part of the Department’s sponsored Strategic Plan for Technical and Further Education (TAFE) NSW. In addition, various juvenile justice centres have established Community Consultative Committees which have Indigenous representatives.

6.6 Queensland

In Queensland, it does not appear that the Recommendation has been implemented. Section 150 of the Corrective Services Act 2006 (Qld) provides that, when establishing a new prison, the chief executive must ensure appropriate provision is made for a meeting place for Indigenous prisoners. However, the provision does not reflect the RCIADIC’s Recommendation.

6.7 Northern Territory and Tasmania

Similarly, there is no evidence to show that the Recommendation has been implemented in the Northern Territory or Tasmania.

7. Indigenous Prisoner Education National Prisoner Education Profile (Recommendations 184 - 185)

**Recommendation 184:** That Corrective Services authorities ensure that all Aboriginal prisoners in all institutions have the opportunity to perform meaningful work and to undertake educational courses in self-development, skills acquisition, vocational education and training including education in Aboriginal history and culture. Where appropriate special consideration should be given to appropriate teaching methods and learning dispositions of Aboriginal prisoners.

**Recommendation 185:** That the Department of Education, Employment and Training be responsible for the development of a comprehensive national strategy designed to improve the opportunities for the education and training of those in custody. This should be done in co-operation with state Corrective Services...
authorities, adult education providers (including in particular independent Aboriginal-controlled providers) and State departments of employment and education. The aim of the strategy should be to extend the aims of the Aboriginal Education Policy and the Aboriginal Employment Development Policy to Aboriginal prisoners, and to develop suitable mechanisms for the delivery of education and training programs to prisoners.

Analysing data sourced from the annual census for prisoners, the RCIADIC identified a "striking difference" between the educational achievements of Indigenous and non-Indigenous prisoners. The RCIADIC identified education as one of the "principal underlying issues associated with the disproportionate representation of Aboriginal people in custody and Aboriginal deaths in custody".  

To address the issues associated with the disparity in educational achievements between Indigenous and non-Indigenous prisoners, the RCIADIC recommended "that Corrective Services authorities ensure that all Aboriginal prisoners in all institutions have the opportunity to perform meaningful work and to undertake educational courses in self-development, skills acquisition, vocational education and training including education in Aboriginal history and culture. Where appropriate special consideration should be given to appropriate teaching methods and learning dispositions of Aboriginal prisoners".  

7.1 Opportunity to undertake educational courses (Recommendation 184)

7.1.1 Standard Guidelines

The Standard Guidelines for Corrections in Australia has been adopted by each of the States and Territories. The Standard Guidelines for Prisons contained within the main Guideline provides:

"3.6 Prisoners should be provided with access to programmes and services, including education, vocational training (and employment), that enable them to develop appropriate skills and abilities to support reduced re-offending when they return to the community.

3.7 Prisoners should be actively encouraged through appropriate programmes and staff interactions to accept full responsibility for the consequences of their offending behaviour.

3.8 Prisoners who are approved to be full time students should be remunerated equivalently to prisoners who are employed in full-time work.


212 Standard Guidelines for Corrections in Australia Revised 2012.

213 Ibid, Rehabilitation Programmes and Education at page 30.
3.9 A High Priority should be accorded to programmes addressing literacy and numeracy. Relevant prisoners should be encouraged to engage in such programmes but should not be compelled.

3.10 Programmes and services provided to address criminogenic needs should be based on best practice and have solid evidence as to their efficacy.

3.11 All programmes should be periodically evaluated in relation to the achievement of their objectives and the views and experiences of prisoners.

3.13 Where an Administering Department makes use of community resources for the assessment, treatment, counselling, education and training of prisoners, the Department should regularly assess and monitor the service provided by such agencies to ensure that the quality is adequate and consistent.

3.14 The involvement of the community in assisting the prison workforce in the development and maintenance of programmes should be encouraged.

3.15 Programmes and services provided to prisoners, especially women, Indigenous prisoners and prisoners from culturally and linguistically diverse backgrounds, should be established following close consultation with the appropriate community groups and experts”.

The extent to which each of the States and Territories have gone beyond the Standard Guidelines for Corrections in Australia is set out below.

7.1.2 Western Australia

In Western Australia, the findings of this Report show that the Recommendation has been implemented through policy. Specifically, the Inspection Standards provide for the establishment and maintenance of "vocational skills programs that are relevant to post-release employability", opportunities to undertake higher level VET qualifications, and customisation of the VET resources and materials to suit the learning styles and needs of Indigenous prisoners.214

7.1.3 Queensland

In Queensland pursuant to the Corrective Services Act 2006 (Qld) there must be established programs or services to help prisoners reintegrate into the community after their release from custody including acquiring skills; to initiate, keep and improve relationships between offenders and members of their families and the community; and to rehabilitate offenders. The

programs or services must take into account the special needs of the offenders.\textsuperscript{215}

As a means of implementing the legislative provisions, the Queensland Government has developed the Education of Prisoners Procedure.\textsuperscript{216}

7.1.4 New South Wales

In New South Wales, our findings show that steps have been taken to practically implement the Recommendation. The “Aboriginal and Torres Strait Islander Inmate Handbook (2\textsuperscript{nd} Edition)” provides that there are a number of programs which inmates can take part in, including programs which cover skills relating to carpentry and joinery, rural skills, land care and bush regeneration. The Handbook also indicates that there is a “Cultural Camp” available for Indigenous women that focuses on cultural awareness and training and other Indigenous issues. Other courses available to prisoners also have a special focus on Indigenous issues and Indigenous learning. In terms of the take-up of these courses, the NSW Implementation Report provides that approximately 60\% of Indigenous inmates attend education and vocational training programs.

7.1.5 Victoria

The Recommendation has been "partially implemented" in Victoria through legislation and standards.\textsuperscript{217} Under the Corrections Act 1986 (Vic), every prisoner has the right to take part in educational programmes in the prison.\textsuperscript{218}

7.1.6 Northern Territory

The Recommendation does not appear to have been formally implemented in the Northern Territory through legislation or policy. However, our findings show that educational courses are made available to both male and female prisoners to improve literacy and numeracy levels and gain the skills necessary for employment upon release.\textsuperscript{219} Educational courses made available to male prisoners over 2005 and 2006 included literacy and numeracy courses, art and craft training, external courses, crocodile handling and farming courses and creative writing. Courses available for women included literacy, numeracy and horticulture.\textsuperscript{220}

7.1.7 South Australia

Similarly, in South Australia while this Report’s findings do not show implementation through legislation or policy, the South Australia

\begin{footnotesize}
\begin{itemize}
    \item \textsuperscript{215} Corrective Services Act 2006 (Qld) s 266.
    \item \textsuperscript{216} Queensland Corrective Services, 14 November 2011.
    \item \textsuperscript{217} Victorian Implementation Review of Recommendations, 604.
    \item \textsuperscript{218} Corrections Act 1986 (VIC) s 47(1)(o).
    \item \textsuperscript{219} Refer http://www.correctionalservices.nt.gov.au/RehabilitationAndIndigenousInitiatives/EducationAndVETInCorrectionalCentres/Pages/default.aspx.
    \item \textsuperscript{220} NT Ombudsman’s Report on Women in Prisons (2007), 73-74.
\end{itemize}
\end{footnotesize}
Department of Correctional Services Annual Report 2013-2014 indicates that there is a general prisoner education program run through the department which provides vocation training to inmates. South Australian prisons also run "Prison Industries" activities which provide:

- meaningful work opportunities that reflect community expectations;
- vocational education and training opportunities which help prisoners obtain post-release employment; and
- a "constructive day" designed to reflect community life and promote a work ethic.

While these programs apply to all prisoners, the Aboriginal Services Unit also provides resources to enable Indigenous prisoners to participate in life skills building programs. These programs include the Prisoners Re-Integration Employment Opportunity Program and the Sierra Program at the Port Augusta Prison.

7.1.8 Tasmania

In 2008, the Tasmanian Department of Justice conducted a review into community corrections in Tasmania culminating in a written report. The Report includes a list of activities offered to detainees whilst in custody. While the list of activities is extensive, the Report notes that there were no specific programs offered to Indigenous prisoners.

The Report recognised the importance of delivering offender specific educational programmes, noting the requirements in order to successfully deliver those programmes. The Report proposed a strategic direction for Community Corrections including proposing roles and responsibilities for offender management, including the role of the Statewide Learning and Development and Programs Unit. Under the model it was proposed that the Statewide Learning and Development and Programs Unit take on responsibility for developing and delivering offender education programs to ensure quality.

The Tasmania Prison Service Education and Training Strategic Plan 2011 - 2016 is a five year plan to enable education, training and employment outcomes for prisoners. Full implementation of the plan is to be achieved by the end of 2015. This Report is not able to ascertain the status of either the Report proposals or the Strategic Plan. However, the Tasmania Department

---

of Justice Annual Report 2013 - 2014 suggests that progress is being made in the area of prisoner education.\(^{227}\)

### 7.1.9 Australian Capital Territory (ACT)

In the ACT, the Corrections Management (Aboriginal and Torres Strait Island) Policy (No. 2) provides that recreational programs and activities that are culturally appropriate are to be provided within the activities centre, designated compound areas and the women’s community centre. It is unclear the extent to which special consideration is given to appropriate teaching methods for the learning disposition of Indigenous prisoners. However, the findings of this Report indicate that representatives of community-based organisations may be granted access to the Alexander Maconochie Centre to conduct programs and/or education for Indigenous detainees.

### 7.2 Strategy to improve education opportunities (Recommendation 185)

In support of its Recommendation in respect of ensuring meaningful work and education opportunities for Indigenous prisoners, the RCIADIC also recommended “that the Department of Education, Employment and Training be responsible for the development of a comprehensive national strategy designed to improve the opportunities for the education and training of those in custody. This should be done in cooperation with State Corrective Services authorities, adult education providers (including particular independent Aboriginal-controlled providers) and State departments of employment and education. The aim of the strategy should be to extend the aims of the Aboriginal Education Policy and the Aboriginal Employment Development Policy to Aboriginal prisoners, and develop suitable mechanisms for the delivery of education and training programs to prisoners.”\(^{228}\)

#### 7.2.1 Victoria

Corrections Victoria advises that the “National Strategy for Education and Training of Indigenous People in Custody is the guiding framework for provisions of education and training funded by the Commonwealth Department of Education and Training” and that “all corrections education and training in Victoria is funded by the Department”.\(^{229}\)

#### 7.2.2 Commonwealth and remaining states

As a national strategy, we expect that the same approach has been taken in all States, and note that the research undertaken by the remaining States and Territories identified implementation of the Recommendation as being actionable by the Commonwealth government and/or referred generally to the national strategy.

---

\(^{227}\) Tasmania Department of Justice Annual Report 2013 - 2014, 54.


Despite the steps taken by the Commonwealth to implement the Recommendation through the National Strategy, Corrections Victoria has advised that dramatic increase in prisoner numbers over the past decade has meant that “demand for education and training consistently exceeds supply of course and program places”\(^{230}\). Our findings indicate that there has been no practical increase in education provisions under the National Strategy to correspond with the increasing prisoner numbers.

8. **Indigenous Prisoner Employment and Training Opportunities**

(Recommendation 186)

**Recommendation 186:** That prisoners, including Aboriginal prisoners, should receive remuneration for work performed. In order to encourage Aboriginal prisoners to overcome the educational disadvantage, which most Aboriginal people presently suffer, Aboriginal prisoners who pursue education or training courses during the hours when other prisoners are involved in remunerated work should receive the same level of remuneration. (This recommendation is not intended to apply to study undertaken outside the normal hours of work of prisoners.)

The RCIADIC also considered the importance of Indigenous prisoner employment and training opportunities to establishing a sense of self-worth and positive identity for Indigenous prisoners.

In recognition of the importance of work and education opportunities for Indigenous prisoners, the RCIADIC recommended “that prisoners, including Aboriginal prisoners, should receive remuneration for work performed. In order to encourage Aboriginal prisoners to overcome educational disadvantage, which most Aboriginal people presently suffer, Aboriginal prisoners who pursue education or training courses during the hours when other prisoners are involved in remunerated work should receive the same level of remuneration. (This Recommendation is not intended to apply to study undertaken outside the normal hours of work of prisoners.)”\(^{231}\)

8.1 **New South Wales, Western Australia and South Australia**

The extent to which the Recommendation has been implemented in New South Wales, Western Australia and South Australia does not stretch beyond references to the Standard Guidelines for Corrections in Australia.\(^{232}\) The Standard Guidelines for Prisons supports the position that full time students should be remunerated equivalently to prisoners who are employed in full time work.\(^{233}\) However, the Guidelines operate as a national statement of intent, to which the State Government aspires, but do not have the force of law. Accordingly, as this Report has not found any evidence of strict implementation, the Recommendation remains unrealised in these jurisdictions.

\(^{230}\) Ibid at 611.
\(^{232}\) Standard Guidelines for Prisons Revised 2012.
However, some jurisdictions have taken steps to implement the Recommendation.

8.2  Victoria

In Victoria the Standards for Men's Prisons\(^\text{234}\) provide that prisoners participating in full-time study will be exempt from work, and will be provided with a level of remuneration which is comparable to their participation in work. The exemption from work is also reflected in the Women's standards.\(^\text{235}\) However, from a practical perspective, Corrections Victoria has advised that the demand for education and training consistently exceeds supply of course and program places.\(^\text{236}\) That is, not all prisoners wishing to participate in full-time education are able to enrol in full-time education.

8.3  Tasmania

This Report also found that according to the Department of Justice Prison Service in Tasmania, prisoners are able to earn wages while they are in custody and relevantly, pay rates will differ for different jobs and activities and can also include an 'unemployment rate'.\(^\text{237}\)

8.4  Queensland

In Queensland, it seems implicit from sections 316 and 464 of the Corrective Services Act 2006 (Qld) that prisoners are able to earn wages and receive remuneration for participating in approved programs. Wages are set by the chief executive and are used to incentivise prisoners.\(^\text{238}\)

8.5  Australian Capital Territory (ACT)

In the ACT, prisoners are able to earn wages and must receive remuneration for participating in approved programs. Education programs that are not approved as part of the Prisoners Rehabilitation Plan are not remunerated in the prisoner wage system.\(^\text{239}\) As with Tasmania, pay rates will differ subject to the activity being undertaken.

8.6  Northern Territory

In the Northern Territory, section 69 of the Prisons (Correctional Services) Act 1980 (NT) provides for prisoners to be paid for work performed, "subject to his or her conduct in prison". In this regard, the decision in Hendy v Northern Territory of Australia, stated:

---

\(^{234}\) Correctional Management Standards for Men’s Prisons, Item 24 (Education and Vocational Training).

\(^{235}\) Standards for the Management of Women Prisoners in Victoria, Item 15 (Vocational Education and Training).

\(^{236}\) Victoria Implementation Review of Recommendations, 611-612.


“Prisoners who elected not to work did not receive any or a lesser weekly payment. At relevant times those prisoners who had expressed an agreement to work received a weekly payment of $17.50; those who were actually working received a greater payment of between $21.00 and $38.50 depending on skill levels.”

9. Community Corrections (Recommendation 187)

**Recommendation 187:** That experiences in and the results of community corrections rather than institutional custodial corrections should be closely studied by Corrective Services and that the greater involvement of communities and Aboriginal organisations in correctional processes be supported.

The RCIADIC considered evidence supporting the development of community corrections rather than institutional corrections. The consideration stemmed from developments at the time in correctional theory and practice in Australia which sought to place a “greater emphasis on the involvement of the community in the process of correction for a significant proportion of offenders.”

The RCIADIC did not support a move to “Aboriginal-only prisons” governed by the community. However, the RCIADIC recommended “that experiences in and the results of community corrections rather than institutional custodial corrections should be closely studied by Corrective Services and that the greater involvement of communities and Aboriginal organisations in correctional processes be supported.”

The Report has found that steps have been taken to implement the Recommendation in a number of jurisdictions.

9.1 Queensland

The Queensland Corrective Services operates 34 district offices and over 100 reporting centres across the State to provide supervision for offenders in communities. Independent Parole Boards, with at least one Indigenous or Torres Strait Islander appointed, are responsible for determining whether offenders are ready for supervised release into the community and provide for Aboriginal input to the process.

9.2 Northern Territory

As with Queensland, the Northern Territory’s Parole Board must include Indigenous people in its compositions and has a range of community corrections orders available. In the Northern Territory, this Report found that the Northern Territory Attorney-General established a sub-committee within the Northern Territory Law Reform Committee. The purpose of the sub-committee was to conduct an inquiry.

---

244 Parole Act 1971 (NT) s3B.
about Indigenous customary law in the Northern Territory and how it may be integrated with the Northern Territory legal system. In addition, the Report show that the Northern Territory has the highest per capita community corrections rate in Australia.

9.3 Victoria

Corrections Victoria advises that the Recommendation has been “fully implemented” in Victoria. Relevantly, Corrections Victoria describes itself as a “committed member” of Regional Aboriginal Justice Advisory Committees and has relied on this commitment to develop a framework for the supervision and management of Indigenous offenders by Community Correctional Services. Corrections Victoria has also worked with Indigenous agencies as a participant in the development and implementation of the “Koori Court” now operational in Shepparton.

9.4 South Australia

This Report’s findings in relation to South Australia indicate that the Recommendation is yet to be formally implemented. However, it is clear that South Australia has taken steps, through its Aboriginal Services Unit, to advise on and develop the provision of culturally appropriate services to Indigenous prisoners and offenders, and participates in the development of partnerships and support for Indigenous community organisations and other Government departments, in the provision of services for Indigenous offenders. It is also apparent that the Aboriginal Services Unit is aware of the special attention Indigenous offenders require because of their culture and high level of representation.

9.5 New South Wales

Similarly, in New South Wales this Report’s findings indicate that steps have been taken to consult with Indigenous community groups and inmates in respect of corrective services, including the establishment of the Aboriginal Strategy and Policy Unit and its implementation of the "A Strategy for supporting Aboriginal offenders to desist from re-offending."

9.6 Tasmania

In Tasmania, Recommendation 187 has not been implemented specifically with respect to community involvement in the correction process involving Indigenous prisoners. However, it is worth recognising that Tasmania does provide for community corrections more generally. The Report has found that Community Corrections Tasmania has addressed the focus of the recommendation by providing in its strategic plan "Breaking the Cycle, A Strategic Plan for Tasmanian Corrections

---

250 Report on the NSW Government’s Implementation of the Recommendations of the Royal Commission into Aboriginal Deaths in Custody, ss 1.5.4 and 1.74

16. THE PRISON EXPERIENCE (RECOMMENDATIONS 168-187)
2011-2020” goals to expand non-custodial sentencing options available to Courts and to improve communication and involvement with the community.  

9.7  **Australian Capital Territory (ACT)**

The Report has not found evidence of the strict implementation of the Recommendation in the ACT.

9.8  **Western Australia**

The Report has not found evidence of the strict implementation of the Recommendation in Western Australia. However, the Law Reform Commission of WA issued its report on Aboriginal Customary Laws, “The interaction of Western Australian law with Aboriginal law and culture”. This report involved extensive consultation with the Aboriginals of Western Australia and included recommendations for the development of appropriate programs and services across the criminal justice system and recognition of application of Aboriginal customary law when sentences are being determined. General engagement with the Aboriginal community is ongoing through the Community Liaison Officer. ACT community corrections programs encourages community engagement in the delivery of services to prisoners including regular contact with Aboriginal elders and support services. ACT also provides for the Probation & Parole Unit to advise Courts and releasing authorities regarding the background and attitudes of offenders on Community Based Orders however it does not address Aboriginal issues specifically.

---

251 Breaking the Cycle, A Strategic Plan for Tasmanian Corrections 2011-2020, Goal 3 and Goal 5.