

VICTORIA

Auditor-General
of Victoria

SPECIAL REPORT No. 60

**VICTORIA'S
PRISON SYSTEM**

**Community protection
and prisoner welfare**

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The President
The Speaker
Parliament House
Melbourne Vic. 3002

Sir

Under the provisions of section 16 of the *Audit Act* 1994, I transmit the Auditor-General's Special Report No. 60, "*Victoria's prison system: Community protection and prisoner welfare*".

Yours faithfully

C.A. BARAGWANATH
Auditor-General
May 1999

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Foreword

This Special Report is my 52nd and final performance audit report since assuming office on 30 August 1988. I will be retiring on 30 July 1999 and it has been a privilege to serve Parliament and the community over the last 10 years.

The Report documents the results of a wide-ranging but difficult audit dealing with the State's prison system. The audit encompassed a period of major reform within the system following the Government's action in 1994 to provide for participation by the private sector in the construction, operation and management of 3 new prisons.

Readers of the Report will see that it identifies several important areas which require prompt attention by the Department of Justice. These areas include:

- an upgrading of the status of the industry's monitoring body, the Office of the Correctional Services Commissioner;
- raising the levels of service outcomes expected of operators to facilitate implementation of leading edge prison practices;
- introduction of a more effective approach to highly important prisoner management functions in order to better meet the rehabilitation needs of prisoners and enhance the likelihood of their reparation to the community; and
- provision of greater disclosure each year to the Parliament and community of information relating to the Department's management and supervision of the prison system.

It is also important that the introduction of a competitive environment within the prison system proceeds without too much delay so that there is a level playing field for both public and private operators. Apart from other benefits, this action would ensure that a single framework covering such matters as performance incentives and penalties is in place for the 2 categories of operators and would enable meaningful comparisons to be made of financial and qualitative performance across the entire system.

I have indicated in the Report that the momentum within the Department under the current Secretary is positive and that the Department is well placed to implement strategic change in this major area of government responsibility.

At a very late stage in the development of this Report, I was presented with a copy of legal advice obtained by the Department from the Victorian Government Solicitor. This advice indicated that the secrecy provisions of section 30 of the *Corrections Act* 1986 rendered any financial information relating to the Government's contracts with the private prison operators as subject to commercial confidentiality.

The legal advice also mentioned that section 12 of the Audit Act, which enables my total access to information deemed to be commercial-in-confidence, does not authorise me to specifically disclose in a Report to the Parliament any financial data dealing with the private operators. The section does permit me to communicate conclusions, observations or recommendations to Parliament based on the confidential data but it seems I am only authorised to make general references to such data by way of percentages or use of aggregates etc.

FOREWORD

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It had been my intention up until the time of receipt of the legal advice to include within this Report financial details relating to:

- cost benchmarks established by the Government for assessing bids submitted by prospective tenderers during the bidding and selection process for each private prison as well as the actual cost bid submitted by each successful tenderer;
- payments made to the private operators for the periodic delivery of prison services; and
- amounts deducted to date from payments to operators for poor performance or non-achievement of outcomes specified in contractual conditions.

My view was that Parliament and taxpayers had a clear right to be informed of such fundamental information. In this respect, I am comforted by the words of Justice Murray Kellam of the Victorian Civil and Administrative Tribunal who, in a very recent decision on prison contracts, stated:

“It is inherent in the democratic system that important issues of the nature of prisons and their management be publicly transparent so that there can be the best possible public understanding, awareness and if need be, debate”.

Nevertheless, because of the Department’s legal advice, I could have been accused of acting *ultra vires* in terms of the audit legislation if specific disclosure was made. Accordingly, I determined to delete the relevant financial data from the Report. In some cases, I have been able to incorporate general references but, for tabular information, the relevant tables have been left blank.

No objection to the specific disclosure of financial details has been made to me by the operators of the State’s 3 private prisons.

In November 1998, I suggested to the Government that section 12 be strengthened to remove any doubts on the ability of an Auditor-General to fully inform the Parliament, where deemed justified in the public interest, on matters involving commercial confidentiality. The Government subsequently determined to defer consideration of this particular issue and other suggested changes to the audit legislation until later in 1999.

In view of the experiences of this case, I feel it is imperative that the need for legislative change be accorded high priority. The alternative is that the Parliament and community are automatically denied the right to be fully informed by an Auditor-General on matters inherently linked to the expenditure of taxpayers’ funds.

C.A. BARAGWANATH
Auditor-General

Part 1

Executive summary

Part 1.1

Overall audit conclusion

1.1.1 Traditionally, all prisons in Victoria were owned and operated by government. This situation began to change after October 1992 as the Government embarked upon a major prison reform program involving, as a key element, participation by the private sector in the construction, operation and management of prisons.

1.1.2 In the period since 1992, the Department of Justice has been responsible for overseeing a difficult transitional period as the prison industry moved to reflect a multi-service provider environment. It had the initial task of managing the bidding and selection process for the appointment of successful contractors and then establishing the framework for the development of appropriate contractual arrangements which would enable the introduction of 3 new private prisons within tight time frames.

1.1.3 It is pleasing for audit to report that the bidding and selection process was undertaken in a manner consistent with the Government's Infrastructure Investment Policy for Victoria, and significant attention was directed to probity issues during the process. In addition, a sound documentary trail was available to support decisions reached at each major stage.

1.1.4 Legislative changes passed by the Parliament in 1994 to provide for the involvement of private sector prison operators in the industry clearly articulated the important monitoring responsibilities of the newly-established Correctional Services Commissioner. Within this Report, audit has evaluated the performance of the Commissioner's Office in monitoring prison operations against 7 principal criteria which were formulated in consultation with that Office and prison operators.

**Well managed
bidding and
selection
process**

**Need to
strengthen
independence
of
Commissioner**



1.1.5 The audit examination of the operational environment of the Commissioner’s Office identified several elements of this environment which adversely impact on the independence and overall effectiveness of the Office in discharging its key monitoring functions. Audit has concluded that the evolving prison industry, encompassing a mix of State-managed and privately-operated prisons, now requires a regulatory framework which features a truly independent Correctional Services Commissioner.

1.1.6 Two options have been cited by audit in this Report as worthy of consideration for enhancing the independence and operational effectiveness of the Commissioner. Both of these options place the Commissioner at arms-length to the Department. In audit opinion, implementation of either option would enable the Commissioner to operate more effectively as an independent industry monitor. Other avenues for change which might focus on improving the structural position of the Commissioner within the organisational setting of the Department, but not take advantage of an arms-length relationship, are also available for consideration by the Government.

1.1.7 The nature and absolute importance of the Commissioner’s role, particularly if it is operating in an independent manner, makes it imperative that the Government is always assured that the Commissioner’s Office is effectively resourced to meet its vital statutory responsibilities for the impartial monitoring of industry performance. On the basis of matters raised in this Report, there is great scope to upgrade the resource capability of the Office relating to its monitoring role. A sufficiently resourced and effective industry monitor would be a vital source of independent confirmation to the Government that management of the industry is carried out in a manner conducive to ensuring the safety of the community and the welfare of prisoners.

Real competition is yet to occur

1.1.8 It was the Government’s initial intention to present legislation to the Parliament during the 1998 Spring Session which would provide for the corporatisation of CORE, the organisational unit within the Department of Justice responsible for the operation of the State’s public prisons. Audit understands that the planned action has been subsequently postponed for consideration by the Government at a later date. It is considered that any action ultimately taken to corporatise CORE would complement the Government’s high level aim, as presented in the 1994 second reading speech to the amendment Bill providing for private sector operators, of establishing real competition in the delivery of prison services. Such real competition is yet to occur. In any event, it is critical that CORE is subject to the same monitoring regime and performance expectations and rewards as the private operators and there is a level playing field for assessing the performance of all industry participants.



Service delivery outcomes do not encourage service excellence

1.1.9 The service delivery outcomes set out in contractual agreements, which are used to determine the level of annual performance remuneration paid to private prison operators, are not considered by audit to encourage service excellence. In particular, the outcomes were established on the basis of average, or in some cases less than average, results achieved in the outdated prisons which had been identified for replacement. The outcomes are also primarily quantitative in nature and do not address key areas of qualitative performance such as the results of prisoner rehabilitation programs and the quality of staff training. These shortcomings, coupled with provisions which enable performance remuneration to be paid even where the service delivery outcomes have been only partly met, are not conducive to achieving the improvements in the quality of services which were expected to flow from the establishment of new prisons.

1.1.10 It seems very important at this stage of the industry’s evolution that priority be given to expanding the range of service delivery outcomes to encompass qualitative performance measures and establishing a reward system which encourages a high level of service delivery in all key operational areas. The Department will have the opportunity to address this matter at the progressive expiration of the period of each contractual agreement with the private operators and the service agreement with CORE.

1.1.11 Several government agencies such as the Ombudsman, the Department of Human Services and Victoria Police have a responsibility or role within the prison industry. The activities undertaken by these agencies serve to complement the accountability processes embodied in the contractual agreements with prison operators and to give the community confidence in the overall management of the industry. Their existence also demonstrates to the community that, although the Commissioner fulfils the key role in overseeing the activities of the prison system, there are additional avenues in place for individuals to provide input or receive assurance on the safe custody and welfare of prisoners.

Absolute importance of effective prisoner management functions

1.1.12 Part 6 of this Report addresses the prisoner management function which goes to the heart of the Government’s principal correctional objectives of protecting the community and encouraging offenders to adopt law-abiding lifestyles. The proper placement of a prisoner during a prison term, effective case management of individual prisoners, and participation by prisoners in relevant and useful programs represent key avenues for providing opportunities for prisoner rehabilitation and facilitating reparation to the community.

1.1.13 A major audit finding arising from examination of the prisoner management function is that the Department needs to adopt more effective long-term planning strategies for the prison system. In the past, strategic planning for prisons has not been well co-ordinated and limited attention has been directed to strategic consideration of the future capacity requirements of the prison system.



1.1.14 This position has restricted the ability of the Department to effectively manage the prisoner management process because the absence of projected numbers of prisoners with particular profiles prevents accurate determination of the nature and level of required accommodation to suit the needs of such profiles. With circumstances such as those experienced currently in the State, where the prison system is operating with capacity pressures, there has been a critical shortage of appropriate accommodation for certain specific categories of prisoners including women and prisoners in need of protection. More recently, the Department has moved through structural changes to upgrade the quality of its overall strategic planning. This action is positive and should encourage better co-ordination of policy and planning issues relating to prisons.

1.1.15 Audit has identified a number of serious deficiencies in the prisoner management process which require remedial action by the Department. Some of the weaknesses cited by audit stem from the absence within Victoria of minimum standards for the case management of individual prisoners. Audit has strongly suggested to the Department that such standards be formulated as a matter of priority. An outworking of such standards should be specification of the manner in which information is to be recorded on individual management plan files so that files consistently represent a well structured record of objectives developed for each prisoner's case plan and the status of progress against those objectives.

1.1.16 On the question of prisoner programs, audit considers that the Commissioner's Office needs to urgently review the nature and quality of programs provided in each prison and to determine whether existing evaluation strategies, both internal and external to prisons, are conducive to adequately measuring the effectiveness of programs. The importance of sufficient attention to program delivery is accentuated by the fact that, if programs are well structured in design and content and adequately address the identified needs of individual prisoners, there is a greater likelihood that some prisoners will successfully rehabilitate and avoid re-entering the system. The resultant benefits to both the community and prisoners are obvious.

1.1.17 A further challenge to the Commissioner's Office in terms of program delivery is that the move towards a competitive environment for the industry has contributed to the isolation of program staff within individual prisons. There is now a reduced opportunity for the sharing of expertise and ideas between prisons and limited integration of programs across the public and private prison operators. The Commissioner's Office has the task of overcoming this problem and engendering to the extent possible among program managers across the system a sense of unity in direction and purpose in case management for prisoners.



Security, catering and health services in prisons

1.1.18 The audit included examination of operational areas of key significance that are not heavily monitored by the Commissioner. In this regard, specialists engaged by audit assessed the appropriateness of security, catering and health care services in 3 private and 3 public prisons.

1.1.19 At the time of audit examination, each prison generally met the audit criteria for the delivery of appropriate security, catering and health care services. However, audit found some issues of a systemic nature together with specific issues relating to the operation of individual prisons that, if addressed, would lead to more effective delivery of prison services and greater alignment with the Government’s correctional objectives. Key suggestions for improvement in the 3 operational areas are presented in Part 8 of this Report.

Greater disclosure to Parliament needed in annual reports

1.1.20 The limited range of information dealing with the industry communicated to the Parliament to date in the Department’s annual report falls far short of the level necessary to effectively meet its accountability obligations relating to operation of the prison system. It also compares quite unfavourably with the degree of public reporting on prison operations by other Australian jurisdictions. The fact that the operation of the prison system involves annual outlays of taxpayers’ funds in excess of \$160 million reinforces the importance of appropriate corrective action.

1.1.21 As such, the Department should move to incorporate in future annual reports more extensive information (some suggestions are identified by audit in Part 5) as a key means of discharging the Government’s accountability to the Parliament and community for the operation of such a significant State industry.

Overall management direction in the Department is positive

1.1.22 Finally, while a number of important areas requiring attention are identified in this Report, audit considers that the overall management direction for prisons within the Department under the current Secretary is positive. The Department is well placed to implement change in some key strategic areas and further enhance its overall framework for the management and supervision of this major area of government responsibility.



□ RESPONSE provided by Secretary, Department of Justice

Introduction

The Department of Justice welcomes the report of the performance audit of the Victorian prison system. The report is timely. The Victorian prison system is now emerging from the most substantial and far reaching correctional system reforms ever implemented in the State. These reforms have brought major change to the correctional system. They are progressively overcoming the problems that were inherent in the former monopolistic provision of correctional services in a system that had high operating costs, declining and inadequate infrastructure, poor productivity and less demanding levels of accountability.

The new multi provider correctional system in Victoria has brought with it new levels of accountability, defined performance standards, benchmarked productivity levels, and innovative infrastructure that make the Victorian correctional system a national leader.

These reforms have brought with them new challenges for the Department of Justice in terms of standard setting, sentence management, performance monitoring, as well as achieving a cohesive correctional system fully cognisant of the State’s duty of care responsibility for prisoners. It is apparent that these reforms, together with the opportunities and challenges that they present, are still not well understood in the community. It is also apparent that the concept of private sector provision of prison services is a difficult concept for some in the community to accept.

Nonetheless, close inspection will reveal that the reinvigorated Victorian prison system is breaking new ground in correctional management and the full benefits of this will become more evident over time. It is in this context that the Department believes that this performance audit report is timely and brings to focus some of the remaining challenges that now need to be addressed to fully capitalise on the benefits of this key Government reform program.

Role of the Correctional Services Commissioner

The Department does not accept audit’s conclusion that the Office of the Correctional Services Commissioner should be an independent body along similar lines to that of the Regulator-General, Ombudsman or Auditor-General.

The role of the Correctional Services Commissioner encompasses a number of functions that are critical to its role in providing systemwide leadership, cohesion and accountability of correctional service providers in Victoria. These functions fall under the following key headings:

- *Strategic planning and policy development;*
- *Service standards setting;*
- *Sentence management, encompassing the assessment, classification and placement of each prisoner; and*
- *Performance monitoring.*

□ **RESPONSE** provided by Secretary, Department of Justice - continued

The audit report identifies several models to establish the Office as an independent body to undertake performance monitoring. Yet the report also accepts as complementary the functions of the Commissioner outlined above. Audit contends that the performance monitoring role would be carried out more effectively if the Office operated as an independent body reporting directly to Parliament or the Minister. Almost as an afterthought, audit suggests the other functions of the Office could equally be carried out more effectively if the Office was an independent entity. Audit argues that independence is necessary to ensure the Commissioner's monitoring role "is free from any influence or direction". Audit identifies no concrete examples of undue influence except to state that the Department did not previously support a request for additional monitoring staff. Whether within the Department or as a separate entity, the Commissioner's Office would need to work within agreed budgets and business plans. At all times, the Commissioner has complete discretion over the allocation of her staff between competing priorities.

There is an apparent confusion by audit over the prison management model that operates within Victoria. Government has committed itself to a multi-provider correctional system. The Government has also made a commitment to retain a viable public prison capability. Negotiations on contract variations are undertaken by the Department on behalf of the Minister. The Commissioner's role in this process is to plan and advise the Minister on prison requirements, to set standards for prison operations and to monitor performance. More critically, however, the Commissioner must ensure the prison system operates cohesively and effectively on a day-to-day basis. It is not a "hands free" role. The Commissioner is responsible for all prisoner placements and consequential prisoner movements. The Commissioner oversees the movement of prisoners from Police cells to prison and from prison to court. The Commissioner needs to satisfy herself that all necessary investigations are conducted in relation to all major incidents. The Commissioner's Office is in constant contact with all prisons on a range of matters, many related to ensuring the Government is meeting its responsibilities in terms of its duty of care for prisoners.

It is incumbent on the Commissioner to ensure the Victorian prison system operates as a total system irrespective of whether services are delivered by either public or private providers. There needs to be a consistency of purpose for prisoners as they move between prisons. Similarly, there needs to be a consistency in vision for providers within the Victorian prison system. The Government believes this is most effectively achieved by a Commissioner for Correctional Services who is able to freely access executive level support in the Department of Justice on critical matters such as government to government relations, linkages to the Courts and Police, and budget submissions to Government as well as the preparation of legislation. The Commissioner has direct access to the Minister whenever she deems it necessary. The Victorian model is one that has been investigated by other States. Interestingly, in Queensland recently, after an independent review, the Government opted to disband the Queensland Corrective Services Commission and its management board and move the correctional function back within a Departmental structure.



RESPONSE provided by Secretary, Department of Justice - continued

Timeliness of information supporting conclusion

The audit was conducted over a considerable period and examined extensive documentation, much of which reflected the status of events at a particular time and often reflecting a narrow window of insight during a period of considerable change. The presentation of this information in the report generates the perception that the status of events at a previous date continues to be the current situation. Providers have observed that many of audit's conclusions may have been valid six - twelve months ago but do not necessarily accurately represent the present situation.

Accountability

Audit concludes that the Department needs to provide a greater level of information in annual reports to Parliament and by other means that more fully meet its responsibilities to publicly account for the operation of the prison system.

This issue has received considerable debate in recent times, yet it is arguable that more information has been made available about the operation of prisons in Victoria than had ever previously been the case. The reform of prisons in Victoria has, for the first time, been made publicly available, through the project briefs and prison service agreements for each of the three private prisons. Complete details of the nature of the services to be provided, performance benchmarks and service delivery outcomes have also been made available. A detailed statistical report on the Victorian correctional system has recently been released as well as material provided in the Department's annual reports.

Nevertheless, it is recognised that stakeholder interests in the Victorian prison reform program is such that greater community confidence will need to be generated in the operation and performance of the system. To this end the Department will address how the benefits of reform programs can be more effectively communicated to enhance the community's confidence in the operation and performance of the prison system.

Strategic planning

The audit conclusion on the need to strengthen strategic planning of correctional services is noted. The report does not give due recognition to the fact that the reform program of the Victorian Prison Service has been strategically planned to refocus an expensive and under performing industry and to enhance the infrastructure of the industry.

Nevertheless, the Department acknowledges the importance of effective strategic planning. A Portfolio Planning Branch was established on 1 March 1999 to co-ordinate planning and policy initiatives across the Justice Portfolio, while within the Commissioner's Office a Business Planning and Strategic Development Unit has recently been established in recognition of the need to devote more resources to this function.

It needs to be emphasised, however, that accurate prison population projections and forecasts are notoriously difficult. Although audit posits that formulation of predictions on future capacity requirements in prisons is "quite difficult", the report does not identify any jurisdiction where accurate forecasts have been achieved.

□ **RESPONSE** provided by Secretary, Department of Justice - continued

The Commissioner's Office is unaware of any State or Territory in Australia which has, or would claim to have, accurate long-term predictions of future prison capacity requirements. Ultimately, a correctional system has to respond to, and manage, the total demand for prison places generated from the broader criminal justice system. Total demand is affected by a wide and dynamic range of factors which impact upon offending, police intervention and sentencing.

It should be noted that, while Victoria has experienced pressure from a recent rapid growth in prisoner numbers, comparable prisoner and offender numbers have continued to remain at lower levels than any other State in Australia, while Victoria has achieved the lowest comparative crime rate in Australia. Consequently, the current pressure on prison capacity, and its consequences, has been more severe in most other States than in Victoria.

Complexity of Correctional Services

Many of the issues raised by audit are common to correctional administrations throughout Australia, and the broader world. The management of prisoners is complex and challenging and the changes that are occurring in the profile of prisoners demand constant changes in the structure of prisons and the nature of programs that are provided.

The key objectives of punishment, reparation and rehabilitation for which the system strives, are fundamental. However, achieving these objectives presents a considerable challenge to all parties because of the diverse characteristics of Victoria's prisoner profile. The complexity and seriousness of the problems with which many prisoners present to the prison system should not be underestimated. These problems encompass long-standing issues related to education, lifestyle, social skills and health which often have a compounding effect on the behaviour of offenders. Correctional systems are continually learning how to best deal with these situations and how to find ways to make a prisoner's containment in prison meaningful and provide useful building blocks for the rest of the prisoner's life.

Evaluation of the effectiveness of programs offered to prisoners has been equally challenging to correctional systems around the world and, while considerable energy has been put into the development of relevant approaches, progress has been slow.

OVERALL AUDIT CONCLUSION

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Part 1.2

Summary of audit findings

BIDDING AND SELECTION PROCESS FOR THE 3 NEW PRIVATE PRISONS

Page 37

- The bidding and selection process was undertaken in a manner consistent with the Government's Infrastructure Investment Policy for Victoria and a sound documentary trail was available to audit to support decisions reached at each major stage of the process.
Paras 4.10 to 4.61
- Significant attention was directed to the management of probity issues during the process.
Paras 4.62 to 4.71

MONITORING THE PROVISION OF PRISON SERVICES

Page 53

- The *Corrections Act* 1986 assigns specific responsibility to the Correctional Services Commissioner for monitoring provision of prison services and confirming that management of the prison system is undertaken in a manner consistent with achieving safe custody and welfare of prisoners.
Paras 5.34 to 5.38
- Due mainly to a need to direct scarce resources to the monitoring of private prisons, the Commissioner's Office has undertaken very limited monitoring of the State's 10 public prisons in recent years.
Paras 5.39 to 5.43 and 5.47 to 5.49
- Although over the 3½ year period to 31 December 1998, a total of 54 escapes had occurred in public prisons, of which 51 were from minimum security prisons, the Commissioner's Office has not undertaken any investigative action in relation to these escapes.
Paras 5.44 to 5.46

- Several elements of the operational environment of the Commissioner’s Office adversely impact on the overall independence of the Office.
Paras 5.51 to 5.52
- The State’s evolving prison industry now requires a strong and credible regulatory framework which features a truly independent Correctional Services Commissioner.
Paras 5.53 to 5.58
- All prison operators have an ongoing responsibility to submit a range of information to the Commissioner’s Office dealing with key elements of their prison management.
Paras 5.59 to 5.63
- From April to December 1998, the Commissioner’s Office found it necessary to allocate a greater than anticipated level of monitoring resources to Port Phillip Prison because of continuing reservations as to the quality of data submitted to it by the prison operator.
Paras 5.69 to 5.77
- The validation functions undertaken by the Commissioner should remain a key feature of the overall monitoring framework to ensure that prison operators continue to attach a high priority to the provision of complete and accurate data.
Para. 5.79
- The limited monitoring resources available to date to the Commissioner’s Office make it imperative that the Office’s annual monitoring plans reflect realistic goals based on resource capabilities and a systematic approach to the prioritisation of tasks.
Paras 5.80 to 5.87
- Key qualitative aspects of prison operators’ performance such as the quality of staff training and outcomes from prisoner rehabilitation programs are not routinely examined as part of the Commissioner’s monitoring functions.
Paras 5.88 to 5.95
- Despite the identification of significant areas of poor performance at Port Phillip Prison during the first 5 months of operations, the Commissioner’s Office attributed the position to “teething problems”.
Paras 5.96 to 5.101
- The circumstances at Port Phillip Prison reached a point when, on the days of 11 and 12 March 1998, the Prison experienced the extremely serious situation of a major disturbance.
Paras 5.102 to 5.105
- A Ministerial Task Force established to investigate the major disturbance reported to the Minister in May 1998 and was highly critical of the operator’s management of Port Phillip Prison.
Paras 5.106 to 5.109
- The Government chose not to take the extreme position of exercising its termination right but opted to work with the operator at Port Phillip Prison in an attempt to achieve effective resolution of all of the matters raised by the Task Force.
Paras 5.110 to 5.112

MONITORING THE PROVISION OF PRISON SERVICES - continued**Page 53**

- The circumstances experienced at Port Phillip Prison reinforce the significant risk which can accrue to government from extensive reliance on a monitoring approach which has a heavy emphasis on confirming compliance with performance targets of a quantitative nature.
Para. 5.117
- On the basis of the latest reports issued by the Commissioner, progressive improvement in performance at Port Phillip Prison has occurred up to February 1999 but the prison operator is still to satisfy the Commissioner that it is meeting all required service delivery outcomes.
Paras 5.118 to 5.122
- The level of monitoring resources available to the Commissioner requires urgent attention by the Department of Justice.
Paras 5.123 to 5.139
- Several agencies such as the Ombudsman, Victoria Police through its Prison Squad and the Department of Human Services have important roles within the prison industry and complement the accountability processes embodied in the contractual agreements with prison operators.
Paras 5.140 to 5.181
- The Department should incorporate more extensive information in future annual reports as a key means of discharging the Government's accountability to the Parliament for the operation of such a significant State industry.
Paras 5.182 to 5.187

PRISONER MANAGEMENT**Page 101**

- The prisoner management function is pivotal to achievement by the Government of its high level policy objectives set for the State's prison system.
Paras 6.11 to 6.17
- Recent structural changes within the Department of Justice should lead to better co-ordination of policy and planning issues relating to prisons.
Paras 6.18 to 6.24
- Past weaknesses in planning and the emergence of capacity pressures on the system have adversely impacted on the quality of accommodation available to prisoners designated as having special needs such as young offenders and the intellectually disabled.
Paras 6.25 to 6.33
- The Commissioner's Office has found it necessary to resort to double bunking and the placing of mattresses on cell floors to accommodate additional prisoner numbers, especially in protection units.
Paras 6.41 to 6.43

- Prisoner numbers have increased by over 19 per cent over the last 4 years to the point that by April 1999 the overall prison occupancy rate had reached 98.9 per cent and a total of 121 temporary stretcher beds or mattress places had to be used across 6 prisons to alleviate capacity shortages.

Paras 6.47 to 6.61
- As part of its 1999-2000 budget, the Government has recently announced strategic measures to address capacity problems within the prison system.

Paras 6.72 to 6.77
- The non-segregation of remanded and sentenced prisoners at Port Phillip Prison impacts on the ability of the Commissioner to guarantee the safety and welfare of prisoners within that prison.

Paras 6.87 to 6.91
- The Commissioner's Office has taken recent initiatives to provide greater assurance on the soundness of its decisions on the placement of prisoners.

Paras 6.104 to 6.111
- Use by the Commissioner of some form of periodic external scrutiny to independently examine selected classification and placement decisions, for example, through creation of a special review panel, is worthy of consideration.

Paras 6.112 to 6.113
- The Department should ensure that leading edge technology is applied to its information systems relating to prisons as soon as possible.

Paras 6.116 to 6.123
- The creation, at the commencement of a prison term, of an individual management plan which reflects any special needs and characteristics of the prisoner constitutes a key element of the prisoner management process.

Paras 6.124 to 6.126
- Following widespread criticism of the quality of information recorded on individual management plan files, the Commissioner should give priority to the development and adoption of case management standards for use within the prison system.

Paras 6.127 to 6.142
- The Commissioner's Office needs to urgently review the nature and quality of prisoner programs provided in each prison.

Paras 6.148 to 6.158
- The manner in which Review and Assessment Committees function within prisons as a critical element of prisoner management requires specific attention by the Commissioner.

Paras 6.159 to 6.171

CONTRACTUAL FRAMEWORK**Page 141**

- Agreements with private contractors have enabled the Government to achieve one of its prison reform objectives of transferring significant financial risks to the private sector. Certain operating risks have also been transferred by placing the onus on contractors to deliver services which meet the Government's standards.

Paras 7.25 to 7.26
- Agreements with contractors provide the Government with wide access and monitoring rights and a number of options where the services delivered are not in line with specified standards. A major challenge for the Government is to more effectively utilise these options to ensure any poor performance is promptly addressed.

Paras 7.31 and 7.68 to 7.79
- Service delivery outcomes used as a basis for paying contractors an annual performance-linked fee do not encourage the provision of high quality services as they are based on outcomes achieved in outdated prisons which had been identified for replacement. They are also primarily quantitative in nature.

Paras 7.34 to 7.36
- The Government's reform objective of achieving "*real competition in the delivery of correctional services*" has not yet been fully realised as public prison operators are not subject to some of the operating conditions which apply to private contractors.

Paras 7.45 to 7.48
- Financial penalties to the contractor responsible for Port Phillip Prison have been minimal even though serious deficiencies at the prison were not fully addressed for over a year and involved significant monitoring costs to the Government.

Paras 7.68 to 7.79
- Agreements between the Government and 3 private contractors have realised a number of non-financial benefits to the community and prisoners including the replacement of outdated prisons with state-of-the art facilities. There is still some uncertainty whether the cost savings expected to flow from the prison reforms will be realised.

Paras 7.80 to 7.91

Prison security

- At 28 February 1999, incidents at the following prisons have exceeded the acceptable limits specified in the Prison Services Agreements:
 - self-mutilations and attempted suicides, and assaults on prisoners by other prisoners at Metropolitan Women's Correctional Centre by 91 and 20 per cent, respectively; *Para 8.22 and 8.102*
 - assaults on prisoners by other prisoners, assaults on prison staff, and positive drug testing of prisoners at Barwon Prison by 32, 66 and 44 per cent, respectively; and *Para 8.22 and 8.107*
 - assaults on prisoners by other prisoners at Loddon Prison by 27 per cent. *Para 8.22 and 8.112*
- In relation to the 18 factors considered essential for adequate prison security, the audit found that most were in place in the 6 prisons examined. *Paras 8.33 to 8.37*
- In contrast to the 3 private prisons which do not undertake regular risk assessments of prison security, CORE conducts detailed reviews of operational security matters. *Paras 8.38 to 8.39*
- The commercial tensions associated with the evolving multi-service provider industry have led to a fragmented system which discourages innovative solutions to be shared between prison operators. *Paras 8.45 to 8.46*
- Compatible hand scanning systems which minimise the potential for suspect or barred persons gaining access to any prison are not in place. *Paras 8.47 to 8.48*
- The conditions experienced in visits centres in terms of the high numbers of visitors and prisoners congregating during a visit and the requirement to strip search prisoners after their visitors leave, restricts the ability of staff to maintain a span of control across the centres. *Paras 8.49 to 8.50*
- Prisoners who commit a "minor" drug offence for the first time in prison such as for cannabis use, should receive a lesser penalty than that received by a hard drug user. *Paras 8.56 to 8.64*

Prison catering

- Testing of para film cultures taken from kitchen benches and food storage areas at the 6 prisons indicated levels of bacteria which warranted further investigation. *Paras 8.175 to 8.179*
- Prison operators at Port Phillip and Dhurringile Prisons should monitor kitchen staff's compliance with appropriate personal hygiene practices, including wearing clean uniforms and aprons and use of gloves and hair nets, to ensure the safe preparation of food. *Paras 8.192 to 8.193*



Health care services

- Health care services received by prisoners were at least equivalent to those available to the general community.

Paras 8.217 to 8.218
- Only 71 per cent of prisoners considered at risk to themselves at Barwon Prison were assessed by a psychiatric professional in the 8 months to 28 February 1999.

Paras 8.219 and 8.229
- Contrary to current authoritative research, at-risk prisoners are isolated in observation cells which are stripped of all amenities.

Paras 8.236 to 8.238

Part 2

Outline of the prison system in Victoria

BACKGROUND

2.1 In Victoria, management of the prison system, which involves both public and private sector service providers, is governed by the *Corrections Act* 1986. The statutory purposes of this Act are to provide for:

- the establishment, management and security of prisons, and the welfare of prisoners;
- the administration of services related to community-based corrections and for the welfare of offenders; and
- other correctional services.

2.2 This performance audit report addresses matters relating to the first-stated statutory purpose.

THE GOVERNMENT’S CORRECTIONAL OBJECTIVES

2.3 In 1993, the Government issued a policy statement entitled *Protecting the Community and Rehabilitating Offenders* covering the period 1993-1997, which applies to the 2 categories of offenders within the State’s correctional system, namely, those persons detained in custody in a prison or serving a sentence of imprisonment, and those persons subject to community-based corrections orders.

2.4 The Government’s principal correctional objectives outlined in the policy statement are:

“To protect the community and to encourage offenders to adopt law-abiding lifestyles by:

- *containing and supervising offenders in a safe, secure, humane and just manner;*
- *providing opportunities for rehabilitation; and*
- *facilitating reparation to the community”.*

2.5 Elaboration of these 3 means of achieving the principal objectives is presented within the policy statement in the following terms:

“Security, control and supervision

In managing offenders, Correctional Services will:

- *control and supervise offenders in a humane and just manner while maximising the protection of the community;*
- *provide for the personal safety of staff and offenders by providing a correctional environment which aims to protect the physical and emotional wellbeing of individuals; and*
- *encourage offenders to develop:*
 - *responsibility for actions they take;*



- *values which reinforce law-abiding and non-violent participation in the community;*
- *an acceptance of community standards; and*
- *a respect for the rights of others.*

“Rehabilitation opportunities

Correctional Services will provide offenders with opportunities for rehabilitation with the aims of:

- *reducing offending behaviour; and*
- *encouraging offenders to be productive and law-abiding citizens.*

In order to achieve these aims, rehabilitation programs will:

- *challenge offence-related behaviour;*
- *encourage responsibility for actions;*
- *promote self-esteem; and*
- *develop educational, social and living skills.*

In particular, prisoners will be encouraged to participate in rehabilitative programs in order to earn parole.

“Reparation to the community

Offenders will be required to work while in prison. Many offenders serving community-based corrections orders are already required to undertake unpaid community work as part of their orders. This emphasis on work provides benefits to the community and facilitates reparation.”

2.6 No changes have been made to the core principles underpinning the policy statement in the period since its issue.

2.7 Responsibility for implementation of the Government’s policy on correctional services has, since 1992, rested with the Department of Justice. In the period prior to 1992, administration of prisons was undertaken by the Office of Corrections which operated as a separate entity solely responsible for all correctional services. In October 1992, the Office of Corrections was abolished and reconstituted as the Correctional Services Division within the Department of Justice.

PROGRESSIVE REFORM OF VICTORIA'S PRISON SYSTEM

Involvement of private sector in construction, operation and management of prisons

2.8 At an Australian Institute of Criminology Conference on 16 and 17 June 1997, the Deputy Secretary (Justice Operations) of the Department of Justice presented a paper entitled *Policy Overview and Framework for Prison Privatisation in Victoria*, indicating that, after its election in 1992, the Government had identified “... a number of serious, longstanding problems in the correctional system such as:

- high operating costs;
- a declining and inadequate infrastructure;
- poor productivity levels; and
- low levels of accountability”.

2.9 Traditionally, all prisons in Victoria were owned and operated by government. However, this situation changed after October 1992 as the Government embarked on a major prison reform program involving as a key element participation by the private sector in the construction, operation and management of prisons.

2.10 In October 1994, the Government introduced to the Parliament amendments to the *Corrections Act 1986* which provided for involvement, under contractual agreements, of the private sector in the State’s prison system. When presenting the second reading speech of the Bill in the Legislative Assembly, the then Minister for Industry and Employment, who introduced the Bill on behalf of the Minister for Corrections, stated *inter alia*:

“By the end of 1997 almost half of the Victorian prison population will be managed in prisons that have been financed, designed, built and managed by the private sector. The overall responsibility for the operation of correctional services will however remain with the government”.

2.11 This prison population target was subsequently attained in that, by the end of September 1997, approximately 45 per cent of Victoria’s prison population resided in 3 privately-operated prisons. These prisons are the Fulham Correctional Centre at Sale, the Port Phillip Prison at Laverton and the Metropolitan Women’s Correctional Centre at Deer Park. Information recently provided to audit by the Office of the Correctional Services Commissioner showed that, on 13 April 1999, the private prison population was still approximately 45 per cent of the total prison population.

2.12 The second reading speech for the amendment Bill also addressed some of the benefits anticipated by the Government from the involvement of the private sector. In this regard, the presenting Minister informed the Parliament that:

“The community and prisoners will receive obvious benefits through the provision of new purpose-built facilities which provide additional capacity for prisoner numbers and which will have modern security methods built into their structure. Victorians will also benefit from significant private sector investment in Victoria’s infrastructure and the achievement of cost efficiency and effectiveness through the establishment of a real competition in the delivery of correctional services”.



2.13 Relevant comment in relation to the attainment of these anticipated benefits is provided within the body of this Report.

Establishment of a Correctional Services Commissioner

2.14 The 1994 legislative amendments also provided for the establishment of a Correctional Services Commissioner within the Department of Justice. Acting under delegation from the Departmental Secretary, the Commissioner was assigned the role of ensuring that the correctional system operates effectively in meeting the Government's requirements for sentence management and the placement and treatment of prisoners. The Commissioner also assumed responsibility for the provision of advice on policy in relation to correctional services.

2.15 On 1 July 1995, the Office of the Correctional Services Commissioner was established as the organisational unit to assist the Commissioner in meeting the responsibilities assigned to the statutory position. The objectives and strategies of this unit as set out in the Department's *Annual Report 1996-97* are to:

- *“develop and set Statewide standards;*
- *“undertake strategic planning;*
- *“manage prisoner sentences, including prisoner assessment, classification and placement;*
- *“impartially monitor the delivery of correctional services by both public and private providers; and*
- *“advise the purchaser (the Minister) about the performance of providers and levels of compliance with contractual obligations”.*

2.16 It can be seen from the above objectives that the role established for the Commissioner in 1995 comprised a combination of standard setting, strategic planning, monitoring and operational responsibilities. The legislative changes introduced by the Government to provide for the involvement of the private sector in the State's prison system specifically identify the important function of the Commissioner in independently monitoring, on behalf of the Government, the quality and consistency of service delivery within all of the State's prisons. The position's role for this aspect of its responsibilities can be equated with that of an industry monitor.

Other changes to correctional services

2.17 Other changes introduced by the Government during the 1990s in relation to the Department's organisational framework for prisons included:

- establishment of the New Prisons Project as a departmental unit to manage the replacement of 3 public prisons (namely, the Coburg Complex, incorporating Pentridge Prison and the Metropolitan Reception Prison, and Fairlea Women's Prison) with 3 modern prisons financed, designed, constructed and operated by the private sector;
- creation of a service agency within the Department known as CORE - the Public Correctional Enterprise, with responsibility for the operation of the 10 remaining public prisons in compliance with the terms of a Framework Agreement; and



- the setting-up of a Corrections Contracts Branch to assist the Deputy Secretary (Justice Operations) of the Department in that position's role as Contract Administrator, providing a management function for the administration of contracts with private prison operators and agreements with CORE.

2.18 In summary, the various reform actions taken by the Government during the 1990s in respect of the prison system have been designed to clearly separate the roles of:

- policy formulation, standard setting and performance monitoring;
- purchasing of services under contractual arrangements or service agreements; and
- the provision of services by both private and public sector prison operators.

SOME CHARACTERISTICS OF THE PRISON SYSTEM IN VICTORIA

2.19 As previously mentioned, 10 prisons within the State are government-owned and operated by CORE, and a further 3 prisons, constructed since 1995, are owned and operated by 3 private sector parties. Of the 13 prisons, 3 are located in the Melbourne metropolitan area.

2.20 Under current contractual arrangements between the Minister for Corrections and the owners of the 3 private prisons, the owners are obligated to provide prison facilities for a period of 20 years (with provision for extensions within contracts) and prison services for a period of 5 years. The Minister has the option to re-tender for the provision of prison services every 3 years after the initial 5 year period.

2.21 As at 13 April 1999, 2 900 male and female prisoners were in custody in Victoria's prisons, representing an occupancy rate based on permanent capacity of 98.9 per cent.

Profile of prisons

2.22 Table 2A provides a profile of the State's 13 prisons incorporating particular data relating to each prison.

**TABLE 2A
PROFILE OF VICTORIAN PRISONS AT 13 APRIL 1999**

<i>Prison</i>	<i>Location</i>	<i>Maximum, medium or minimum security level</i>	<i>Permanent capacity (current population)</i>	<i>Operator</i>
PUBLIC PRISONS				
H.M. Melbourne Assessment Prison	West Melbourne	All 3 levels	274 (263)	CORE
H.M. Prison Barwon	Lara	Maximum	272 (263)	CORE
H.M. Prison Ararat	Ararat	Medium	256 (264)	CORE
H.M. Prison Loddon	Castlemaine	Medium/Minimum	250 (261)	CORE
H.M. Prison Beechworth	Beechworth	Medium	123 (118)	CORE
H.M. Prison Won Wron	Won Wron	Minimum	127 (117)	CORE
H.M. Prison Dhurringile	Via Murchison	Minimum	106 (116)	CORE
H.M. Prison Langi Kal Kal	Trawalla	Minimum	100 (77)	CORE
H.M. Prison Bendigo	Bendigo	Medium	80 (72)	CORE
H.M. Prison Tarrengower	Maldon	Minimum	38 (31)	CORE
PRIVATE PRISONS				
Port Phillip Prison	Laverton	All 3 levels	580 (593)	Group 4 Correction Services Pty Ltd
Fulham Correctional Centre	West Sale	Medium/Minimum	590 (577)	Australasian Correctional Management Pty Ltd
Metropolitan Women's Correctional Centre	Deer Park	All 3 levels	135 (148)	Corrections Corporation of Australia Pty Ltd

Source: Table compiled from data provided by Department of Justice.

2.23 In those prisons where actual population exceeds permanent capacity, the additional accommodation has been provided by way of temporary stretcher beds or mattress places to alleviate capacity pressures in those prisons.

2.24 The combined aggregate permanent prisoner capacity of 1 305 for the 3 new private prisons represented an increase of 6.7 per cent when compared with the combined capacity of the 3 replaced public prisons.

Part 3

Conduct of the audit



DECISION TO CONDUCT THE PERFORMANCE AUDIT

3.1 The management of prisons constitutes a fundamental responsibility of any government as it involves, among other things, matters dealing with protection of the community, and safe and humane containment of prisoners. As such, questions of efficiency and effectiveness by government in the management of prisons automatically are issues of direct public interest. It was, therefore, considered desirable that a performance audit be carried out in this area.

3.2 The decision by the Government during the 1990s to provide for involvement by the private sector in the construction and ownership of 3 prisons and the delivery of prison services was a further factor taken into account in determining that a performance audit be conducted on behalf of the Parliament and community.

3.3 The *Auditor-General's Reports on the Government's Annual Financial Statement* covering 1994-95 and 1995-96 summarised the contractual arrangements entered into with the 3 private sector service providers and included comment on the transfer of risks from the Government to the private sector. The carrying out of a performance audit provided an opportunity to move beyond these areas and to focus on matters of efficiency and effectiveness relating to the operation of both private and government-owned prisons.

3.4 Finally, the conduct of a performance audit dealing with the State's prison system was endorsed by the Parliament's Public Accounts and Estimates Committee following consultation with the Committee by the Auditor-General on annual performance audit planning, as required by the *Audit Act* 1994.

AUDIT OBJECTIVE

3.5 The overall objective of the audit was to evaluate the effectiveness of the Department of Justice in meeting the Government's correctional objectives which, as identified in Part 2 of this Report, are:

"To protect the community and to encourage offenders to adopt law-abiding lifestyles by:

- *containing and supervising offenders in a safe, secure, humane and just manner;*
- *providing opportunities for rehabilitation; and*
- *facilitating reparation to the community".*

3.6 In pursuit of this overall objective, audit directed emphasis towards the management framework established for the prison system within the Department of Justice in terms of the:

- adequacy of the tender evaluation and selection processes in respect of the construction and management of the 3 private prisons;
- appropriateness of the Department's standards, contractual arrangements and service agreements in supporting achievement of the Government's correctional objectives;



- soundness of planning and monitoring functions undertaken by the Office of the Correctional Services Commissioner;
- extent to which the Corrections Contracts Branch has ensured, through its contract administration work, that both public and private sector service providers have met their obligations as defined in contracts and service agreements; and
- suitability of the relevant organisational relationships within the Department.

3.7 The above audit emphasis was complemented by an examination of key aspects of service delivery in a number of prisons.

3.8 The audit also sought to give visibility and recognition to initiatives taken by the Department of Justice to progressively achieve greater effectiveness and improved efficiency in the management of prisons within the State.

AUDIT SCOPE

3.9 The scope of the audit encompassed examination of:

- documentation relating to the Department’s tender evaluation and selection processes for each of the 3 private prisons;
- all relevant legislation including the *Corrections Act* 1986, which is the principal statute governing prisons;
- the key functions undertaken by the Correctional Services Commissioner and the Corrections Contracts Branch within the Department;
- policy and management standards for prisons issued by the Commissioner;
- prison operational manuals; and
- important elements of service delivery in selected prisons.

3.10 The prisons visited during the audit for the purpose of examining service delivery were:

- Metropolitan Women’s Correctional Centre;
- Fulham Correctional Centre;
- Port Phillip Prison;
- H.M. Prison Dhurringile;
- H.M. Prison Barwon; and
- H.M. Prison Loddon.

3.11 The audit examination at each prison encompassed an assessment of prison performance in the following areas:

- security programs in prisons (including the adequacy of drug detection programs and the application of technology);
- food services in prisons;
- healthcare services for prisoners;
- accommodation and amenities;



- procedures in place covering visits, telephones and mail;
- the management of plans established for individual prisoners;
- education, training and employment programs for prisoners;
- pre-release programs; and
- the quality of training and development programs for custodial staff.

3.12 The audit was performed in accordance with Australian Auditing Standards applicable to performance audits and, accordingly, included such tests and other procedures necessary in the circumstances.

Deaths in custody

3.13 On 31 August 1998, the Minister appointed the Victorian Correctional Services Task Force to review suicides and self-harm in Victorian prisons. The Task Force submitted its report to the Minister on 19 November 1998. Notwithstanding earlier requests to the Department of Justice, a copy of the Task Force’s complete report was not made available to audit until April 1999. Some of the criticisms in the report relating to prison management and the delivery of particular prison services mirrored audit findings in that area and reference to the views of the Task Force has, where appropriate, been incorporated within Parts 6 and 8 of this Report.

3.14 No references have been included in this Report on the findings of the Task Force covering case studies of deaths in custody examined during its review. This matter is subject to coronial inquiries and was specifically excluded from the scope of the audit. The Minister tabled an edited version of the report of the Task Force in Parliament on 11 May 1999.

RESOURCING OF THE AUDIT

3.15 Important amendments to the *Audit Act* 1994, which impacted on the resourcing of this performance audit, were passed by the Parliament in December 1997. These amendments arose from the Government’s review of the audit legislation under the National Competition Policy.

3.16 As a consequence of the legislative changes, the Auditor-General is required to appoint “authorised persons”, following a process of contestability, to assist in the carrying out of both financial and performance audits. A new government statutory body, Audit Victoria, initially staffed by personnel transferred from the Victorian Auditor-General’s Office and operating under a Board of Directors appointed by the Government, was established within the legislation to participate in this contestability process along with other private sector service providers.

3.17 While external contractors must now be engaged by the Auditor-General to conduct field work, the Auditor-General remains solely responsible to the Parliament for the quality of the final audit product.



3.18 The contestability regime for the Auditor-General’s audit responsibilities is to be progressively implemented. For performance audits in progress, the amended legislation provided the Auditor-General with the option of utilising the Victorian Auditor-General’s Office to continue to conduct the audits or assigning remaining tasks to Audit Victoria. In this regard, the Auditor-General determined to appoint Audit Victoria to complete the remaining field tasks for this particular audit and prepare an audit report which would be considered for presentation to the Parliament.

3.19 Audit Victoria’s formal involvement in the audit commenced on 1 July 1998 following the transfer to that organisation of members of the audit team who were previously employed within the Victorian Auditor-General’s Office.

SPECIALIST ASSISTANCE UTILISED BY AUDIT

3.20 Specialist assistance was provided to the audit team in the following areas:

- human resource management practices of prison service providers, including training and development programs for custodial staff - by Mr Simon Brown-Greaves of Occupational Services Australia;
- the provision of food services - by Mr P Webster of William Angliss Institute of TAFE;
- healthcare services for prisoners - by Mr S Kerr of Stephen Kerr and Associates;
- security arrangements and procedures - by Mr A Zalewski of Vocation Australia Pty Ltd; and
- bidding and selection process for the 3 private prisons - by Mr R Macris, consultant.

ASSISTANCE PROVIDED TO AUDIT

Level of assistance provided by the Department of Justice

3.21 The audit team from Audit Victoria and representatives of the Victorian Auditor-General’s Office acknowledge the support and assistance provided by the Department of Justice during the course of the audit. Particular appreciation is expressed for the co-operation extended by the current Departmental Secretary, the Correctional Services Commissioner, the previous Acting Commissioner, staff of the Commissioner’s Office, the Chief Executive of CORE and staff of CORE, and members of the Corrections Contracts Branch. The Victorian Auditor-General’s Office wishes to acknowledge the assistance extended by the above departmental personnel to the preparation of material for this Report.



Other assistance

3.22 The Victorian Auditor-General’s Office also wishes to express its appreciation for the assistance provided to Audit Victoria by the following organisations and individuals:

- the operators of the 3 private prisons, namely, Australasian Correctional Management Pty Ltd, Corrections Corporation of Australia Pty Ltd and Group 4 Correction Services Pty Ltd;
- Victorian Association for the Care and Resettlement of Offenders;
- Jesuit Social Services;
- Federation of Community Legal Centres;
- Victorian Law Institute (Criminal Law Section);
- Ombudsman of Victoria;
- Department of Human Services;
- Office of the Public Advocate;
- Victoria Police;
- The Honourable Mr Justice Vincent (in his capacity as Chairperson of the Adult Parole Board); and
- Mr W Jonah (Chairman of the Community Advisory Committee).

3.23 The Office is also grateful for the assistance provided by several individual members of the community who liaised with the audit team on issues relevant to the subject area.

Part 4

**Bidding and
selection process
for the 3 new
private prisons**



OVERVIEW

4.1 This Part of the Report describes the bidding and selection process managed by the New Prisons Project within the Department of Justice for the State's 3 new private prisons.

4.2 It is pleasing for audit to report that the bidding and selection process was undertaken in a manner consistent with the Government's Infrastructure Investment Policy for Victoria and that significant attention was directed to probity issues during the process.

4.3 A sound documentary trail was available to audit to support decisions reached at each major stage of the bidding and selection process.

BACKGROUND

4.4 Under amendments to the *Corrections Act* 1986, which became operative in January 1995, the Minister for Corrections assumed authority to enter into agreements with the private sector for the design, construction and operation of prisons. These legislative amendments reflected the Government's policy objective, as set out in the second reading speech of the amendment Bill, that "*By the end of 1997 almost half of the Victorian prison population will be managed in prisons that have been financed, designed, built and managed by the private sector*".

4.5 In October 1993, the Government established a New Prisons Project to operate as an organisational unit within the Department of Justice. The purpose of this Project was to manage the replacement of 3 public prisons, namely, the Coburg Complex (incorporating Pentridge Prison and the Metropolitan Reception Prison) and Fairlea Women's Prison, with 3 new prisons financed, designed, constructed and operated by the private sector. The 3 new prisons were the:

- Metropolitan Women's Correctional Centre at Deer Park;
- Fulham Correctional Centre at Sale, a rural men's prison; and
- Port Phillip Prison at Laverton, a metropolitan men's prison.

4.6 Over the period 1994 to 1997, the New Prisons Project managed a bidding and selection process for these 3 new prisons. This process culminated in approval by the Government for 3 separate consortia to each construct, finance and operate one new prison facility. Table 4A provides relevant details.



**TABLE 4A
SUCCESSFUL CONSORTIA FOR THE STATE'S 3 PRIVATE PRISONS**

<i>Prison</i>	<i>Successful private sector consortium</i>
Metropolitan Women's Correctional Centre	Excor Investments Pty Ltd, Corrections Corporation of Australia Pty Ltd in association with John Holland Construction and Engineering Pty Ltd with financier Societe Generale Australia Limited.
Fulham Correctional Centre	Australasian Correctional Investment Ltd comprising Australasian Correctional Management Pty Ltd with Thiess Contractors Pty Ltd with financier AMP Investments Australia Ltd.
Port Phillip Prison	Australian Correctional Facilities Pty Ltd comprising Fletcher Construction Australia Ltd and Group 4 Correction Services Pty Ltd with financier Dresdner Australia Ltd.

4.7 In February 1998, following completion of tasks associated with the commissioning of the 3 new prisons, the New Prisons Project became the Major Projects Unit within the Department.

4.8 The *Auditor-General's Reports on the Government's Annual Financial Statement* for 1994-95 and 1995-96, tabled in October 1995 and October 1996, respectively, summarised the financial and operating arrangements relating to each of the 3 private prisons as set out in the underlying contractual agreements entered into between the State, the companies established by each private sector consortia and the projects' financiers.

4.9 This Part of the Report focuses on the bidding and selection process established and managed by the New Prisons Project for the 3 new private prisons.

BIDDING AND SELECTION PROCESS

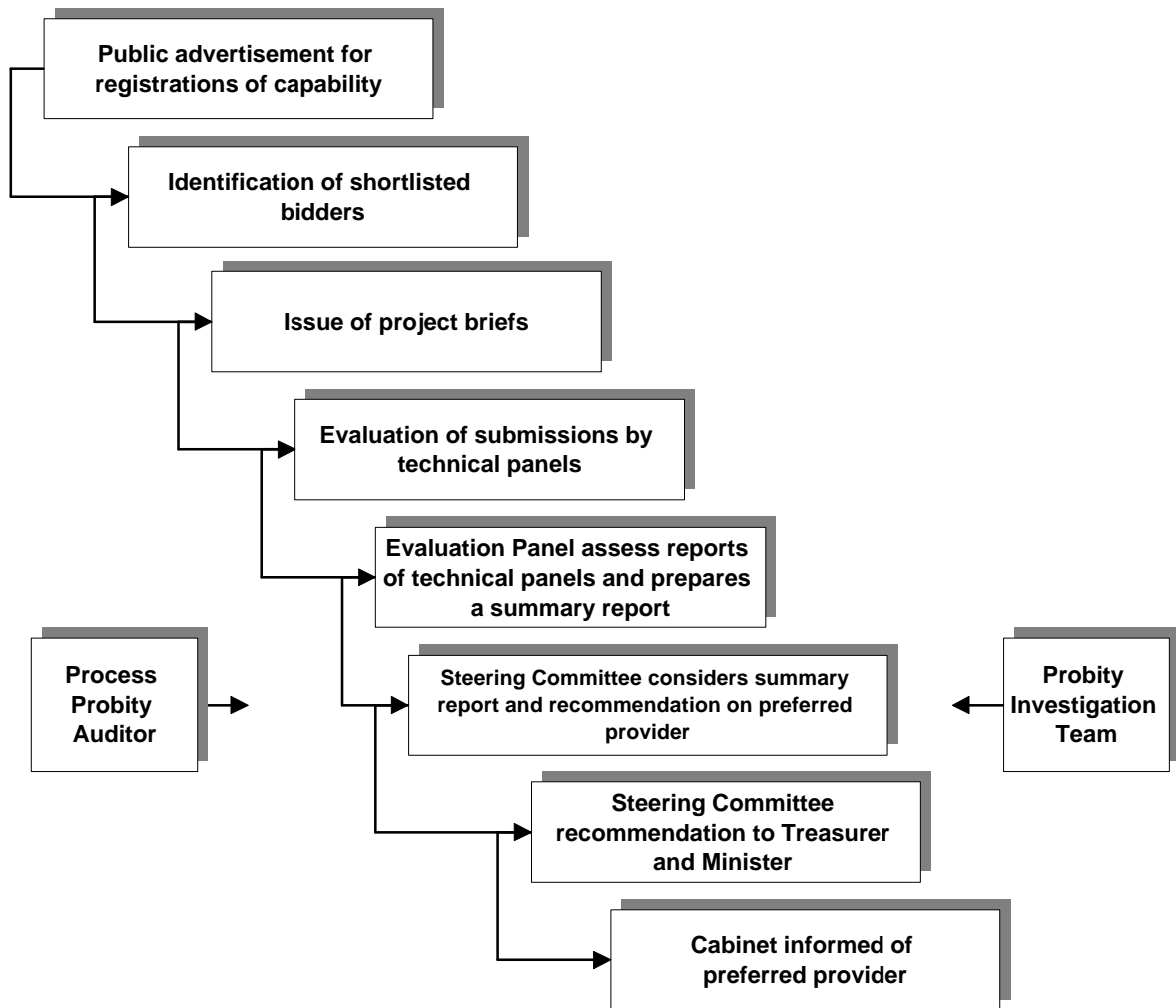
4.10 The pertinent policy document underpinning the bidding process for the 3 private prisons was the Government's *Infrastructure Investment Policy for Victoria*. This policy is designed to promote, where justified, private sector involvement in investment in both new and existing public sector infrastructure and related services.

4.11 Under this policy, the bidding and selection process involves 4 main phases, namely:

- a publicly-advertised invitation for registration of capability;
- the development of a project brief;
- evaluation of submissions in response to project brief from shortlisted registrants; and
- selection and approval of preferred provider (following negotiations with bidders).

4.12 Chart 4B summarises the bidding and selection process established by the New Prisons Project for the 3 new private prisons.

**CHART 4B
BIDDING AND SELECTION PROCESS FOR 3 NEW PRIVATE PRISONS**



4.13 The Infrastructure Investment Policy requires the setting up of a “management panel”, comprising a representative from the relevant department (Department of Justice), the Department of Treasury and Finance, and at least one other party with relevant expertise to assist with the development of the project and oversee the evaluation of submissions and negotiations with the preferred providers. This key role was, as identified in Chart 4B, carried out by the “New Prisons Project Steering Committee” which was established in late 1993 and included external representation.

4.14 The Steering Committee was chaired by the Department’s Deputy Secretary (Justice Operations). It met regularly and endorsed all stages of the project, including site selection, project briefs, evaluation criteria, methodology and processes, and recommendations with respect to preferred bidders and contract administration.

4.15 A number of other panels operated under the overview of the Steering Committee to facilitate management tasks at various stages of the bidding and selection process. Table 4C sets out details of these panels and their respective functions:



**TABLE 4C
PANELS UTILISED IN BIDDING AND SELECTION PROCESSES**

<i>Panel title</i>	<i>Function</i>
Evaluation Panel	To evaluate information provided by each technical panel and produce a consolidated evaluation summary together with recommendations to the Steering Committee.
Technical Panels - <ul style="list-style-type: none"> • Finance • Construction/Design • Prison Management • Legal • Health (Port Phillip Prison only) 	To assess the submissions with reference to evaluation criteria established by each panel based on information set out in the briefs.
Probity Investigation Team	To investigate the integrity, character and honesty of consortia.

4.16 In addition to the matters addressed by the probity investigation team, the New Prisons Project engaged a Process Probity Auditor to focus specifically on the bidding and evaluation process, and verification of compliance with the established quality control procedures.

Bidding process

Registration of capability

4.17 As mentioned in an earlier paragraph, the first step in the bidding process involved the issue of a publicly-advertised invitation for registrations of capability. The New Prisons Project commenced this step in January 1994, with the placement of a public advertisement in local and national newspapers in respect of the proposed 3 new prisons.

4.18 Ten registrations of capability were received, of which 2 were later withdrawn. The Evaluation Panel, evaluated the remaining 8 submissions against the following criteria:

- Prison Management capability;
- Design/Construction capability; and
- Financial capability.

4.19 These criteria were generally consistent with the requirements of the Government’s infrastructure investment policy.

4.20 Following evaluation, a short list of 3 bidders, who would receive a project brief (i.e. move to the next stage) for the women’s prison, and a short list of 4 bidders for both the rural and metropolitan men’s prisons, were determined by the Panel and approved by the Steering Committee. Subsequently, one of the bidders for the metropolitan men’s prison (Port Phillip Prison) opted to withdraw from the process and not receive a project brief.

Project brief stage

4.21 The Infrastructure Investment Policy emphasises the importance of the project brief stage of the bidding and selection process. Under the policy, the issue of a project brief represents a commitment to external parties by the Government that a project will proceed to implementation, subject to the achievement of the requirements, including financial arrangements, specified in the brief. The policy requires formal Government (Cabinet) approval of detailed project briefs before they can be issued to the private sector. Government approval is also required if it is proposed to subsequently vary or depart from the project brief in any significant manner.

4.22 Following the receipt of Cabinet approval, project briefs for each of the proposed new prisons were issued by the New Prisons Project to the shortlisted bidders on the following dates:

- Metropolitan Women’s Correctional Centre in July 1994;
- Rural Men’s Prison in November 1994; and
- Metropolitan Men’s Prison in August 1995.

4.23 The key objectives for the overall project, as advised to the shortlisted bidders in the briefs, were to:

- “reduce the costs to Government to below established benchmark recurrent costs of service delivery;
- “ensure the scope and quality of services to prisoners is maintained and/or enhanced without compromising security and safety;
- “meet government policy objectives of risk transfer to the private sector;
- “replace inadequate and ageing prisons with new facilities and increase the capacity of correctional facilities to meet projected demand; and
- “introduce private sector investment funds (equity) into the Victorian prison infrastructure”.

4.24 Other information set out in the project briefs covered such matters as:

- proposed location of each prison;
- prison management principles and specifications (including the need to comply with prison legislation and the Government’s prison management standards);
- principles and specifications relating to the design and construction of the prisons
- principles to govern any commercial or financing arrangements; and
- in summary form, the criteria to be used in the evaluation of bids.

4.25 The summary evaluative criteria were identified in the project briefs as:

- “**Correctional Management Philosophy and Practice** - evaluating submissions in terms of the extent to which the Consortium’s operating philosophy is consistent with Victorian Government policy. Submissions needed to clearly articulate an understanding of the practical application of policy and principles by translating an appropriate correctional management philosophy into operating procedures;



- **“Prison Management Capability** - evaluating submissions in terms of the extent to which Consortia demonstrate the capability to provide correctional services for the diverse prisoner groups within the context of the Victorian Government policy on corrections. Consortia are encouraged to enhance correctional services and management through the use of innovative and cost-effective proposals;
- **“Prison Management Specifications** - outline the legislative requirements, Government policies and correctional standards in 31 key prison management areas, with which the Submissions must conform;
- **“Design and Construction** - evaluated against the following key criteria:
 - *Functional* - relationships between spaces and layout, overall layout, traffic management and integration with prison management principles;
 - *Technical* - construction techniques building technology, engineering services, security, work program and quality assurance;
 - *Operational* - serviceability, maintenance (urgent and programmed) and emergency management, for example, fire risk;
 - *Cost* - estimated total end cost and relationship between capital and recurrent costs; and
 - *Appearance* - layout and appearance, relationship of proposed prison to surrounding built and natural environment.
- **“Financial Evaluation Criteria** - Submissions evaluated from a financial/commercial perspective on the basis of the following criteria:
 - *Risk Transfer* - the degree to which proposals effect a transfer of ownership, financing and operational risks to the private sector;
 - *Level of Equity* - the investment of funds in the nominated prison;
 - *Certainty/Deliverability* - the degree to which proposals guarantee the expected outcomes. The degree of commitment of financiers and equity providers and the conditional nature of their letters of offer;
 - *Cost/Cost-Effectiveness* - the absolute cost to the Government of the “purchase” of facilities and services and the cost-effectiveness or value for money implicit in proposals; and
 - *Conformity/Departures* - the degree to which proposals conform to the requirements of the briefs”.

Evaluation of submissions in response to project brief

4.26 This stage of the bidding process involved the evaluation of submissions received from the shortlisted bidders to the project brief for each prison. Principal roles at this stage were carried out by the previously-described technical panels under the overview of the Evaluation Panel.

4.27 The membership of the technical panels comprised either a mix of internal and external parties, or solely internal representatives. The panels remained substantially unchanged over the period covering the evaluation of bids for the 3 individual prisons.



4.28 Each of the technical panels formulated specific evaluative criteria and scoring systems to guide the evaluations in their respective subject areas.

4.29 Through examination of technical panel minutes, audit confirmed that individual members of the panels undertook separate and independent assessments of bids and reported the results of such assessments to a meeting of all panel members. Following this process, each panel made a presentation to the evaluation panel and provided a written report on its overall ranking of bids.

Government requirement for consideration of financial criteria when evaluating bids

4.30 As mentioned in an earlier paragraph, one of the objectives for the prisons project was to “*reduce the costs to Government to below established benchmark recurrent costs of service delivery*”.

4.31 This particular objective reflected the Government’s overall policy requirement for projects of this nature that financial criteria be determined by the Treasurer in consultation with the Minister and that such criteria constitute critical eligibility requirements in the evaluation of bids. The essential purpose of this policy provision is to ensure that demonstrable cost savings result from the involvement of the private sector in the delivery of infrastructure services.

4.32 Financial criteria for each prison were initially determined by the Treasurer in May 1994 and received Cabinet approval in June 1994. These criteria were presented as a cost benchmark based on the recurrent costs incurred in 1992-93 at Pentridge Prison, the Metropolitan Reception Prison and Fairlea Women’s Prison. The benchmark also included program costs, costs of periodic refurbishments of established prisons and a proportion of overheads.

4.33 Following advice provided by the Department of Treasury and Finance, the criteria were subsequently reviewed to correct an identified error in the earlier calculations and a revised determination was issued by the Treasurer in November 1994. This revised criteria involved the raising of cost benchmarks for all 3 prisons. It was the intention of audit to set out in Table 4D the individual cost benchmarks approved in November 1994 for each prison. The relevant figures have been deleted from the table following legal advice recently obtained by the Department of Justice from the Victorian Government Solicitor.

**TABLE 4D
GOVERNMENT COST BENCHMARKS FOR EACH NEW PRISONS
(\$million)**

<i>Metropolitan women’s prison</i>	<i>Rural men’s prison</i>	<i>Metropolitan men’s prison</i>
\$XX.X	\$XXX.X	\$XXX.X



4.34 Specific consideration of the Government’s cost benchmarks during the evaluation of bids formed a major part of the work of the finance technical panel which included a representative of the Department of Treasury and Finance as well as an external financial adviser.

Selection and approval of preferred provider

4.35 The Evaluation Panel was responsible for consolidating the reports received from the technical panels and formulating recommendations for preferred providers based on these reports and after taking into account advice from:

- the Probity Investigation Team;
- the Process Probity Auditor; and
- external legal specialists.

4.36 At the time of preparation of this Report, audit was waiting on the Department to provide documentary evidence that all probity investigations were completed prior to the selection of the preferred providers.

4.37 Separate written reports outlining the Panel’s recommendation in respect of each prison were then presented for the consideration of the Steering Committee. Following the Steering Committee’s endorsement and agreement of the Minister and the Treasurer, Cabinet was informed of the preferred provider and contract negotiations commenced with that party.

New women’s prison (Metropolitan Women’s Correctional Centre)

4.38 As mentioned in an earlier paragraph, 3 bidders were identified as having the capabilities to finance, construct and operate this prison, and were shortlisted to receive the project brief.

Selection and approval decision

4.39 Following its assessment of the 3 responses to the project brief, the Evaluation Panel recommended that 1 of the bidders be excluded from any further consideration as the bid exceeded the cost per prisoner component of the Government’s financial benchmark. The Panel also recommended that the 2 remaining bidders be subject to further evaluation over a 3 week period.

4.40 After this further evaluation process, the Evaluation Panel recommended to the Steering Committee that the Excor Investments Pty Ltd consortium comprising Corrections Corporation of Australia Pty Ltd, John Holland Construction and Engineering Pty Ltd and Societe Generale Australia Limited be selected as the preferred provider. The Panel concluded that this consortium could achieve all of the objectives set for the New Prisons Project and had clearly confirmed its capability to:

- “maintain correctional management services to the required level and in some instances improve service levels;
- “design and construct the facility to specifications and to ensure certainty of the replacement program; and



- “meet the NPP [New Prisons Project] financial objectives relating to risk transfer and the contractual conditions necessary for project implementation”.

4.41 The NPP Evaluation Panel considered that the unsuccessful bidder had demonstrated the capability to:

- “maintain and in many cases, improve correctional management services; and
- “design and construct the facility to specifications”.

4.42 However, the Panel determined that this bidder was unable to demonstrate:

- “a suitable financial structure to provide the financial certainty required for the project;
- “evidence of a project bank willing to provide credit committee approval for the provision of finance to ensure deliverability of the project; and
- “acceptance of the terms of the proposed contracts in relation to the transfer of financial risks. The bidder continued to present substantial legal departures from the draft contract which represented a risk to successful project delivery”.

4.43 The Steering Committee endorsed the Panel’s recommendation and the Treasurer and the Minister approved the selection of the recommended consortium as the preferred provider for the new metropolitan women’s prison in December 1994.

Particulars relating to the Government’s cost benchmark

4.44 It was the intention of audit to set out in Table 4E a comparison of the cost bid submitted by the successful consortium with the government-approved cost benchmark for this particular prison. The relevant figures have been deleted from the table following legal advice recently obtained by the Department of Justice from the Victorian Government Solicitor. Audit can say that the successful bid was under the Government’s benchmark.

**TABLE 4E
PER PRISONER, PER YEAR COSTS
AND GOVERNMENT BENCHMARK WOMEN’S PRISON**

Government benchmark	\$XX XXX per prisoner, per year
Excior Investments Pty Ltd	\$XX XXX per prisoner, per year

4.45 Following a period of approximately 6 months in contract negotiations, the Minister and the selected consortium signed the various contractual agreements in June 1995.

New rural men’s prison (Fulham Correctional Centre)

4.46 As indicated in an earlier paragraph, 4 bidders were identified as having the capabilities to finance, construct and operate this particular prison, and were shortlisted to receive the project brief.



Selection and approval decision

4.47 Following its assessment of the 4 responses to the project brief, the Evaluation Panel recommended to the Steering Committee that the Australasian Correctional Services Pty Ltd consortium comprising Australasian Correctional Management Pty Ltd, Thiess Contractors Pty Ltd and AMP Investments Australia Ltd be selected as the preferred provider.

4.48 The Panel concluded in a summary report to the Steering Committee that this consortium’s submission “... ranked first of the four submissions”.

4.49 The NPP Evaluation Panel also determined that the 3 unsuccessful bidders were unable to demonstrate a capability to meet all of the project’s objectives. More specifically:

- “the second ranked bidder, while demonstrating a superior correctional management proposal and the most acceptable design/construction proposal, presented a financial proposal which was substantially more costly and less cost-effective than the successful bidder;
- “the third ranked bidder did not clearly demonstrate its capability to meet the brief specifications in the key areas of correctional management, design and construction proposals and financing; and
- “the fourth ranked bidder, while providing a high quality and competitively cost-effective financial approach, was judged unacceptable on the correctional management and design/construction dimensions”.

4.50 The Steering Committee endorsed the Panel’s recommendation and, following a submission to the Treasurer and the Minister, approval was given for the selection of the recommended consortium as the preferred provider for the new rural men’s prison in May 1995.

Particulars relating to the Government’s cost benchmark

4.51 It was the intention of audit to set out in Table 4F a comparison of the cost bid submitted by the successful consortium with the government-approved cost benchmark for this particular prison. The relevant figures have been deleted from the table following legal advice recently obtained by the Department of Justice from the Victorian Government Solicitor. Audit can say that the successful bid was under the Government’s benchmark.

**TABLE 4F
PER PRISONER, PER YEAR COSTS AND GOVERNMENT
BENCHMARK, RURAL MEN’S PRISON**

Government benchmark	\$XX XXX per prisoner, per year
Australasian Correctional Investment Ltd	\$XX XXX per prisoner, per year



4.52 The Minister and the selected consortium signed the various contractual agreements in October 1995, following a period of approximately 6 months in contract negotiations.



Fulham Correctional Centre, located in West Sale and opened in April 1997.

New metropolitan men’s prison (Port Phillip Prison)

4.53 An earlier paragraph mentioned that 4 bidders were identified as having the capabilities to finance, construct and operate this prison, and were shortlisted to receive the project brief. One of the bidders chose not to submit a proposal.

Selection and approval decision

4.54 Following its assessment of the 3 responses to the project brief, the Evaluation Panel provided the Steering Committee with an interim report, advising that it was unable to recommend a preferred bidder on the basis that “... *no one bid met all the criteria required to make this recommendation. Submissions were, in overall terms, difficult to separate on price and other evaluation criteria, to a sufficient degree to enable the clear identification of a single consortium suitable for recommendation as a preferred bidder*”.

4.55 It was clear to the Evaluation Panel that all the bidders had misunderstood the management requirements for mainstream maximum security prisoners and the management of prisoners in the prison’s Management/Security Unit.



4.56 The Evaluation Panel sought and received the Steering Committee’s approval to offer the bidders an opportunity to provide further documentation as a pre-condition to the selection of 1 of the bidders as the preferred provider. Bidders were informed that no pricing changes relative to the initial bid would be accepted except for the identifiable and justified cost of qualifying the proposals to government requirements in identified areas.

4.57 All 3 bidders responded to the offer and provided further material. The Evaluation Panel considered the responses and, after this further evaluation process, recommended to the Steering Committee that the Australian Correctional Facilities Pty Ltd consortium comprising Fletcher Constructions Australia Ltd and Group 4 Correction Services Pty Ltd with financier Dresdner Australia Ltd be selected as the preferred provider. The Panel concluded that this consortium “... *provided a prison concept clearly integrating prison design and management dimensions into a cohesive approach, which fully met the requirements of the MMP Brief*”.

4.58 The Evaluation Panel determined that the unsuccessful bidders were unable to demonstrate a capability to meet all of the objectives of the New Prisons Project.

4.59 The NPP Steering Committee endorsed the Panel’s recommendation and, following a submission to the Treasurer and the Minister, approval was given for the selection of the recommended consortium as the preferred provider for the new metropolitan men’s prison in April 1996.

Particulars relating to the Government’s cost benchmark

4.60 It was the intention of audit to set out in Table 4G a comparison of the cost bid submitted by the successful consortium with the government-approved cost benchmark for this particular prison. The relevant figures have been deleted from the Table following legal advice recently obtained by the Department of Justice from the Victorian Government Solicitor. Audit can say that the successful bid was under the Government’s benchmark.

**TABLE 4G
PER PRISONER, PER YEAR COSTS AND GOVERNMENT
BENCHMARK, METROPOLITAN MEN’S PRISON**

Government benchmark	\$XX XXX per prisoner, per year
Australian Correctional Facilities Pty Ltd	\$XX XXX per prisoner, per year

4.61 Following a period of approximately 3 months in contract negotiations, the Minister and the selected consortium signed the various contractual agreements in August 1996.

.....

Management of probity issues

4.62 The importance of adequate attention to probity matters in selection processes has been reinforced by the Department of Treasury and Finance in its March 1997 document entitled, *Procedural Integrity and Process Auditing in Privatisation and Contracting Out*. This document provides guidance to public sector entities on the role of a probity auditor in ensuring equity in a selection process and that procedural fairness is accorded to all participants.

4.63 The New Prisons Project established a 2-tiered probity regime to support its management of bidding and selection arrangements governing the 3 new private prisons. The 2 elements of the probity regime involved:

- engagement of a Process Probity Auditor to:
 - develop “Conduct Rules” for the evaluation of submissions received from shortlisted bidders;
 - supervise the development of, and provide advice in implementing, the evaluation process; and
 - comment on the probity of the process (in terms of compliance) on completion; and
- appointment of a Probity Investigation Team to investigate and report on the character, honesty and integrity of proposed contractors (in this case, the shortlisted bidders).

4.64 It was very pleasing to find that significant attention had been directed to this critically important aspect of the New Prisons Project.

Important involvement of the Process Probity Auditor

4.65 Extensive documentation was available to indicate that the involvement of the Process Probity Auditor was wide-ranging and encompassed all key stages of the evaluation process.

Input by the Probity Investigation Team

4.66 The abovementioned Probity Investigation Team utilised by the Evaluation Panel comprised 2 members and was led by a representative of the Victoria Police Major Fraud Group who was nominated by the Chief Commissioner of Police. Involvement with this team constituted the means by which the Commissioner met the legislative obligations set out in section 9B of the *Corrections Act* 1986 which require the Commissioner to report to the Departmental Secretary on the character, honesty and integrity of proposed contractors and any persons associated with or able to influence proposed contractors.



4.67 The work of the Probity Investigation Team encompassed the checking, in respect of all shortlisted bidders, of any criminal history, corporate references and previous performance (nationally or internationally) in the provision of similar services. The Team’s investigations in respect of the first stage of the bidding and selection process, i.e. the Metropolitan Women’s Prison, were used as the basis for its subsequent work relating to the other 2 prisons. This approach meant that full-scale investigations only had to be carried out for the additional fourth bidder shortlisted for the 2 later prisons and earlier findings only required updating to cover any activities of the original 3 bidders in the period since the first process.

4.68 At the conclusion of each selection process, the Team reported to the Evaluation Panel on the results of its work. The Team concluded in its report(s) that *“Following comprehensive investigations, including visits to USA and UK, reports were prepared [by the Team] on each of the four short-listed consortia, which revealed no material probity issues which might impede the implementation of the NPP”*.

Probity arrangements over the life of the contracts

4.69 Contractual arrangements in place for each of the 3 new private prisons include provisions which are aimed at maintaining ongoing probity assurance during the life of the individual contracts. In this regard, contractors are required to notify the Chief Commissioner of Police (for subsequent investigation) of the emergence of any new circumstances pertaining to the ownership and management of the contractor since the signing of a contract.

4.70 Evidence was available to give assurance that this important aspect of the probity arrangements was occurring.

4.71 The significance of timely notification by contractors prior to any changes in ownership was recently reinforced when the owners of the Metropolitan Women’s Correctional Centre advised the Department of proposed changes to its ownership structure. In this instance, however, the Department later became aware that the ownership changes were consummated before the official probity investigation of the changes had been finalised.

RESPONSE provided by Secretary, Department of Justice

It is pleasing to note that audit recognises the procedural correctness and the integrity of the process with respect to the New Prisons Project bidding process.

Part 5

Monitoring the provision of prison services

OVERVIEW

5.1 The 1994 legislative changes, which provided for involvement of the private sector in the State's prison system, clearly articulated the important monitoring responsibilities of the newly-established Correctional Services Commissioner within the industry.

5.2 Within this Part of the Report, audit has evaluated the monitoring performance of the Commissioner's Office against 7 key criteria. These criteria were formulated in consultation with the Commissioner's Office and prison operators.

5.3 The regulatory and management framework established by the Department of Justice to apply to the expanded prison industry provided, *inter alia*, that the role of the Commissioner would involve a combination of monitoring and operational responsibilities. In addition, as an organisational unit within the Department, the Commissioner's Office became subject to the direct influence of the Department which itself is the controlling entity over CORE in terms of the operations of the State-owned prisons.

5.4 Audit examination of the operational environment of the Commissioner's Office identified several elements of this environment which adversely impact on the independence and overall effectiveness of the Office in discharging its key monitoring functions within the industry. Audit has concluded that the evolving prison industry, encompassing a mix of State-managed and privately-operated prisons, now requires a regulatory framework which features a truly independent Correctional Services Commissioner.

5.5 Two options discussed by audit with the Department for enhancing the current operational framework of the Commissioner and that position's effectiveness and independence were:

- Implementation of a full scale change process under which the Commissioner is assigned the role of a regulator with managerial and operational powers equivalent to other regulatory office-holders within the State such as the Regulator-General. Under this option, the Commissioner would not be subject to the direction or control of either the Minister or the Department and would have a direct line of accountability to the Parliament; and
- Adoption of a framework involving a lesser scale of change in which the Commissioner would operate completely at arms-length from the Department but would have a direct line of accountability to the Minister and would report annually via the Minister to the Parliament on the results of monitoring activities within the industry.

5.6 In audit opinion, implementation of either option would enable the Commissioner to operate more effectively as an independent industry monitor



OVERVIEW - *continued*

5.7 As is the case with all areas of the public sector, the Commissioner's Office has the responsibility of ensuring that maximum efficiency and effectiveness are derived from its management of limited available resources. No organisation has an undeniable right to receive budgetary increases.

5.8 Nevertheless, the nature and absolute importance of the Commissioner's role, particularly if it is operating in a truly independent manner, makes it imperative that the Government is always assured that the Commissioner's Office is adequately resourced to effectively meet its vital statutory responsibilities for the impartial monitoring of industry performance. On the basis of matters raised in this Report, there is great scope to upgrade the resource capability of the Office relating to its monitoring role. A sufficiently resourced and effective industry monitor would be a vital source of independent confirmation to the Government that management of the industry was carried out in a manner conducive to ensuring the safety of the community and the welfare of prisoners.

5.9 To date, the monitoring function of the Commissioner has been predominantly compliance based in nature in that monitoring tasks have been focussed on validating performance by prison operators against service delivery outcomes set out in contractual agreements. As pointed out in Part 7 of this Report, these service delivery outcomes, which are used to determine the level of annual performance remuneration to be paid to private prison operators, are essentially quantitative in nature. Examples of important areas of qualitative performance not addressed as specified outcomes in the agreements are the quality of staff training and the results of prisoner rehabilitation programs. As a consequence, such key aspects of operators' performance have not been routinely examined as part of the Commissioner's monitoring function.

5.10 It seems very important at this stage of the industry's evolution that the need to expand the range of service delivery outcomes expected of prison operators to encompass key qualitative performance measures be given high priority. The Department will have the opportunity to address this matter at the progressive expiration of the period of each contractual agreement with the private operators and of the service agreement with CORE.

5.11 Several government agencies such as the Ombudsman, the Department of Human Services and Victoria Police have a responsibility or role within the prison industry. The activities undertaken by these agencies serve to complement the accountability processes embodied in the contractual agreements with prison operators and to give the community confidence in the overall management of the industry. Their existence also demonstrates to the community that, although the Commissioner fulfils the key role in overseeing the activities of the prison system, there are additional avenues in place for individuals to provide input or receive assurance on the safe custody and welfare of prisoners.

OVERVIEW - continued

5.12 Finally, audit considers that the limited range of information dealing with the industry communicated to the Parliament to date in the Department's annual report falls far short of the level necessary to effectively meet its accountability obligations relating to operation of the prison system. It also compares quite unfavourably with the degree of public reporting on prison operations by other Australian jurisdictions. The fact that the operation of the prison industry involves annual outlays of taxpayers' funds in excess of \$160 million reinforces the importance of appropriate corrective action.

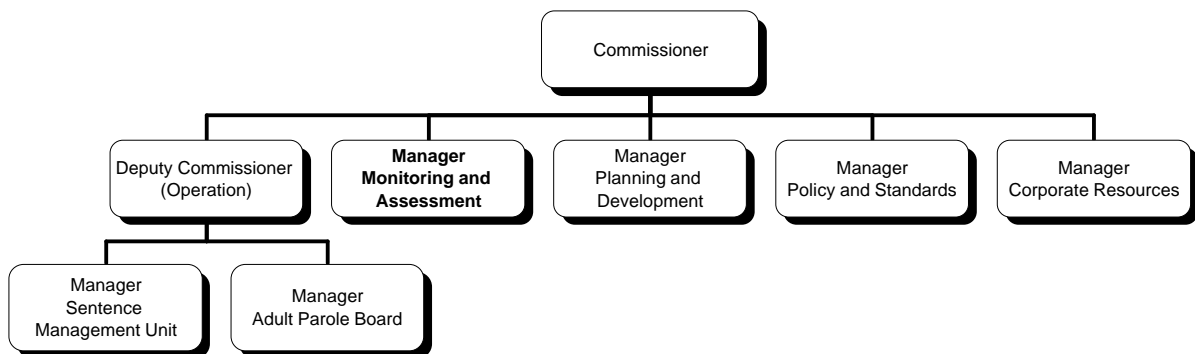
5.13 The Department should move to incorporate in future annual reports more extensive information (some suggestions are identified by audit in this Part of the Report) as a key means of discharging the Government's accountability to the Parliament for the operation of such a significant State industry.

ESTABLISHMENT AND OPERATION OF THE COMMISSIONER'S OFFICE

5.14 Part 2 of this Report indicates that a new position of Correctional Services Commissioner was established through legislation in January 1995. This Part addresses the manner in which the Commissioner's Office has discharged its monitoring responsibilities within the prison industry. These responsibilities are given specific emphasis in the legislation.

5.15 Chart 5A shows the organisational structure of the Office of the Correctional Services Commissioner which was introduced only very recently (effective from 12 April 1999) by the current Commissioner who commenced duty in the position in February 1999. The organisational unit within the Office responsible for monitoring functions has been highlighted in the chart to align with the subject matter of this Part.

**CHART 5A
ORGANISATIONAL STRUCTURE OF
THE OFFICE OF THE CORRECTIONAL SERVICES COMMISSIONER**



Source: Office of the Correctional Service Commissioner.

.....

5.16 In addition to identifying in the restructuring document several specific areas where the restructure is expected to lead to better functioning of the Commissioner's Office, the Commissioner stated "... *it is hoped that the restructure will bring great clarity to roles and functions, facilitate a strong sense of collaboration (across the office) and promote greater understanding of decision making and enhance management and ... coordination arrangement*".

Nature of the role envisaged for the Commissioner

5.17 The Commissioner's role is articulated in section 8A of the *Corrections Act* 1986, which states that:

"The Commissioner is responsible for:

- (a) monitoring performance in the provision of all correctional services to achieve the safe custody and welfare of prisoners and offenders; and*
- (b) exercising any other functions relating to correctional services that the Secretary may determine from time to time.*

"The Commissioner must endeavour to exercise his or her functions in relation to correctional services impartially between all providers of correctional services so far as this is consistent with the safe custody and welfare of prisoners and offenders and the proper operation of the correctional services".

5.18 As part of the process leading to the establishment of this position, the Department of Justice commissioned an external consultant during 1994 to examine and present a range of organisational frameworks to accommodate important changes to the State's evolving corrections industry. These changes centred on the need to identify an appropriate monitoring and regulatory role for the Government in the light of the introduction of private sector service providers.

5.19 The terms of reference provided to the consultant were very wide-ranging and included a requirement to "*Propose roles and functions of the Office of Commissioner and the public corrections agency and the private prisons contract administrator*". Of relevance to this particular term of reference was the fact that the Department had advised the consultant that a regulatory and management framework had already been determined for the industry. The consultant described this established framework as comprising:

- *"a Commissioner to regulate and monitor the system;*
- *"a service agency with a framework agreement with the Secretary to deliver public corrections services; and*
- *"a Contract Administrator responsible for management of the contracts with private operators"*.

5.20 The consultant presented final recommendations to the Department in a January 1995 report entitled *Correctional Services Restructuring*. The report included the comment that "*In the balance of this report we have accepted the structure planned for the Victorian system as given, although we note that the adoption of a model which emphasises competition between sectors limits the capacity of the system to provide a single source of advice on the system*".



5.21 The consultants canvassed 2 principal options for an operational and management framework to support the given departmental structure. The role of the Commissioner in the 2 options was as follows:

- Option 1 - To ensure that the standard of services provided by both public and private sectors meets government and community expectations of the treatment of prisoners and the security of confinement. This option limited the Commissioner's role to purely regulatory functions such as standard setting and monitoring compliance by prison operators with obligations specified in legislation, contractual agreements and standards; and
- Option 2 - To be the focus for day-to-day reporting by both public and private sectors and have clear responsibility for the overall operations of the prison system. Under this option, the Commissioner would have a much stronger focus on outputs to be purchased and resource allocation and would, in effect, be the head of the system.

5.22 The consultant described the advantages and disadvantages of each option and recommended the adoption of option 2.

5.23 The Commissioner's Office was subsequently established on 1 July 1995 as the organisational unit within the Department to assist the Commissioner in meeting the responsibilities assigned to the statutory position. The objectives of the Office as set out in the Department's *1996-97 Annual Report* are to:

- *“develop and set statewide standards;*
- *“undertake strategic planning;*
- *“manage prisoner sentences, including prisoner assessment, classification and placement;*
- *“impartially monitor the delivery of correctional services by both public and private providers; and*
- *“advise the purchaser (the Minister) about the performance of providers and levels of compliance with contractual obligations.”*

5.24 The above objectives are mentioned in a document entitled *The Victorian Adult Corrections System* issued by the Department in September 1997. This document also refers to the leadership role of the Commissioner's Office in terms of providing leadership to the Victorian corrections system. In addition, it indicates that the Office was established to oversee the application of the Corrections Act throughout the corrections system.

5.25 It can be seen from the above objectives that the role established for the Commissioner's Office in 1995 reflected a combination of the features of each option earlier canvassed by the Department's consultant, i.e. it comprised a combination of standard setting, strategic planning, monitoring and operational responsibilities.

5.26 Identification of the responsibilities and functions of the Commissioner which would best suit the evolving prisons industry would have been a difficult and complex task. It is also important to recognise that the nature of the Commissioner's role as identified in 1995 would need to be periodically reassessed in the light of subsequent industry experience.



5.27 Audit has suggested in later paragraphs that it would be timely for the Government to re-assess the status and independence of the Commissioner as an integral step in achieving continuous improvement in the management of the prison industry. While the suggestions have been provided in the context of the Commissioner’s monitoring functions, strengthening of the status and independence of the Commissioner’s Office would also enhance the overall capacity of the Commissioner to discharge the other important functions of the position.

THE COMMISSIONER’S MONITORING FUNCTION

5.28 The introduction of private sector participation to the Victorian prison industry necessitated the creation of a regulatory and monitoring framework which would allow the Government to:

- measure the quality of prison services delivered by all service providers;
- ensure that services across the prison system are effectively integrated in such areas as health, education and security; and
- verify that periodic payments made to prison operators are in accordance with agreed service delivery outcomes.

5.29 The *Corrections Act* 1986 and the agreements entered into with the various providers formally enshrine and emphasise the importance of the Government’s monitoring responsibility.

5.30 The role of the Monitoring and Assessment Unit, (as outlined in the Correctional Services Commissioner’s 1998-99 Business Plan) which is a key unit within the Commissioner’s Office, is to

- *“Develop and implement effective monitoring and assessment systems in relation to the performance of both public and private correctional service providers against standards and inputs;*
- *“Assess and report on compliance of correctional service providers with Government policy, legislative requirements and contracts or agreements; and*
- *“Receive and analyse service reports from correctional service providers”.*

5.31 In establishing the operations of the Monitoring and Assessment Unit, the Commissioner considered a range of monitoring regimes and decided initially to take a staged approach to the task of monitoring the performance of prison operators. Under this approach, it was determined within the Commissioner’s Office that the initial monitoring of the industry would be extensive, detailed and compliance-based. In addition, the validation and reliability testing of data provided by operators was identified as a high priority, given the entry of new providers to the corrections industry and the need to acclimatise the Public Correctional Enterprise (CORE) to a new external accountability framework.

.....
Evaluation of the work undertaken by the Monitoring and Assessment Unit

5.32 Monitoring and assessment of Victoria’s public and private prison operators requires a framework which is rigorous, effective and consistently applied across the prison system. With this in mind, audit, in consultation with a range of key parties including the Commissioner’s Office and the prison operators, formulated a suite of key desirable features of an appropriate monitoring framework for the prison system. Seven desirable features (or criteria) were developed as part of this process and are set out below:

- Adequate legislative and contractual powers to effectively review and report on industry operations;
- Consistent and balanced treatment of all prison operators and independence from any influence by the Department, prison operators or other parties;
- Strong accountability of all prison operators to the Government through reliable and regular reporting;
- Achievable and realistic monitoring plans which accurately identify and address significant issues in the prisons industry;
- A rigorous monitoring approach which adds value to the prisons industry by focussing on the quality of outcomes;
- A dedicated organisational unit with adequate resources to ensure effective discharge of the Government’s regulatory and monitoring responsibilities; and
- Opportunities for external/independent parties to provide feedback on general industry issues or the performance of individual providers.

5.33 The performance of the Unit has been evaluated by audit against these 7 desirable features.

Desirable feature No. 1

Adequate legislative and contractual powers to effectively review and report on industry operations

5.34 As previously mentioned, the Commissioner’s legislative responsibility to monitor prison operators is set out in section 8A of the *Corrections Act 1986*, which states that:

“The Commissioner is responsible for:

- (a) monitoring performance in the provision of all correctional services to achieve the safe custody and welfare of prisoners and offenders; and*
- (b) exercising any other functions relating to correctional services that the Secretary may determine from time to time.*

“The Commissioner must endeavour to exercise his or her functions in relation to correctional services impartially between all providers of correctional services so far as this is consistent with the safe custody and welfare of prisoners and offenders and the proper operation of the correctional services”.



5.35 It can be seen that the legislation assigns specific responsibility to the Commissioner for monitoring the provision of prison services with this responsibility linked to providing independent confirmation that management of the industry is consistent with achieving safe custody and welfare of prisoners.

5.36 Section 8E of the Corrections Act obligates all private prison operators and sub-contractors engaged by operators to provide complete access to any person authorised by the Secretary of the Department for any purpose associated with confirming compliance with the legislation or ensuring that the safe custody and welfare of prisoners and offenders are maintained. It is through this section that the Commissioner derives the authority to implement on, an ongoing basis, the monitoring functions assigned to the position under the legislation.

5.37 The legislation, under section 9D, provides an additional avenue, beyond the specific work of the Commissioner, for the Secretary to appoint a monitor, if deemed necessary from time-to-time, to assess and review the provision of services by prison operators or their sub-contractors. The annual report to the Secretary of any monitor appointed under the Act must be included in the Department’s annual report to the Parliament. The Department advised that, to date, it has not found it necessary to make use of this specific legislative provision.

5.38 Part 7 of this Report contains comment on the adequacy of the powers of the Commissioner within the contractual framework established for the industry to review services provided by prison operators. Audit has concluded within Part 7 that the powers of the Commissioner under the contractual agreements with the prison operators are sufficient to enable discharge by the Commissioner of the position’s monitoring responsibilities.

Desirable feature No. 2**Consistent and balanced treatment of all prison operators and independence from any influence by the Department, prison operators or other parties***Consistent and balanced treatment of all prison operators*

5.39 The previously-mentioned statutory responsibilities of the Commissioner include a requirement that the Commissioner exercises impartiality in the carrying out of the position's functions across the prison industry. This need to impartially conduct functions necessitates that there is a consistent and balanced approach to the monitoring of the activities of prison operators undertaken by the Commissioner.

5.40 The monitoring strategies formulated by the Commissioner provide *inter alia* for the placing of a high priority on the validation and testing of data furnished by all prison operators. At the time of the examination, audit was advised by the Director of the Monitoring and Assessment Unit that the placing of this priority arose as a consequence of the entry of private sector managed prisons into the industry but was also seen as an important part of CORE's progressive acclimatisation to its new external accountability environment. Within this environment, CORE assumed the role of public sector provider and became subject to the same level of scrutiny by the Commissioner as the private prison operators. This monitoring direction was consistent with the legislative provision dealing with impartiality.

5.41 The importance of facilitating through a monitoring focus CORE's acclimatisation to a wider accountability environment in the period from 1995 was given visibility by the Government's announcement in 1996 that it would proceed with the corporatisation of CORE in the foreseeable future. It was the Government's initial intention to present legislation to the Parliament during the 1998 Spring session, however, the planned action was subsequently postponed to a later date. Audit considers that any action to implement a corporatisation strategy for CORE would complement the Government's high level aim, as presented in the 1994 second reading speech to the amendment Bill providing for private sector operators, of establishing real competition in the delivery of prison services. Such real competition is yet to occur. In any event, it is critical that CORE is subject to the same monitoring regime and performance expectations and rewards as the private operators and there is a level playing field for all industry participants for assessing the performance of all industry participants.

5.42 Audit examination in this area found that, because the 3 new private prisons were commissioned at reasonably close intervals over the period 1996 to 1997, the Commissioner's Office had directed the major proportion of its monitoring efforts to these prisons. As a consequence, very limited monitoring of CORE's operations at the publicly-managed prisons has been undertaken, with the validation of data submitted from 6 of the 10 CORE prisons for the months of September, October and November 1997 representing the only work completed for the publicly-managed prisons.



The Melbourne Assessment Prison, a CORE prison located in West Melbourne.

5.43 The limited attention given to the monitoring of CORE's operations in recent years has not been in line with the stated intention of facilitating the acclimatisation of CORE to its changed accountability environment. In addition, it has meant that the 10 prisons operating within CORE's responsibility, currently accommodating around 1 600 prisoners or 55 per cent of the total prisoner population and involving the outlay in direct costs of \$60 million in taxpayers' funds annually, have not been subjected to anywhere near the same level and intensity of scrutiny by the Commissioner as has been applied to the private prisons. Without the benefit of the results of full scrutiny, the Government, and ultimately the Parliament and the community, can only rely on an assumption that the quality of operations within these prisons has at all times been in line with specified standards.

5.44 The view formed by audit during an examination in this area was that the Commissioner's monitoring staff have limited time to analyse statistical information presented by CORE and to investigate underlying causal factors for any unusual or potentially adverse trends. By way of illustration, the statistical information furnished by CORE includes data on prisoner escapes in the State's publicly-operated prisons. This data showed that, in the 3½ year period to 31 December 1998, a total of 54 escapes had occurred of which 51 were from minimum security prisons. Table 5B identifies the number of escapes from these prisons over this period.

TABLE 5B
ACTUAL PRISONER ESCAPES IN CORE'S PRISONS,
1 JULY 1995 TO 31 DECEMBER 1998

<i>Prison security level</i>	<i>1995-96</i>	<i>1996-97</i>	<i>1997-98</i>	<i>1 July 1998 to 31 December 1998</i>	<i>Total</i>
Maximum	-	-	-	-	-
Medium	-	(a) 2	1	-	3
Minimum	(a) 16	(a) 12	17	6	51
Total	16	14	18	6	54

(a) Escape number includes 1 case of a prisoner who failed to return from an unsupervised Community Custodial Permit.
Source: Statistical data furnished by CORE to the Office of the Correctional Services Commissioner.

5.45 In audit opinion, the mere collection of such important statistics involving incidents with significant community safety implications and basic checking of such data to establish that escapes are recorded appropriately are not adequate substitutes for robust analysis and identification of matters requiring further investigation.

5.46 In discussions on this matter with the Commissioner's Office, audit was advised that the escapes reported by CORE were not assessed as warranting further investigatory action because of the fact that they occurred predominantly in minimum security prisons. While this may be the case, audit considers that important occurrences such as escapes should be subject to some form of investigation by the Commissioner's Office particularly if for no other reason than to identify the underlying causal factors and any necessary remedial action. Examples of such remedial action could include rectifying a fundamental security weakness or addressing inappropriate classification and placement of prisoners.

5.47 In discussions with audit, all 3 private prison operators considered that they have been subjected to a level of scrutiny over and above normal contract management requirements.

5.48 In making the above comments on the limited monitoring focus on the prisons managed by CORE, audit recognises that risk factors need to play a significant part in the formulation of the Commissioner's monitoring strategies and that a number of serious incidents at Port Phillip Prison (commented on later in this Part) have required specific attention within the Commissioner's Office.

5.49 In the final analysis, it becomes incumbent of the Commissioner to ensure over time that there is a consistent and balanced allocation of scarce monitoring resources over the entire prison industry.

.....
Independence from influence by the Department, prison operators or other parties

5.50 Any organisation charged with the responsibility of reviewing or monitoring the operations of another organisation and reporting the results to a third party must be capable of operating in a totally independent manner. Such a prerequisite is necessary to ensure that the reviewer or monitor is free from any influence or direction so that responsibilities are discharged without fear or favour and reported results can always be regarded as totally impartial in nature. The fundamental principle of independence underpins the work of public officials such as the Ombudsman and the Regulator-General in Victoria, Auditors-General, and internal and external auditors in both the public and private sectors.

5.51 The audit examination of the operational environment of the Commissioner’s Office identified several elements of this environment which adversely impact on the overall independence of the Office. These factors are itemised below:

- the Commissioner’s Office is heavily controlled by the Department which itself is the controlling entity over CORE for the operations within State managed prisons;
- the Department’s Deputy Secretary (Justice Operations) has direct responsibility for CORE but in addition has access to commercially confidential information about CORE’s competitors (the private prison operators) from the Commissioner’s Office and the Corrections Contracts Branch;
- the Corrections Contracts Branch relies on data provided by the Commissioner’s Office covering all service providers in the discharge of its contract administration role but is directly involved in key planning functions associated with CORE;
- the Commissioner’s Office is directly involved in certain operational functions relating to prisons such as emergency planning matters, intelligence matters and the approval of changes to prisons’ operational manuals;
- the Deputy Secretary (Justice Operations) plays a significant role in determining the extent of financial resources to be allocated from the Department’s budget to the Commissioner’s Office; and
- the Commissioner has no security of tenure, is appointed by the Secretary of the Department and is subject to the directions of the Minister for Corrections, as well as the Secretary (for example, the Commissioner’s annual monitoring plan must be approved by the Secretary) and the Deputy Secretary of the Department.

5.52 In addition to the above points, 3 staff from CORE have worked in the monitoring and assessment unit within the Commissioner’s Office since early 1998 under a secondment arrangement. While secondees are required to sign confidentiality agreements, an arrangement of this nature is not considered to be conducive to engendering confidence within the prison industry in the level of independence accorded to the Commissioner.



5.53 When considering the above matters, it is important to emphasise the reference made in the second reading speech at the time of the 1994 legislative amendments that “*The overall responsibility for the operation of correctional services [involving both private and public managed prisons] will, however, remain with the government*”. In other words, it is highly appropriate for the Government to maintain a sufficient level of knowledge and control to support its high level and ultimate responsibility for the safety of the community and the welfare of prisoners.

5.54 With this key point in mind, audit considers, on the basis of the issues identified above, that the State’s evolving prison industry encompassing a mix of State-managed and privately-operated prisons now requires a strong and credible regulatory framework which features a truly independent Correctional Services Commissioner. In this regard, the existing framework does not enable the Commissioner to operate in an effective and independent manner as industry monitor.

5.55 Several options are available for enhancing the current operational framework for the Commissioner and that position’s effectiveness and independence. In discussions with the Department, audit indicated that such options could include:

- Implementation of a full-scale change process under which the Commissioner is assigned the role of a regulator with managerial and operational powers equivalent to other regulatory office-holders such as the Regulator-General. Under this option, the Commissioner would not be subject to the direction or control of either the Minister or the Department and would have a direct line of accountability to the Parliament; and
- Adoption of a framework involving a lesser scale of change in which the Commissioner would operate completely at arms-length from the Department but would have a direct line of accountability to the Minister and would report annually via the Minister to the Parliament on the results of monitoring activities within the industry. This approach would be complementary to the legislative provisions relating to agreements entered into by the Government with private prison operators in that the Minister is the designated purchaser of services on behalf of the Government and is the signatory to the agreements.

5.56 Obviously, other options for change which focus on ways to improve the organisational functioning of the Commissioner’s Office within the Department (as distinct from an at arms-length relationship) are available for consideration by the Government. The purpose of citing the above options is to draw attention to 2 potential avenues, either of which if implemented would enable the Commissioner to operate more effectively as an independent industry monitor.

5.57 Also, as identified in an earlier paragraph, the emphasis by audit on the Commissioner’s monitoring functions is not intended to undermine the importance of the position’s other responsibilities. Audit considers that any strengthening of the status and independence of the Commissioner’s Office would also enhance the overall capacity of the Commissioner to discharge the other important functions of the position.

.....

5.58 Late in March 1999, audit was provided with details of changes to the management and organisational structure of the Department which were advised to staff by the Secretary on 4 February 1999. Under these changes, the Commissioner becomes directly responsible to the Deputy Secretary (Justice Operations) of the Department. While this new arrangement is expected, from the Department's perspective, to streamline the responsibility link between the Commissioner and the Deputy Secretary, it will in audit opinion further weaken the independence of the Commissioner as the previous influence of the Deputy Secretary (Justice Operations) over the Commissioner is now formalised within the departmental structure.

Desirable feature No. 3

Strong accountability of all prison operators to the Government through reliable and regular reporting

5.59 The various agreements relating to both public and private prisons require prison operators to regularly report to the Commissioner on their progress against the performance obligations set out in the agreements. The nature of information to be reported is similar for both categories of prisons.

5.60 The Commissioner's Office gathers and analyses the information provided by operators for use in its monitoring function. It validates the accuracy and reliability of such information on a sampling basis. As part of this monitoring and validation process, the Office provides the Department's Corrections Contract Branch with relevant particulars of prison operators' performance. This data is used by the Branch to determine the level of monthly payment due to private operators in return for services under the terms of the agreements (CORE receives an annual budgetary allocation from government). The validation undertaken by the Commissioner's Office is the sole source of assurance to the Branch on the accuracy and reliability of performance data furnished by operators.

5.61 Audit was informed by the Department that under the previous industry regime much less emphasis was directed to the validation of information presented by management within the public prisons.

Nature of information provided by operators

5.62 The information provided by operators to the Commissioner's Office falls into 3 principal categories, namely:

- A daily return, forwarded by fax, specifying any *notifiable incident*, such as suicide, self-mutilation, assaults on staff and other prisoners, and drug use detection. Because of the nature of the subject matter, these returns (including nil returns) must be received by a particular time each day;

.....

- Monthly reports which document the prison service providers' performance against their contracted service delivery outcomes. The contractual agreements cover a range of specified outcomes (some of which mirror subject matters relating to notifiable incidents) such as the number of assaults on staff, escapes etc. Outcomes of this nature understandably focus on low incidence as a measure of expected performance. In contrast, other outcomes such as participation in education and the training of prisoners accentuate high incidence as a measure of the required standard of performance; and
- Data input by each operator on-site into the Office's prisoner information database (the Prisoner Information Management System, known as PIMS). Such input covers information integral to the prisoner management responsibilities of the Office which deals with those critical factors which must be considered during the course of a prisoner's sentence such as, progression through education and rehabilitation programs and changes in prisoner classification and placements etc. Audit comments on the manner in which the Office has discharged its important prisoner management responsibilities are set out in Part 6 of this Report.

5.63 It can be seen that prison operators have an ongoing responsibility to submit information dealing with key elements of prison management as part of the accountability regime established by the Government for the prison industry.

Soundness of the Commissioner's approach to confirming the reliability of information reported by operators

5.64 The Monitoring and Assessment Unit within the Commissioner's Office conducts validation exercises which are aimed at verifying that the information furnished monthly by operators is accurate and reliable. These exercises are quite detailed and involve following the trail of information in selected areas down to the first point of record. Data is selected for examination on a sampling basis over each 12 month period.

Validation testing at State-managed prisons

5.65 Earlier paragraphs have identified the limited level of monitoring activity undertaken within the Commissioner's Office with regard to the activities of the public prisons within CORE. The earlier reference indicated the validation of data submitted from 6 of the 10 CORE prisons for the months of September, October and November 1997 represented the only work completed by the Commissioner's Office in respect of the publicly-managed prisons.

5.66 The material made available to audit by the Commissioner's Office relating to the above work indicated that validation tests against legislative requirements and standards etc. were carried out at Beechworth, Melbourne Assessment, Barwon, Bendigo, Loddon and Ararat prisons in the following service areas:

- reporting of notifiable incidents;
- disciplinary process;
- drugs (testing and detection procedures);



- industries and employment; and
- 2 programs, namely, the Visits and Community Custodial Permit programs.



Beechworth Prison; an assessment of the performance of this prison was undertaken by the Commissioner's Office in late 1997.

5.67 While the reports on the above tests showed that none of the prisons had achieved full compliance with requirements in all service areas, they indicated that all prisons achieved a significant level of compliance in most areas. Nevertheless, audit considered there were sufficient instances of non-compliance to warrant follow-up action by the Commissioner's Office. Some of the key areas identified in the testing reports as requiring attention were:

- drug testing of prisoners - departures at Melbourne Assessment Prison from the requirements set out in the then Victorian Prisons Drug Strategy;
- the notifying of reportable incidents - departures in terms of timeliness of notifications at Bendigo, Melbourne Assessment and Ararat prisons; and
- areas frequented by visitors - a failure to routinely search such areas at the Bendigo and Melbourne Assessment prisons.

5.68 In addition to follow-up action, audit considered that some additional validation testing by the Commissioner's Office in the State-managed prisons, including the 4 prisons not visited in 1997, would have been warranted in the intervening 15 month period in order to satisfactorily meet the Commissioner's monitoring obligations under the legislation.

.....

Validation testing at private prisons

5.69 With regard to the private prisons, as each of the new prisons were commissioned, the Commissioner's Office experienced many problems with the quality of data initially supplied by all 3 prison operators. These problems related to omission of matters which should have been reported, or the defining of an incident differently to the definitions provided by the Commissioner's Office, resulting in the inclusion of the incident in a different category. For example, an incident where a prisoner headbutted a wall to obtain medication was defined by the prison operator as "Accidental injury" but according to the Commissioner's Office should have been shown as a self-mutilation. Also, a September 1998 document prepared by the Director of the Monitoring and Assessment Unit dealing with the recording of information by the operator of Port Phillip Prison for the months of December 1997 and May and June 1998 listed 15 examples of instances where information had been incorrectly recorded or omitted.

5.70 The Commissioner's monitoring program allowed for a 3 month intensive validation program to be in place from the date of commissioning of a new prison. In planning this program, the Commissioner's Office anticipated that the quantum of initial errors in the recording of data should by the end of 3 months have fallen to a level which would not require intensive monitoring. However, it became obvious to the Commissioner's Office that it would have to devote more resources to the validation process for the private prisons than originally envisaged.

5.71 The audit examination at the time in this area found that, with the exception of Port Phillip Prison, the problems with the quality of information from the private prisons had been largely resolved.

5.72 The problems experienced by the Commissioner's Office with data provided by the operator at Port Phillip Prison revolved around the accuracy of the reporting of incidents or the recording of information. For example, in September 1998 at the time of the first annual performance review of the prison, the Commissioner's Office advised the Corrections Contracts Branch of areas where the operator's performance was not in compliance with the requirements of its agreement with the Minister. In the section dealing with Illicit Drugs, the document stated that the drug testing results from the Commissioner's Drug Testing Program for Port Phillip Prison significantly differed from the rate returned from the prison's random general testing program and that "*drug testing results [submitted by the prison] cannot be relied upon given the audit assessment by Pricewaterhouse Coopers*".

5.73 The above firm was appointed as the probity auditor for the drug testing program. The firm's report did not indicate that false information had been provided to the Commissioner's Office but it did state that the following issues affected the reliability of drug testing results reported by the prison operator:

- "*prisoners were advised that they had 1 hour (rather than 3 hours) to produce a sample;*
- "*samples were removed from the sight of prisoners before containers were adequately sealed and signed by the prisoner;*



- “procedures for the strip search and the obtaining of the urine samples varied considerably and in some cases did not meet all the requirements for either the standard strip search or the provision of the Victorian Prisons Drug Strategy (VPDS);
- “prisoners were not adequately informed of their rights and responsibilities as set out in the VPDS;
- “prison officers were not aware of the limitation of ingestion of water by prisoners during the process; and
- “prison officers indicated that they had not been properly briefed on or given a copy of the VPDS”.

5.74 The Commissioner’s September 1998 document provided to the Corrections Contracts Branch stated that “*The drug testing results from the audit identified 11.8 per cent of prisoners testing positive to illicit drugs and a further number have been returned diluted samples suggesting the rate is actually higher than 11.8 per cent. This is above the required outcome of 8 per cent and significantly differs with the rate returned from the prison’s random general testing programs which recorded 9.09 per cent and 3.33 per cent respectively for the months of June and July 1998.*”

5.75 In effect, because of a continuing unsatisfactory position with Port Phillip Prison at that time, the Commissioner’s Office determined to maintain an intense level of validation work for data received from the prison. An indication of the length of this special focus can be identified from information provided to audit by the Commissioner on the level of full-time monitoring resources which had to be allocated to Port Phillip Prison since its opening in September 1997. Table 5C shows the relevant details up to 12 February 1999, the last day of use of full-time monitoring staff at the prison.

**TABLE 5C
MONITORING RESOURCES ALLOCATED TO
PORT PHILLIP PRISON,
SEPTEMBER 1997 TO 12 FEBRUARY 1999**

<i>Quarterly period</i>	<i>Number of monitoring staff</i>
September-December 1997	1
January-March 1998	1
April-June 1998	3
July-September 1998	4
October-December 1998	3
January-12 February 1999	1

Source: Office of the Correctional Services Commissioner.

.....

5.76 Given that the Commissioner’s Monitoring and Assessment Unit comprised just 9 staff (including the Director and an executive assistant) during the period mentioned in Table 5C, almost all of the monitoring resources available to the Commissioner would have been involved in the scrutiny of operations at Port Phillip Prison during the quarters ended June, September and December 1998 (these quarters covered the period following the March 1998 major disturbance at the prison which is commented on in later paragraphs).

5.77 In summary, it can be seen that the Commissioner’s Office found it necessary to allocate a greater than anticipated level of resources to Port Phillip Prison because of continuing reservations as to the quality of data submitted to it by the prison operator. This situation obviously meant that scarce monitoring resources could not be allocated to other areas and underscores the importance of an adequate deterrent to the prison operator if the prison’s performance has been found to be consistently below expected levels. Comment on the adequacy of the level of financial penalties imposed to date on the operator of Port Phillip Prison is included in Part 7 of this Report.

5.78 Finally, in terms of the overall management of the Commissioner’s validation functions, audit found there is a need for the Commissioner’s Office to systematically compile data which compares the level of its validation resources directed to both the public and private prisons over time and the results of the validation work in each prison across the system. This approach is necessary to support its decision-making on the use of resources so that it can always be satisfied its scarce monitoring resources have been allocated to priority areas and managed with maximum effectiveness.

5.79 Also, audit considers that, as the contract management process relies on the data supplied by prison operators, the validation functions undertaken by the Commissioner will need to remain a key feature of the overall monitoring framework to ensure that operators continue to attach a high priority to the provision of complete and accurate data.

Desirable feature No. 4
Achievable and realistic monitoring plans which accurately identify and address significant issues in the prisons

5.80 Each year the Monitoring and Assessment Unit submits for formal approval by the Commissioner and, in turn, the Secretary of the Department, a monitoring plan covering projected monitoring activities for the ensuing 12 months.

5.81 The monitoring plan is developed by the Director of the Monitoring and Assessment Unit in a consultative process with Unit staff and other staff in the Commissioner’s Office. Audit was advised that the factors taken into account in the development of the plan include the key areas of operational risk identified by the Unit’s Director and other staff within the Commissioner’s Office and any new areas of emphasis requiring attention, for example a change in policy or direction.



5.82 According to the Unit’s Director at the time of the audit examination, the 1998-99 monitoring plan was aimed at providing reasonable coverage of the prison system. It reflected as priority tasks the continuation of the Port Phillip Prison default monitoring program, a transitional monitoring program for CORE after its planned corporatisation and the review of system-wide issues where consistency of practice was deemed to be important, such as prisoner discipline and the Community Custodial Permit Program. The year’s plan also included the preparation of formal monthly, quarterly and annual reports which, as previously identified, are utilised as key records in the verification of the performance of prison operators against contracts.

5.83 While the annual monitoring plan does not identify key targets, such as anticipated completion dates for particular monitoring projects, the Unit’s business plan incorporates relevant timelines.

5.84 The information presented below in Table 5D was prepared by the Monitoring and Assessment Unit and recently provided to audit. The table summarises the position at April 1999 in terms of progress against projects identified in the Unit’s 1998-99 business plan.

**TABLE 5D
MONITORING AND ASSESSMENT UNIT BUSINESS PLAN
1998-99 PROGRESS REPORT, AT APRIL 1999**

<i>Project</i>	<i>Timeline</i>	<i>Status</i>
Participate in review of standards and service delivery outcomes.	April 1999	Draft options paper prepared by Projects Planning and Standards Unit.
Develop and implement transitional monitoring program to complement revised organisational arrangements for CORE.		CORE corporatisation not implemented (a).
Revise and issue performance tables comparing correctional service providers.	Date of issue yet to be agreed with Minister	Statistical profile to be issued.
Develop an evaluation framework to determine performance improvement.	Feb./Mar. 1999	Not implemented; review of monitoring model commenced.
	April 1999	Business Excellence Model distributed to first prison contractor finishing performance year in 1999 as item for discussion and progression for next performance year.
	Nov. 1998	Security Assessment framework facilitated with contractors.

TABLE 5D
MONITORING AND ASSESSMENT UNIT BUSINESS PLAN
1998-99 PROGRESS REPORT, AS AT APRIL 1999 - continued

<i>Project</i>	<i>Timeline</i>	<i>Status</i>
Conduct review of program provision to prisoners.	March/April 1999	Review documentation distributed to all prison contractors for discussion.
	January 1999	Prisoner discipline review conducted for minimum security prisoners.
	May 1999	Maximum and medium to be reviewed.
Review the Independent Drug Testing and Barrier Control Programs.	Project Planning and Standards Unit.	Now to be conducted as part of external evaluation of Turning the Tide Program. Project consultancies.
Commence monitoring of providers in the development of quality assurance programs to support the delivery of best practice in correctional programs.	February/April 1999 ongoing	Surveyed all providers on the status of the Quality Assurance System. Distributed Business Excellence Model commencing April 1999.
Establish a framework for measuring value for money in service delivery.	May 1999	Not separately completed expected to be addressed as part of external evaluation of monitoring programs commencing in 1999.
Revise and enhance data collection processes with providers and facilitate the implementation of access to the data warehouse by providers (this includes the provision of training services to providers).	June 1999	Revised OCSC monthly reporting implemented. Very limited access to data warehouse has been made available to Monitoring and Assessment.
Develop an investigation framework to support the comprehensive assessment of significant performance issues and incidents.	Commencing May 1999.	Will be considered as part of evaluation for monitoring programs.

(a) Alternative monitoring program for CORE has not been developed.

Source: Office of the Correctional Services Commissioner.

5.85 A comparison of the information presented in the above table with the 1998-99 monitoring plan shows that a number of tasks identified in the monitoring plan are yet to be addressed for the year. Some of these tasks are listed below:

- monitoring of CORE prisons (as per footnote to Table 5D);
- specific data validation activities;
- review of prisoner food;
- review of Community Custodial Permit Program;



- review of low risk items for progression into self-validation by a contractor provider with results provided quarterly to the Commissioner and periodically validated (commencing October 1998);
- monitoring the Official Visitor Program;
- develop and conduct a pilot assessment of a sample of programs conducted in all prisons to determine compliance with contractual/legislative requirements and value for money delivery; and
- review of individual management plan files for prisoners.

5.86 While the 1998-99 monitoring plan was comprehensive and envisaged the undertaking of many monitoring tasks in important areas, audit considered that even in normal circumstances it would have been virtually impossible for the Unit to fully achieve its plan with just 5 operational staff available for full-time monitoring functions. The position during the year was, however, far from normal in that, as explained in earlier paragraphs, almost all of the monitoring resources available to the Commissioner would have been involved in the scrutiny of operations at Port Phillip Prison during the quarters ended June, September and December 1998 (these quarters covered the period following the March 1998 major disturbance at that prison).

5.87 It was very clear to audit that the limited monitoring resources available to date to the Commissioner make it imperative that annual monitoring plans reflect realistic goals based on resource capabilities and a systematic approach to the prioritisation of tasks.

<p><u>Desirable feature No. 5</u></p> <p>A rigorous monitoring approach which adds value to the prisons industry by focusing on the quality of outcomes</p>

Strong focus to date on quantitative outcomes with little emphasis on those of a qualitative nature

5.88 As mentioned in an earlier paragraph, the Commissioner decided to take a staged approach to the task of monitoring the performance of prison operators. Under this approach, it was determined that the scarce resources available for initial monitoring of the evolving industry would be managed in a compliance-based manner, that is, there would be a strong focus on adherence by operators to contractual conditions, particularly those relating to compliance with performance criteria and contractual obligations.

5.89 In many respects, the compliance-based focus for monitoring of the industry complemented the structure of the contractual agreements entered into by the Government with the public and private prison operators. In this regard, the service delivery outcomes and agreed targets set out in the agreements (which impact on the level of annual performance remuneration to operators) are essentially quantitative in nature. In fact, virtually no outcomes with qualitative characteristics were incorporated within the contractual agreements. This aspect of the contractual framework for the prison industry is commented upon in more detail in Part 7 of this Report.



5.90 The emphasis both in the contractual provisions and monitoring direction on compliance and quantitative factors was presumably designed to ensure that the management and operational framework in place for the changed industry was adequately established and implemented before directing attention to qualitative matters. Relevant to this point is the fact that the Commissioner’s staged approach to implementation of monitoring practices envisaged an increasing degree of self-regulation (and reducing direct monitoring involvement) within the industry as it matures.

5.91 In Part 7 of this Report, audit has identified that the current contractual arrangements do not adequately reflect, in terms of expected outcomes, all key aspects of the prison operators’ performance. Examples of important areas of qualitative performance not addressed in outcomes specified in the agreements, and which are referred to in Part 7, are the quality of staff training and the outcomes from prisoner rehabilitation programs such as those associated with prisoner education. As a consequence, such key aspects of operators’ performance are not routinely examined as part of the Commissioner’s monitoring functions.

5.92 In discussions with audit, the Director of the Commissioner’s Monitoring and Assessment Unit at the time confirmed that the emphasis on quantitative aspects of service delivery had been at the expense of qualitative evaluations of the performance of prison operators. At the same time, the Director indicated that such an approach was unavoidable given the circumstances.

5.93 In some situations, the Commissioner’s Monitoring and Assessment Unit has identified trends in performance based on quantitative data and worked constructively with the private prison operators on avenues to improve performance in the related service delivery areas. However, any benefits arising from the Unit’s initiatives are automatically constrained by the restrictive focus of the Unit in limiting its monitoring to the quantitative elements of performance set out in the service delivery outcomes.

5.94 It seems very important at this stage of the industry’s evolution that the need to expand the range of service delivery outcomes expected of prison operators to incorporate key qualitative performance measures be given high priority. The Department will have the opportunity to address this key issue at the expiration of the period of each contractual agreement with the private operators and of the service agreement with CORE.

5.95 In fact, an optimum framework for measuring the effectiveness of prison management within the State will not be in place until an adequate mix of quantitative and qualitative service delivery outcomes has been agreed between the parties.

.....
Serious issues identified by the Government in relation to Port Phillip Prison

5.96 Group 4 Correction Services Pty Ltd began operations at Port Phillip Prison on 1 September 1997.

5.97 During the first 5 months of operations at Port Phillip Prison, the Commissioner’s Office identified poor performance against service delivery outcomes in the following areas:

- prisoner deaths;
- self-mutilation or attempted suicide; and
- drug testing.

5.98 Table 5E illustrates performance at the prison against the relevant service delivery outcomes for this 5 month period as recorded within the Commissioner’s Office.

**TABLE 5E
 PERFORMANCE AT PORT PHILLIP PRISON AGAINST CERTAIN SERVICE
 DELIVERY OUTCOMES, SEPTEMBER 1997 TO JANUARY 1998**

<i>Service delivery outcome</i>	<i>Target for SDO</i>	<i>Actual Performance</i>
Prisoner deaths	Nil	(a) 3
Self-mutilations or attempted suicide	19.2	49
Drug Testing (percentage testing positive)	8%	13.8%

(a) Excludes 2 deaths by natural causes at the prison.
 Source: Office of the Correctional Services Commissioner.

5.99 The Commissioner’s Office followed-up these matters with the prison operator. However, the effectiveness of this follow-up action could certainly be questioned given that no prominence in the form of the need for corrective action was included in the Commissioner’s quarterly and monthly reports to the Corrections Contracts Branch covering the period up to the end of January 1998 (the report covering the month of January was issued on 5 March 1998). Even though a material default by the operator represents grounds for reducing monthly payments, the Commissioner’s recommendation in the reports was that there be no reduction in the level of payment made to the operator.

5.100 An additional factor influencing the lack of prominence given by the Commissioner to the need for corrective action in respect of the operator’s non-performance was an earlier assessment by the Commissioner that the initial problems could be regarded as teething problems. In this regard, the then Commissioner mentioned, in the first quarterly assessment (issued on 12 December 1997) of the performance of the operator at Port Phillip Prison “*Whilst I am concerned with the security breaches during the initial period I am satisfied that Group 4 has in place extensive controls and processes to address these initial teething problems*”. Also, the November 1997 monthly report on the prison operator, finalised on 19 December 1997 stated that “*onsite monitoring reports indicate that the teething problems previously identified are still continuing ...*”.



5.101 Nevertheless, and as would be expected, the circumstances prompted the Commissioner to initiate further investigative action. This further action did not encompass an analysis of reports arising from special investigations of each of the 3 deaths in custody which had occurred at Port Phillip Prison up to 31 January 1998 (the prison operator is required under both the Commissioner’s standards and the contractual agreement to arrange for such investigations). In fact, the evidence available to audit showed that the Commissioner’s formal analysis of such reports did not occur until July 1998 which was approximately 6 months after receipt by the Commissioner of the report arranged by the prison operator relating to the first death at the prison.

Major disturbance at prison - 11 and 12 March 1998

5.102 Subsequent events indicated that the problems experienced at Port Phillip Prison were more than just of a teething nature. In this regard, the performance of the prison operator continued to worsen. The Commissioner’s report covering the period from December 1997 up to 28 February 1998 identified that *“performance on self mutilations, drug testing and provision of substance abuse awareness remain significantly below the required outcome ... the incident profile includes numerous self harm issues, deaths (3) self mutilations/attempted suicides (37), numerous minor fires (13) and drug related incidents (126)...the level of incidents appears to be above what might be expected of a prison with a market share of all prisoners of about 21 per cent and with a profile of remand, sentenced and special needs prisoners”*.

5.103 The circumstances reached a point when, on the days of 11 and 12 March 1998, the prison experienced the extremely serious situation of a major disturbance.

5.104 Information made available to audit indicated that the disturbance occurred at approximately 9.00 p.m. on 11 March 1998, when a fire had been started in the unit officer’s work station (within Scarborough Unit) creating an extensive amount of smoke within the unit and requiring the evacuation of prisoners from their cells. Officers from the Metropolitan Fire and Emergency Services Board, Victoria Police and the Metropolitan Ambulance Service were summoned to the scene.

5.105 Approximately 1 hour after having been evacuated from the unit, prisoners forced their way past prison staff and took control of the unit. Prisoners barricaded themselves in the unit and set about destroying doors and fittings. They also broke windows, threw a number of items out of the unit and armed themselves with makeshift weapons. The situation was finally resolved at approximately 5.00 a.m. on 12 March 1998. As a result of this disturbance, 48 cells were deemed unusable by the Commissioner’s Office and 30 prisoners had to be urgently moved to Barwon Prison which in turn led to further movement of prisoners (an additional 70) across the system.



Port Phillip Prison, located at Laverton and opened in September 1997.

Establishment of Ministerial Task Force

5.106 Given the seriousness of this disturbing development, the Minister swiftly moved to establish a Ministerial Task Force to investigate the circumstances which occurred on 11 and 12 March 1998 at Port Phillip Prison.

5.107 The terms of reference for the Task Force investigation did not address the role of the Commissioner's Office in monitoring Port Phillip Prison in the months leading up to the disturbance.

5.108 The Task Force was chaired by the then Commissioner (from this point on the function of Commissioner was carried out by an acting Commissioner until the Government's recent external appointment). The other 3 members of the Task Force were:

- an emergency and security management consultant;
- a management consultant; and
- a senior monitor seconded from the Commissioner's Monitoring and Assessment Unit.

.....

5.109 The Task Force reported to the Minister in May 1998. Its report was highly critical of the operator's management of Port Phillip Prison. Some of the critical comments contained in the Task Force's report are set out below:

- *“The management of the prison continues to be a concern;*
- *“Senior management appear unable and/or unwilling to ensure that basic operational requirements are in place or to ensure that ongoing refresher training is carried out;*
- *“Senior management appear to have an adhoc approach and lack urgency in addressing concerns;*
- *“The preparedness of management to present information that is incorrect, is a concern;*
- *“The Taskforce has little confidence in the current management's ability to manage and believes that this management regime is destined to experience ongoing serious problems; and*
- *“The Taskforce has concluded that the management of the prison, prior to, during, and after the incident of 11/12 March 1998 were not and are not able to deliver to a satisfactory standard, a range of contracted correctional services”.*

5.110 It can be seen from the above findings that the Minister was presented with a document which portrayed a most serious set of circumstances at the prison and directly questioned the ability and competence of prison management to deliver services to an acceptable standard. It is logical to assume that the degree of concern expressed by the Task Force would have prompted consideration of all available options, including the ultimate option outlined in the Prison Services Agreement where the Government could terminate the relevant contractual arrangement.

5.111 The Government chose not to take the extreme position of exercising its termination right but opted to work with the prison operator in an attempt to achieve effective resolution of all of the matters raised by the Task Force. It viewed this action as more prudent in the first instance before consideration of any intervention at the prison.

5.112 The official government reaction to the circumstances was to request the prison operator to develop an action plan to implement necessary changes and include a requirement that progress against the plan be monitored by the Commissioner over the ensuing months. This action plan addressed 59 separate areas identified as requiring remedial action at the prison.

5.113 The Task Force's report did not make any recommendations about the imposition of penalties (this matter was not included within its terms of reference). The position was taken that while the incident was a serious one, it would have to be managed in accordance with the contractual framework. Where performance continued to deteriorate or did not improve, the matter would be dealt with in the appropriate manner, i.e. through the contractual process.



5.114 In terms of financial penalties, the only reduction in payment to the prison operator arising directly from the disturbance at the prison related to the operator's inability to provide the specified level of accommodation services because of the damage to 48 cells at the prison. This reduction, the amount of which cannot be specifically identified, represented less than 0.2 per cent of the annual accommodation services charge payable to the contractor. Given that significant costs would have accrued to the Government in the form of the use of emergency services, the cost of the Task Force investigation and the urgent transfer of prisoners within the system, a financial penalty of less than 0.2 per cent of the annual accommodation services charge could be described as extremely low. Also, as mentioned in Part 7 of this Report, the penalty levied on the prison operator did not (because of the contractual provisions) cover the full period of 42 days (it covered just 12 days) during which the operator was not able to provide the level of accommodation services specified in the contractual agreement.

5.115 The expected improvement in performance at Port Phillip Prison during subsequent months did not materialise and in June 1998, following the furnishing of a Default Notice, the Government issued a Reduction Certificate under which the fees payable to the prison operator for the provision of prison services were reduced by 10 per cent covering the period from the time of the disturbance up to 31 May 1998. The fee reduction for this period as a consequence of the absence of any improvement in performance since the disturbance represented less than 2 per cent of the annual correctional services fee.

5.116 In addition, and as explained in Part 7 of this Report, the operator's annual performance linked fee was reduced in October 1998 by an amount representing 35 per cent of the maximum fee payable as a direct result of the prison operator's failure to meet specified service delivery outcomes. This reduction included some elements of non-performance arising from the March 1998 disturbance.

5.117 As an overall summary comment, audit considers that the circumstances described in the preceding paragraphs reinforce the significant risk which can accrue to government from extensive reliance on a monitoring approach which has a heavy emphasis on confirming compliance with performance targets of a quantitative nature.

The Commissioner's assessment of performance at Port Phillip Prison in the period since June 1998

5.118 The Commissioner's monthly and quarterly reports relating to Port Phillip Prison issued in the period since July 1998 were recently provided to audit. The most recent monthly report prepared by the Commissioner's Office covered January 1999 and was issued in March 1999. The latest quarterly report was furnished in February 1999 in respect of the period November 1998 to January 1999.

5.119 These reports indicate a gradual improvement in performance by the prison operator against the quantitative service delivery outcomes.

.....

5.120 In the quarterly report covering the period August to October 1998, the then Acting Commissioner stated that “... *in summary, there had been continuing improvement during the previous quarter. The improvements now need to be consolidated into consistent performance*”. The Acting Commissioner went on to say “... *many of the problems at the prison appear to relate to failures in management and presentation problems rather than a failure to deliver services; however, without proper administrative records supporting service delivery, the OCSC could not validate that services are being delivered*”.

5.121 The Commissioner’s comment in the most recent quarterly report of February 1999 covering the period November 1998 to 31 January 1999 was that “... *performance results recorded for service delivery outcomes improved during the quarter and suggest that the contractor may achieve the required outcomes for correctional services for the full performance year subject to the comments detailed in this report*”.

5.122 It can be seen therefore that while, on the basis of reports issued up to February 1999, the Commissioner has identified progressive improvement in performance at Port Phillip Prison, the prison operator is still yet to satisfy the Commissioner that the prison is meeting all required service delivery outcomes.

Desirable feature No. 6

A dedicated organisational unit with adequate resources to ensure effective discharge of the Government’s regulatory and monitoring responsibilities

5.123 At 31 December 1998, the Commissioner’s Office had an equivalent full-time staffing establishment of 60 positions and all staff were employed in the Office at that date.

5.124 The official staffing establishment of the Commissioner’s Monitoring and Assessment Unit at 31 December 1998 was 9, all of whom were actually employed at that date. Of this establishment, only 5 staff are available for ongoing field monitoring work.

5.125 According to the Office’s 1998-99 Business Plan, the Monitoring and Assessment Unit was allocated a budget of \$601 000 for the year. This budgetary allocation represents just 0.37 per cent of the aggregate annual payments made by the State to the private and public operators for the provision of prison services.

.....
Consideration of the adequacy of monitoring resources available to the Commissioner

5.126 The critical importance of the monitoring functions of the Commissioner within the prison industry has been emphasised in earlier paragraphs.

5.127 A useful starting point for audit in its consideration of the adequacy of the Commissioner’s monitoring resources was an external consultant’s report obtained by the Government in January 1995 as part of the initial planning for the evolving prison industry. One of the consultant’s terms of reference was to “... *propose structures and staffing requirements for the Office of the Commissioner, the public corrections agency [CORE] and for the private prisons contract administrator*”.

5.128 In relation to the Commissioner’s monitoring function, the consultant made the following comments:

“The primary reason for the establishment of the Office of the Commissioner is to monitor the total system ... This function will require a skill mix which enables it to monitor and evaluate the performance of both public and private prisons ...

“The Commissioner needs an investigation and review function to ensure compliance with the standards he or she sets and to enable him or her to assess the performance of providers. The Commissioner should set standards for reporting on incidents which occur or investigations undertaken.

“In addition, both private and public operators will undertake their own internal investigations and reviews and report to the Commissioner on any incidents which occur and on investigations as determined by the Commissioner”.

5.129 The consultant did not specifically recommend a resourcing level to handle the Commissioner’s monitoring responsibilities. Nevertheless, it is fair to point out that the budget allocated within the Department at the time to its former Operational Review and Inspections Unit was \$493 000 which indicates there has been an increase of just over \$100 000 in the amount (\$601 000) currently allocated to the Monitoring and Assessment Unit.

5.130 Audit examined documentation which identified that for some time the occupant of the position of Commissioner had formally advised the Departmental Secretary of the adverse impact of resource constraints on the effectiveness of the Office’s monitoring function.

5.131 In a memorandum dated 4 August 1997, the then Commissioner advised the then Secretary that “... *the 1997-98 monitoring program provides a minimal level of coverage of both the public and private sector prisons and the community based corrections and I do not consider the program to have sufficient resources given the maturity of the corrections industry*”. A further memorandum was forwarded by the then Commissioner to the then Secretary in September 1997 in which a request for additional resources was made.



5.132 Within the Commissioner’s Office, the Director of the Monitoring and Assessment Unit wrote to the Acting Commissioner and formally requested on 21 January 1998 that resource levels for the Unit be reviewed as some planned programs such as reviewing death reports or commencing a pilot review of the minimum security prisons, would not be implemented. In earlier paragraphs within this Part of the Report, audit has commented on a significant delay within the Commissioner’s Office in formally analysing reports on prisoner deaths at Port Phillip Prison.

5.133 As indicated by audit in an earlier paragraph when commenting on the Commissioner’s independence, 3 staff from CORE have been involved in the monitoring process within the Commissioner’s Office since January 1998 under a secondment arrangement. Audit was advised by the Director of the Monitoring and Assessment Unit that the primary reason for this secondment was to supplement the existing scarce resourcing and funding allocation available within the Office for monitoring of industry operations.

5.134 Although there are difficulties in comparing the quantum of resources available to an independent monitor and a service provider within the same industry (a monitor would automatically be much smaller than a service provider), audit observed that the resourcing levels in the Commissioner’s Monitoring and Assessment Unit and in CORE’s Continuous Improvement Unit were broadly equivalent.

5.135 While the Continuous Improvement Unit within CORE carries out a variety of functions, including an inspection function for deaths and major incidents, it seemed very unusual to audit that the Commissioner’s resourcing capability for independent industry wide monitoring would be similar to that of just the continuous improvement function within CORE, the operator of the state owned prisons.

5.136 In discussions with the Director of the Monitoring and Assessment Unit, audit was advised that because of the intensity of key industry issues requiring attention, almost on a daily basis, staff within the Unit find little time for structured analysis. Accordingly, there has not always been enough time to identify trends or undertake monitoring activities of a qualitative nature which will add value to the prisons industry, such as identification of leading edge practices in prison management to facilitate ongoing enhancement to the industry standards formulated by the Commissioner.

5.137 Clearly, as is the case with all areas of the Department and indeed all areas of the public sector, the Commissioner’s Office has the responsibility of ensuring that maximum efficiency and effectiveness are derived from its management of limited available resources. No organisation has an undeniable right to receive budgetary increases.

5.138 Nevertheless, the nature and absolute importance of the Commissioner’s role, particularly if it is operating in a truly independent manner, makes it imperative that the Department is always assured that the Commissioner’s Office is adequately resourced to effectively meet its vital statutory responsibilities of monitoring industry performance. From the Government’s perspective, an adequately resourced and effective industry monitor would be a vital source of independent assurance on the level of progress achieved in meeting its objectives for the prison industry.



5.139 On the basis of the matters addressed in this Report, audit considers that the quality of resource management within the Commissioner’s Office and the level of resources allocated by the Department to the Office, require urgent attention.

Desirable feature No. 7
Opportunities for other agencies to provide feedback on general industry issues or the performance of individual providers

5.140 Unlike the preceding 6 desirable features of an effective monitoring regime for the industry, this final feature extends beyond the Commissioner’s Office to also encompass other government agencies with either a responsibility or a role within the industry. These agencies comprise:

- the Ombudsman, whose Office was established in October 1973 under the *Ombudsman Act 1973* to inquire into or investigate complaints against Victorian government departments and public statutory authorities (section 96 of the *Corrections Act* provides that the legislation governing the Ombudsman applies to private prison operators);
- the Department of Human Services which is responsible for monitoring health services provided to prisoners; and
- Victoria Police through its Prisons Squad, a squad solely concerned with prison operations, particularly criminal investigations and intelligence gathering within the State’s prison system.

5.141 In addition, the Official Visitors Program, which is managed by the Commissioner’s Monitoring and Assessment Unit, has the objective of providing a system of independent advice to the Minister for Corrections with respect to the operation of the prison system.

5.142 The above activities serve to complement the accountability processes embodied in the contractual agreements with prison operators and to give the community confidence in the management of the industry. Their existence also demonstrates to the community that, although the Commissioner fulfils the key role in overseeing the activities of the prison system, there are additional avenues in place for individuals to provide input or receive assurance on the safe custody and welfare of prisoners.

5.143 It also should be recognised that several hundred members of the community visit prisons every day for a variety of reasons (family members visiting prisoners etc.) and are exposed to varying degrees to aspects of prison operations. These members of the community may wish at some stage to pass on information to an external agency on any matter they may become aware of arising from their visits to prisons.

The Ombudsman

5.144 It is the objective of the Ombudsman, in relation to the prison system, to ensure that the existence of the Office is known to prisoners and that it is easily and readily accessible to prisoners.

5.145 Orientation procedures at the Melbourne Assessment Prison, which is the initial point of entry for prisoners when they are first taken into custody, include the provision to prisoners of information relating to the manner in which prisoner complaints are handled by the Ombudsman's Office and the process for lodging a complaint. Also, this information is available to prisoners at all prisons.

5.146 During 1996-97, in recognition of the changing structure of the prison industry, the Ombudsman introduced more frequent visits to prisons by members of staff who make themselves available for consultation with any prisoners who wish to see them. To ensure prisoners have full and free access to the Ombudsman's staff, notices are posted at prisons advising of impending visits by the Ombudsman's Office. During 1997-98, staff of the Ombudsman's office visited all Victorian prisons at least once, with a total of 39 visits across the system. Complaints concerning health services within prisons can be lodged with the Health Services Commissioner or with the Ombudsman who then refers them to the Health Services Commissioner. Prisoners dissatisfied with the Health Services Commissioner's handling of complaints may refer the issues to the Ombudsman for review.

5.147 Of all the areas falling within the responsibility of the Ombudsman, complaints received by the Ombudsman's Office in relation to the prison system represent the largest source of complaints made to the Office. Table 5F shows the number and nature of prisoner complaints made to the Ombudsman over the last 3 financial years.

**TABLE 5F
PRISONER COMPLAINTS TO THE OMBUDSMAN,
1995-96 TO 1997-98**

<i>Subject of complaint</i>	1995-96	1996-97	1997-98
Medical treatment	35	34	105
Classification/protection	39	62	74
Mail/phones	17	50	61
Lost property	39	48	60
Visits	39	51	59
Employment/funds	24	25	51
Drug testing	48	20	39
Charges/hearings	34	26	30
Buildings and facilities	19	20	28
Other	193	251	280
Total	487	587	787
Percentage of total non-police complaints received by the Ombudsman's Office	17%	19%	27%

Source: Victorian Ombudsman's Office.



5.148 The Ombudsman's Office advised audit that the main reasons for the increase in prisoner complaints could be attributed to:

- A greater level of prisoner movements following the commissioning phases of the new prisons and the introduction of specialised programs at particular prisons would be expected to give rise to complaints about classification and lost property;
- An increase in prisoner numbers and the greater access available to prisoners to the staff of the Ombudsman's Office;
- Prisoner reactions to the introduction in a number of prisons of a new telephone system which, in addition to a small increase in charges, introduced recorded messages to advise recipients of calls that calls were made from a prison; and
- The significant changes to the prison industry over the past 3 years which have created some inconsistencies and differences in prisoner entitlements. Complaints tend to increase as prisoners move through the system and lose privileges enjoyed at other prisons or are subject to different disciplinary codes.

5.149 The Ombudsman has advised that regular consultation takes place with the Correctional Services Commissioner and representatives of all prison providers. The Ombudsman pursues policy issues relating to the system with the Commissioner and seeks to ensure that prisoners are provided with a consistent set of rules and procedures regardless of where they are detained. During 1997-98, 4 prison issues were examined at the initiative of the Ombudsman and related to:

- The March 1998 disturbance at Port Phillip Prison - The Ombudsman examined preliminary reports relating to this disturbance. Following the appointment of a special Task Force by the Minister to investigate the disturbance, the Ombudsman determined that no further action was required at that time;
- Protection of prisoners at the Metropolitan Women's Corrections Centre - The Ombudsman made inquiries about injuries to a prisoner at this prison. Audit was advised that, after the prisoner would not make a statement and no witnesses could be found, the issues would be progressively monitored by the Ombudsman;
- Delay in paying prisoners' wages at Port Phillip Prison - Inquires by the Ombudsman ascertained that there had been delays in processing payments and furnishing pay slips to the prisoners in time for them to determine their canteen orders to meet canteen deadlines. Pay days were altered but there were changeover delays compounding the problem. The Ombudsman was assured that the problems had been solved and no further complaints concerning the matter have been received; and
- Use of medication by female prisoners - Concern was expressed to the Ombudsman about the level of medication used by female prisoners. This matter has been examined by the Department of Human Services and the Ombudsman is maintaining a watching brief on the issue.

Monitoring of health services provided to prisoners

5.150 Responsibility for monitoring the provision of health services in prisons rests with the Department of Human Services through its Prisoner Health Care Monitoring Unit.



5.151 The Monitoring Unit is responsible for:

- ensuring compliance with the minimum standards and contractual requirements;
- assisting with planning for the future;
- ensuring public health;
- promoting policy determination;
- facilitating evidence-based research;
- maintaining linkages with other key policy and service area within the Department of Human Services;
- performing a co-ordinating role across the prison system to ensure continuity of service; and
- encouraging through accreditation and other quality improvement activities, an efficient and effective service.

5.152 Two employees within the Monitoring Unit have specific responsibility for overseeing the delivery of health services to prisoners.

5.153 The following 3 health-related service delivery outcomes are set out in the contractual agreements entered into by the prison operators:

- *“percentage of prisoners who are medically screened by a health professional within 24 hours of reception into the Prison as a proportion of all prisoners received (100 per cent is the required outcome);*
- *“percentage of prisoners considered a risk to themselves and who are assessed by a psychiatric professional within 2 hours of referral, as a proportion of all prisoners (100 per cent is the required outcome); and*
- *“complaints received regarding health issues or access to appropriate health care, which the Commissioner receives directly and/or via the Ombudsman, are proven to the Commissioner’s satisfaction to be valid. (0.000 per prisoner year is required)”.*

5.154 The monitoring of prisoner health care services by the Department of Human Services is carried out primarily through the checking of prison records to measure compliance with the above-mentioned service delivery outcomes. In addition to this compliance monitoring, the Department’s Monitoring Unit commissions a range of health care professionals to examine specific clinical areas, for example, use of medication among prisoners. The results of these activities are then discussed with the health care providers and agreement reached on how issues will be resolved. The Prisoner Health Care Monitoring Unit then monitors the progress of these matters and provides a monthly report to the Commissioner.

5.155 Information relating to the performance of prison operators against the health-related service delivery outcomes set out in the contractual agreements is provided in Part 8 of this Report.



Results of 1998 prisoner survey

5.156 During 1998, the Monitoring Unit carried out a *Prisoner Health Care Satisfaction Survey*. This survey, which was undertaken in all prisons other than the Melbourne Assessment Prison during March 1998 covered 10 per cent of all prisoners and aimed to determine the views of prisoners on the quality of health services provided in prisons.

5.157 The Department of Human Services planned to publish the results of the survey in early 1999. However, the Department has advised audit that “... *health care providers have been informed of some of the preliminary findings. A key finding of the survey is the need for prisoners to receive more information regarding their treatment/medication/condition. A review of minimum standards (especially for dental) has been planned and some initial work (ie investigating community standards) has been undertaken*”.

Complaints register on health services within prisons

5.158 Complaints concerning health services within prisons can be lodged with the Ombudsman, who then refers them to the Health Services Commissioner, or directly with the Prisoner Health Care Monitoring Unit by the prisoner or a third party, e.g. a legal representative, professional body, family member etc.

5.159 The Office of the Health Services Commissioner was established in Victoria in 1988. The *1997-98 Annual Report* of the Department of Human Services states that the Commissioner’s role is “... *to receive, investigate and resolve complaints from health service consumers, to support health care services in providing quality health care and assist them in resolving complaints. The legislation also requires that information gained from complaints should be used to improve the standards of health care and prevent breaches of these standards*”.

5.160 Since April 1998, the Monitoring Unit has maintained a register of all complaints received in respect of prisoner health services. Table 5G shows relevant details.

**TABLE 5G
COMPLAINTS RECEIVED AND INVESTIGATED BY
THE PRISONER HEALTH CARE MONITORING UNIT
WITHIN THE DEPARTMENT OF HUMAN SERVICES
1 JANUARY 1998 TO 31 MARCH 1999**

<i>Year</i>	<i>Area of treatment</i>	
	<i>General medical</i>	<i>Dental</i>
1998	24	7
1999 (to 31 March)	14	-

Source: Department of Human Services.

5.161 The Department of Human Services has a role in facilitating the investigation of complaints made to the Health Services Commissioner. The Department advises the Commissioner for Correctional Services when a complaint is valid against an operator's service delivery outcome relating to complaints. The Department advised audit that it had referred 1 complaint to the Commissioner's Office for its consideration.

Status of accreditation of delivery of health services in prisons

5.162 Apart from Fulham Correctional Centre which operates its own health service, the delivery of health services in the State's prison system is contracted-out by each prison operator to an external service provider.

5.163 All health service providers within prisons are required under contractual agreements to seek accreditation of their services from an authority agreed with the Prisoner Health Care Monitoring Unit (in the case of Port Phillip Prison, accreditation must be obtained from The Australian Council on Healthcare Standards for the prison's secondary and tertiary medical services within 2 years of commencing operation).

5.164 As presented in Table 5H, all Victorian prisons other than Port Phillip Prison (which recently received accreditation) are yet to obtain accreditation.

**TABLE 5H
PROGRESS ON ACCREDITATION OF HEALTH SERVICES WITHIN VICTORIAN PRISONS**

<i>Prison</i>	<i>Due date for accreditation</i>	<i>Status as at April 1999</i>
Port Phillip Prison	September 1999	Accredited in February 1999
Metropolitan Women's Correctional Centre	August 1998	Not accredited
Fulham Correctional Centre	April 1999	Not accredited
CORE prisons	January 2000	Not accredited

5.165 If providers do not seek accreditation, they must satisfy the Prisoner Health Care Monitoring Unit that they have obtained an alternative and acceptable form of accreditation. For example, Fulham Correctional Centre has sought an exemption because it has achieved ISO 9002 quality accreditation. The Unit does not consider this particular accreditation to be sufficient in itself because it is not "medical" specific. The Unit has discussed this issue with the prison operator at Fulham who is now seeking accreditation with The Australian Council on Healthcare Standards in addition to the ISO 9002 accreditation.

5.166 The Metropolitan Women's Correctional Centre has passed its 2 year anniversary and, therefore, should now be accredited. Such is not the case as the prison operator has argued to the Unit that the 2 year period should be calculated from the time its current contracted provider commenced delivery of health services. The Unit has responded by scheduling 3 clinical audits during 1999 to ensure that the services are acceptable while giving the prison operator time to resolve its accreditation position. The 3 clinical audits have been planned to focus on general health, psychiatric services and medication.

.....
5.167 With regard to the State-managed prisons within CORE, all of which do not yet have accreditation, the Monitoring Unit advised audit that it will be conducting general clinical audits of health care services at these prisons and monitoring their progress towards accreditation.

5.168 Prior to the entry of private operators into the prison system, accreditation of prison health services was not a specific requirement. As with other accreditation processes, the seeking of accreditation of health services has required the relevant service providers within prisons to implement significant quality assurance procedures for their services.

Victoria Police Prisons Squad

5.169 As mentioned earlier, the Victoria Police Prisons Squad is solely concerned with prison operations, particularly criminal investigations and intelligence gathering within the State’s prison system. The Squad is a specialist investigative body within the Criminal Investigation Branch of Victoria Police and comprises 10 operational detectives and 1 analyst.

5.170 The Squad’s charter is to:

- *“investigate or co-ordinate the investigation of all crimes committed within Victorian prisons;*
- *“collect, evaluate and disseminate information and intelligence collected from Victorian prisons;*
- *“record and monitor all adult escapes from legal custody;*
- *“investigate all escapes from adult prisons and remand facilities;*
- *“investigate any escape from any correctional facility where the offender is assessed by the Prisons Squad as a significant risk to the community;*
- *“maintain effective working relationships with other agencies or organisations responsible for the management of adult and juvenile prisons and detention centres;*
- *“investigate or co-ordinate the investigation of any death or suicide occurring within Victorian prisons; and*
- *“conduct other investigations as directed by the Commander, State Crime Squads or the Assistant Commissioner Crime”.*

5.171 The Correctional Services Commissioner requires that prison operators report all deaths in custody to the Prisons Squad. Informal reporting protocols apply in relation to incidents associated with other matters identified in the Squad’s charter.



5.172 The Squad advised audit that it is adopting a more pro-active approach to the reporting of incidents in prisons, given its assessment of the position in the following areas:

- approaches to reporting are informal;
- meetings and protocols involving private providers are not formalised;
- co-operation in intelligence matters between providers is low;
- providers do not generally meet collectively on security issues;
- drug problems seem to be equally prevalent in public and private prisons; and
- there is no distinct difference in the number of incidents reported between private and public prisons.

5.173 Currently, the Squad is developing a formal protocol regarding incident reporting and related information gathering strategies for use by all providers of prison services. The importance of this initiative by the squad is reinforced by the fact that, while the contractual agreements require that prisoner deaths must be reported to Victoria Police, the agreements are silent on the question of reporting of other data such as notifiable incidents to Victoria Police.

Official Visitors Program

5.174 Under section 35 of the *Corrections Act* 1986, the Minister may appoint Official Visitors for each prison. While the legislation does not specify the role or functions of Official Visitors, a briefing note to the Minister on 15 January 1997 from the Correctional Services Commissioner stated that the “... *purpose of the Official Visitor Scheme* [program] *is to provide independent advice to the Minister on the operation of the prison system and to improve links between prisons and the community*”.

5.175 The Official Visitors Program commenced in 1986 and since June 1998 has formed part of the responsibilities of the Monitoring and Assessment Unit within the Commissioner’s Office.

5.176 Following a public advertisement and interview selection process Official Visitors are appointed by the Minister for a period of 2 years. The appointment can be extended by mutual consent. Official Visitors have free access to their assigned prison and prisoners to listen to any concerns raised by them. They are free to take any issues up with the prison management and pursue it through the Commissioner’s Office if they are not satisfied with the response.

5.177 Official Visitors are expected to provide a written report to the Commissioner’s Office following each prison visit.

5.178 The work of Official Visitors within the prison industry has been described in the *Official Prison Visitor Scheme Information for Applicants* document as the “*eyes and ears of the Minister ... and the link between the prison and the community*”.

5.179 Each prison has at least 1 Official Visitor, with up to 3 at the larger prisons such as Port Phillip Prison and Fulham Correctional Centre.

.....
Scope for enhancing the effectiveness of the Official Visitors Program

5.180 Without intending to adversely reflect on the performance of any individual Official Visitor or undermine the valuable work of volunteers in the community, audit formed the view that there was some scope for further enhancing the effectiveness of the Official Visitors Program. In this regard, audit identified that:

- There is no structured analysis within the Commissioner's Office of matters raised in reports by Official Visitors. As a consequence, recurring problems suggesting the existence of system-wide weaknesses or specific problems within a particular prison are not readily identified for corrective action;
- Regular briefings to Official Visitors on emerging issues of significance in the prison industry have not been provided by the Commissioners Office in recent years (the Office arranges meetings for new Official Visitors to brief them on their expected role, but these meetings do not include existing Official Visitors and do not address developments in the industry); and
- Limited attention has been given to the need for training and support of Official Visitors in their important role of providing independent external advice.

5.181 The Department has recently advised audit that since the audit examination it has embarked upon a number of actions aimed at further strengthening the operation of the Official Visitors Program.

NEED FOR IMPROVED ACCOUNTABILITY BY THE DEPARTMENT TO THE PARLIAMENT ON MONITORING OF INDUSTRY OPERATIONS

5.182 In an earlier paragraph on the Commissioner's monitoring function, audit indicated that the work of a number of other government agencies with either a responsibility or a role within the industry serve to complement the accountability processes embodied in the contractual agreements with prison operators and to give the community confidence in the management of the industry.

5.183 While the work undertaken by these other government agencies reinforces in a general sense the overall accountability of the prison industry, there has been to date very limited information communicated to the Parliament by the Department in its *Annual Report* which deals with its management and monitoring of the industry. By way of illustration, material on the prison industry included in the Department's *1997-98 Annual Report* was restricted to statistical information on prisoner places in the system, average annual operating cost, daily average prison population, average daily prison occupancy rate, the number of escapes by prisoner security rating and the number of working prisoners.

5.184 In audit opinion, this limited range of information falls far short of the level necessary to effectively discharge the Department's accountability obligations to the Parliament and community for overseeing the operation of an industry with annual outlays of taxpayers' funds in excess of \$180 million. It also compares quite unfavourably with the degree of public reporting on prison operations by other Australian jurisdictions.

5.185 In addition, for the past 3 years, the Commissioner’s Office has drafted a *Statistical Profile of Victorian Prison* for intended public release. Up until very recently, the Department had determined not to approve for public release the material prepared by the Commissioner’s Office. On this point, the Department advised audit that its decision not to release data should not be interpreted as a disregard for the public’s right to know. It indicated its decision should be viewed as one “... *based more on a desire, during a period of transition, to consolidate the data into a reliable form prior to release*”. On 17 May 1999, the Commissioner publicly released the statistical report covering the period 1995-96 to 1997-98 inclusive which had been prepared in September 1998.

5.186 Audit considers that the reporting to the Parliament by the Department each year on the performance of the prison industry should encompass, *inter alia*:

- the major results arising from implementation of the Commissioner’s monitoring program for the year, with equal prominence given to positive value adding outcomes and any key problem areas requiring remedial action;
- details of the magnitude of taxpayers’ funds outlayed to cover the operation of the system incorporating both CORE and the private prisons;
- particulars on the extent of payments made to private operators for performance which is in excess of the levels set out in contractual agreements and of financial penalties imposed as a consequence of under-performance; and
- the principal achievements of both private and State operated prisons in terms of enhancing the efficiency and effectiveness of prison operations.

5.187 In summary, the Department should move to incorporate in future *Annual Reports* more extensive information along the lines suggested as a key means of discharging the Government’s accountability to the Parliament for the operation of such a significant State industry.

RESPONSE provided by Secretary, Department of Justice

Role of the Correctional Services Commissioner

The Department does not accept audit’s proposal that the Commissioner should have an independent role similar to that of the Regulator – General, nor does it believe that the current structure, roles or responsibilities compromise the integrity of the Commissioner’s industry leadership role, nor its monitoring and review responsibilities.

The Commissioner’s role is far more expansive than that of simply a corrections industry ‘watchdog’. The Commissioner provides leadership to the whole adult corrections system in Victoria, and supports that role through an appropriate focus on policy and standard setting, business planning and strategic development, monitoring and review of public and private service providers, and management of the sentence management function.

□ **RESPONSE** provided by Secretary, Department of Justice - continued

Audit's call for an independent Commissioner's Office arises primarily from discussion on the Office's monitoring role. If this role were split off to a separate entity it would result in serious dysfunction in the leadership and management of the correctional system. If all the Commissioner's present functions were assigned to an independent entity, it would place in doubt the capacity of the Government to maintain a cohesive and viable corrections system. It is a model that does not exist in any other correctional system.

Data validation

Audit correctly acknowledges the importance of data validation and the extent of activity the Commissioner has applied, and continues to apply, to this task to ensure that the data collected by providers, both public and private, and supplied to the Commissioner is both accurate and complete.

Unfortunately, audit has in its analysis wrongly suggested that Port Phillip Prison has experienced some unique problems with data validation and drug testing procedures. While some problems have been experienced by Port Phillip Prison, it is unreasonable and misleading for audit to suggest that these problems were unique to or experienced at a greater level, at Port Phillip Prison than by other providers.

Data validation requires all providers to ensure consistent understanding, interpretation and application of definitional issues and counting rules. All providers, including Port Phillip Prison, took some time to fully understand and comply with the Commissioner's requirements. The difficulties experienced by Port Phillip Prison were no greater than with other providers. In fact, a validation review by the Commissioner of Port Phillip Prison conducted in August 1998 on service delivery outcomes identified very few inaccuracies. Further, Port Phillip Prison is highly compliant with the Commissioner's daily reporting requirements relative to some other providers.

Similarly, audit has extracted details from the Commissioner's drug testing program at Port Phillip Prison and quotes accurately from the reports of the Commissioner's Office and the findings of an audit assessment by Price Waterhouse Coopers. However, what audit fails to acknowledge in its observations is that the Price Waterhouse Coopers results for Port Phillip Prison were comparable with results in other prisons and that systemwide improvement was required.

- *Price Waterhouse Coopers (PWC) were engaged by the Commissioner in early 1997 to:*
- *attend selected prison locations to observe the prison's random drug testing collection on days when the Commissioner's independent drug testing is not taking place;*
- *attend the prison to observe on a day when the Commissioner's independent drug testing collection is taking place; and*
- *provide a report on the drug testing process to ascertain compliance with the Victorian Prisons Drug Strategy.*

PWC has now attended nearly all prisons, public and private. No prison, even Victoria's public prisons, which have had a greater degree of experience in relation to the acquisition of urine samples, was fully compliant. All prisons were identified as requiring some improved practice, for example, in relation to the briefing of prisoners, strip searching procedures and prisoner identification of samples.

□ **RESPONSE** provided by Secretary, Department of Justice - continued

Feedback on the findings of PWC's assessments has been forwarded to providers with a view to establishing a higher level of consistency in operational procedures and achieving continual improvement and compliance with the Government's Prisons Drug Strategy.

Monitoring and review program

The Commissioner's monitoring and review program was implemented to complement the re-organised corrections industry. The nature and scope of monitoring and review activities was originally tailored to the lack of maturity of the industry. As such, at the time of the audit, its regulatory paradigm was more interventionist and prescriptive than was envisaged would be the case in a more mature (6-8 years old) market, in which a validated self-regulatory model was anticipated.

Audit's examination of the Commissioner's monitoring and review function occurred when the model was in a very early stage of its evolution. Intensive compliance monitoring of key contract conditions of the newly established private prisons was given a higher priority than the minimal monitoring which audit correctly identifies was directed to the more established and experienced public provider (CORE). The Department considers that this focus on the private providers was both appropriate and necessary at the time.

In the future however, the Department will apply a consistent and balanced treatment of all prison operators and other parties, including CORE, by ensuring a systemwide standard monitoring approach is in place.

While it is acknowledged by audit that the Commissioner has to date devoted considerable resources to compliance monitoring of performance against contracted service delivery outcomes, the Department believes audit failed in their report to properly acknowledge:

- *the equally important and resource intensive on-site monitoring and review undertaken by the Commissioner during the audit period. This function was undertaken by skilled and independent monitors with operational knowledge and experience who inspected a wide range of aspects of prison performance and adherence to correctional services standards in relation to such issues as reception/admission, prison security, drug testing, disciplinary process, industries, incident reporting and personal visits. Monitoring also instigated reviews of incidents and prisoner complaints. Audit's suggestion that data validation was the primary purpose for on-site activity is incorrect and understates the vital and effective review function of on-site monitoring;*
- *the rigorous annual accommodation services reviews conducted at private prisons by representatives from the Department's Major Projects Delivery Group, the Building Services Agency and the Commissioner, in accordance with requirements contained in each of the Prison Services Agreements. Two reviews each have already been undertaken at the Metropolitan Women's Correctional Centre and Fulham Correctional Centre, and one at Port Phillip Prison; and*
- *the Commissioner's plans to review and further enhance the performance of the corrections industry through the application of a corrections quality assurance framework.*



□ **RESPONSE** provided by Secretary, Department of Justice - continued

Port Phillip Prison

The Department acknowledges that Port Phillip Prison experienced significant performance issues in its first fifteen months of operation.

Port Phillip Prison underwent a start-up period in which prisoners were gradually introduced into the prison. Start-up covered a twelve week introduction period to accommodate the large capacity of the prison and the wide range of prisoner categories (eg, protection, psycho-social, remand and sentenced).

As with the start-up phase of the other two private prisons, a number of service delivery issues were identified by the Commissioner's Monitoring and Review Unit. These issues were worked through between monitors and prison management throughout this period.

The Department recognises that while many of these problems were addressed by prison management, not all issues raised were satisfactorily resolved. Incidents such as prisoner deaths gave real cause for concern.

The Department continued to monitor prison performance and provide regular feedback to prison management. As an example, an in-depth review was undertaken in January 1998 by the Commissioner of prison suicide and self-harm strategies. The Department continued to work with prison management with a view to continuous improvement.

By June 1998 the Department considered that while many aspects of prison performance had improved, some important issues remained of concern. A Default Notice was then issued under the Prison Services Agreement by the Acting Secretary.

While audit argues with the level of the Correctional Default Notice fee reductions imposed upon the Port Phillip Prison contractor, it must be understood that these reductions were in respect of a three-month period only, from March to end May 1998. A cure plan was prepared by the contractor, which addressed actions in respect of the non-compliance issues. Pursuant to the terms of the Prison Services Agreement, the reductions were terminated upon endorsement of the plan by the Commissioner. An extensive monitoring regime accompanied the implementation of the plan to ensure resolution of the service non-compliance issues identified.

Further, audit's discussion on the costs to the contractor fails to acknowledge the significant costs borne by the contractor/operator in addressing the Correctional and Accommodation Services issues identified in the Notices. That is, the Prison Services Agreement provides that all costs associated with the rectification of non-compliance issues identified as defaults are to be borne exclusively by the contractor/operator. Such costs included the rectification of the building damaged in the March 1998 incident, significant supplementation of senior staff from overseas operations for an extended period, and the costs associated with procedural changes.

By late 1998 all service non-compliance issues were resolved by the operator, and a period of strong improvement was noted in the prison's performance. By November 1998 a full-time monitoring presence was no longer considered necessary. The Default Notice was finally cured in a letter from the Minister for Corrections to Port Phillip Prison on 10 March 1999.

The Department considers that Port Phillip Prison is presently providing service delivery consistent with the high level expected throughout the Victorian prison system.



□ RESPONSE provided by Secretary, Department of Justice - continued

Public information about Correctional Services

The breadth of the Justice Portfolio necessitates high level reporting only in its Annual Report against its key output groups.

The Statistical Profile of the Victorian Prison System 1995-96 to 1997-98 was released in May 1999. Prepared by the Commissioner, this publication presents data on the performance of Victoria's prisons and profiles the major characteristics of the prisoner population. The Department recognises that the release of systematic and comprehensive performance data is a key accountability component of the reformed corrections industry. It is intended that this "report card", which will be issued on an annual basis, will further build a performance culture within the industry by presenting a benchmark against which future performance can be compared, and contribute to informed and balanced debate about the prison system.

Part 6

Prisoner management

OVERVIEW

6.1 The prisoner management function goes to the heart of the Government's principal correctional objectives of protecting the community and encouraging offenders to adopt law-abiding lifestyles. The proper placement of a prisoner during a prison term, progressive case management of individual prisoners and participation by prisoners in relevant programs represent key avenues for providing opportunities for prisoner rehabilitation and facilitating reparation to the community.

6.2 A major audit finding arising from examination of the prisoner management function is that the Department needs to adopt more effective long-term planning strategies for the prison system. In the past, strategic planning for prisons has not been well co-ordinated and limited attention has been directed to strategic consideration of the future capacity requirements of the prison system. This position has restricted the ability of the Commissioner's Office to effectively manage the prisoner management process because the absence of projected numbers of prisoners with particular profiles prevents accurate determination of the nature and level of required accommodation to suit the needs of such profiles. With circumstances such as those experienced currently in the State, where the prison system is operating with capacity pressures, there has been a critical shortage of appropriate accommodation for certain specific categories of prisoners including women and prisoners in need of protection.

6.3 Two special exercises, one involving a research analysis of trends in prisoner populations in Victoria and the other relating to a review of rates, trends and implications of male imprisonment were underway at the time of the audit but are yet to be finalised. More recently, the Department has moved through structural changes to upgrade the quality of its overall strategic planning. This latter action is positive and should encourage better co-ordination of policy and planning issues relating to prisons.

6.4 Also, the Government has recently announced, through its 1999-2000 budget delivered to Parliament on 4 May 1999, details of a specific financial commitment of \$19 million over 2 years for an increase in the capacity of prisons as a means of catering for the growth in prisoner numbers.

6.5 On the question of prisoner placements to prisons, audit understands that remandees and medium security prisoners placed at Port Phillip Prison are co-mingled with maximum security prisoners. Audit considers this practice affects the ability of the Commissioner to guarantee the safety and welfare of all prisoners within that prison and steps should be taken to change this position.

6.6 The creation, at the commencement of a prison term, of an individual management plan (IMP) which reflects any special needs and characteristics of the prisoner constitutes a key element of the prisoner management process. In this regard, prison operators have the important responsibility of ensuring that all information pertaining to a prisoner's individual needs and progress in achieving rehabilitation goals during the prison term is systematically recorded on IMP files.



OVERVIEW - *continued*

6.7 This Part of the Report refers to quite sharp criticism of the quality of information recorded on IMP files from 3 sources: an external consultant appointed by the Commissioner, the Victorian Correctional Services Task Force appointed by the Minister and this audit. Part of the problem with IMP files stems from the absence within Victoria of minimum case management standards. Audit has strongly suggested to the Commissioner's Office that such standards be formulated as a matter of priority. An outworking of such standards should be specification of the manner in which information is to be recorded on IMP files so that files consistently represent a well structured record of objectives specified in each prisoner's case plan and the status of progress against those objectives.

6.8 On the question of prisoner programs, audit considers that the Commissioner's Office needs to urgently review the nature and quality of programs provided in each prison and to determine whether existing evaluation strategies, both internal and external to prisons, are conducive to measuring the effectiveness of programs. The importance of adequate attention to program delivery is accentuated by the fact that, if programs are well structured in design and content and adequately address the identified needs of individual prisoners, there is a greater likelihood that some prisoners will successfully rehabilitate and avoid re-entering the system.

6.9 A further challenge to the Commissioner's Office in terms of program delivery is that the emergence of a competitive environment has contributed to the isolation of program staff within individual prisons. There is now a reduced opportunity for the sharing of expertise and ideas between prisons and limited integration of programs across the public and private prison operators. The Commissioner's Office has the task of overcoming this problem and engendering to the extent possible among program managers across the system a sense of unity in direction and purpose in case management for prisoners.

6.10 Finally, the manner in which review and assessment committees function within prisons requires specific attention. As with the position concerning IMP files and prisoner programs, this important aspect of prisoner management has been directly criticised not only by audit but the Commissioner's consultant and the Ministerial Task Force. The comments by the Task Force suggested that in some prisons the review and assessment committee does not even see the prisoner in person. As this Task Force rightly pointed out, a review and assessment committee or a case management working team reporting to the committee should always see the prisoner.

NATURE AND SIGNIFICANCE OF THE PRISONER MANAGEMENT FUNCTION

6.11 As identified in Part 2 of this Report, the Government's principal correctional objectives are:

"To protect the community and to encourage offenders to adopt law-abiding lifestyles by:

- *containing and supervising offenders in a safe, secure, humane and just manner;*
- *providing opportunities for rehabilitation; and*
- *facilitating reparation to the community."*

6.12 The critical means by which the Government strives to achieve these objectives within the prison system is through the prisoner management function. This function commences from the point of entry of an offender into the system and extends through to the prisoner's completion of his or her sentence and exit from the system. The prisoner management function could be described, therefore, as encompassing the full cycle of a prisoner's term in prison.

6.13 The prisoner management function commences with the reaching of some key decisions by the Sentence Management Unit within the Commissioner's Office on:

- a prisoner's security classification (3 classifications, namely, maximum, medium and minimum are utilised within the system);
- creation of an individual management plan for the prisoner including consideration of any special needs of the prisoner, e.g. a special protection requirement; and
- optimum placement of the prisoner to a selected prison based on the 2 prior decisions.

6.14 Following the prisoner's arrival at the selected prison, responsibility for prisoner management decisions transfers to the prison operator who is required to:

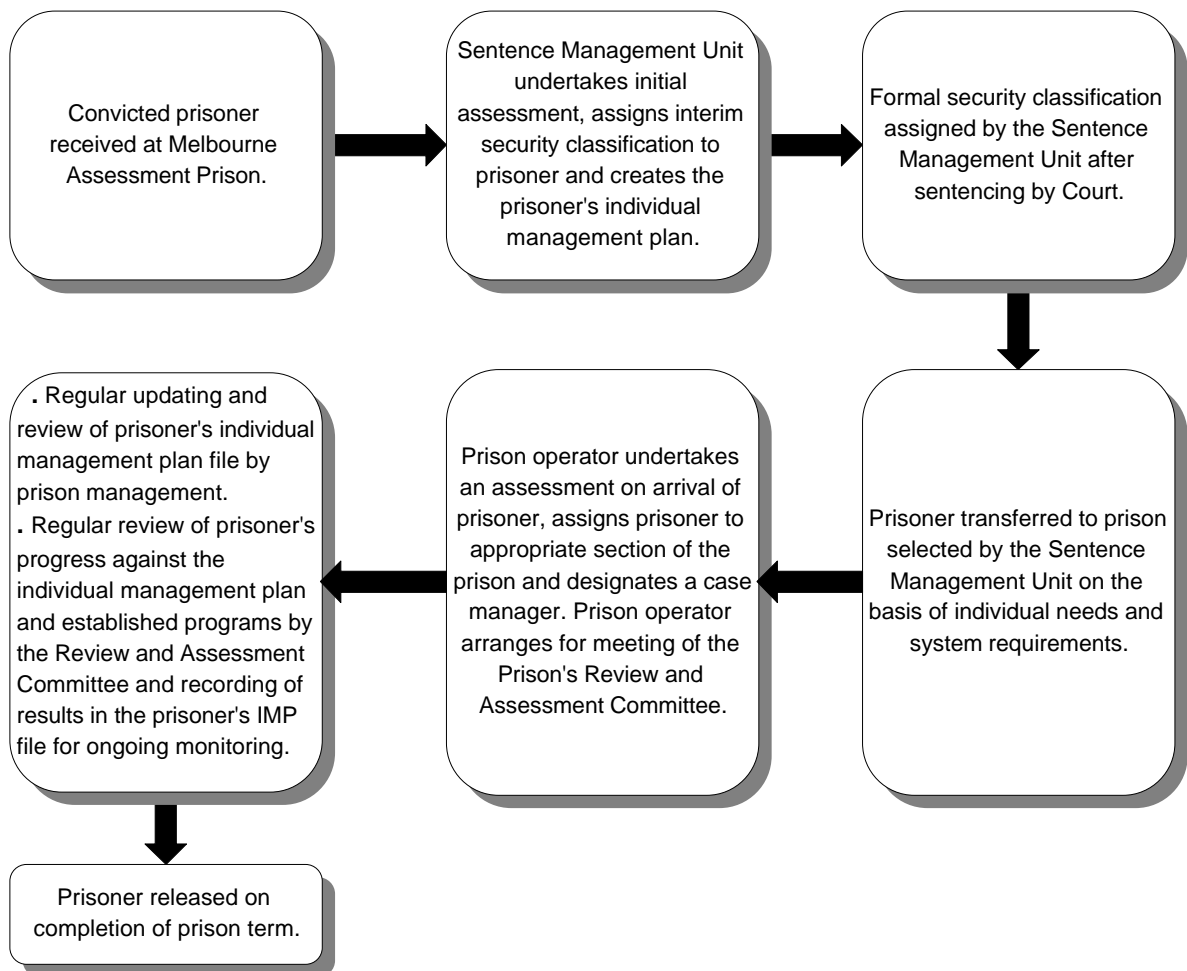
- undertake an assessment of the prisoner;
- assign the prisoner to a particular section of the prison;
- designate a case manager to manage the prisoner's individual management plan, including programs designed to assist in the management of the prisoner or to support the prisoner in achieving rehabilitation goals; and
- form a local Review and Assessment Committee comprising representatives of prison management and other correctional staff at the prison to review a prisoner's progress against the individual management plan.

6.15 The ongoing tasks undertaken at the local prison level in managing prisoner plans and reviewing progress against plans is subject to progressive monitoring by the Commissioner's Office. In other words, the Commissioner's Sentence Management Unit has the key responsibility, beyond its important initial decisions (as described above), for monitoring the overall effectiveness of prisoner management functions progressively undertaken within prisons.



6.16 Chart 6A sets out in diagrammatical form the sequence of the main management tasks associated with the management of a prisoner from the point of arrival to the time of exit from the prison system.

**CHART 6A
SEQUENCE OF STEPS IN THE PRISONER MANAGEMENT PROCESS**



6.17 In summary, the prisoner management function is pivotal to achievement by the Government of its high level policy objectives set for the State's prison system. The quality and soundness of key decisions reached during the various phases of this management function directly influence the nature of rehabilitation opportunities available to individual prisoners and, from a wider perspective, the smooth functioning of operations within prisons.

A PLANNING SYSTEM CATERING FOR FUTURE CAPACITY REQUIREMENTS

6.18 A key ingredient for the satisfactory management of prisoner management functions is that, as far as possible, the prison system will have the capacity to receive the number of prisoners entering the system and to place new prisoners in a manner consistent with the Commissioner's initial assessment.

6.19 It follows, therefore, that strategic assessments of the State's future capacity requirements for prisons, based upon such matters as trends in prisoner population and a likely myriad of related causal factors, need to be soundly structured in order to provide reasonable assurance that significant and permanent capacity shortfalls will not occur.

6.20 While stressing the importance of adequate future planning, it is important to recognise the overall complexity of the task as well as the degree of uncertainty arising from constantly changing circumstances which render quite difficult the formulation of predictions on future capacity requirements in prisons. Some of these changing circumstances would include variations in socio-economic behavioural patterns, legislative amendments and new policy directions of government in the area of criminal justice etc.

6.21 In addition, the outcome of the future planning process always has to be considered by government in the light of limitations on available resources.

6.22 At the time of the audit examination, the following 3 organisational units within the Department of Justice had responsibility for matters relevant to strategic planning for prisons:

- the Criminal Justice Statistics and Research Unit, which is required to provide a co-ordinated approach to the gathering and compilation of statistics across the entire Justice portfolio and was at the time undertaking a research analysis of trends in prisoner populations;
- the Corrections Strategic Policy Unit which provides the policy and strategic development focus for the prisons industry and was involved in undertaking a review of rates, trends and implications of male imprisonment in Victoria; and
- the Project Policy and Standards Unit (the only 1 of these 3 Units which is located within the Commissioner's Office) which carries out special projects and manages the development of standards for prison service delivery (the Unit was assisting the Criminal Justice Statistics and Research Unit in its analysis of trends in prisoner populations).

6.23 The audit examination of the work of these 3 organisational units found that their respective involvement in strategic planning functions was not, at the time, particularly well co-ordinated with adverse ramifications on the quality of the overall approach to future planning within the Department.



6.24 An important contributing factor to this position was the fact that, although the Commissioner has responsibility for strategic planning and managing prisoner numbers through the Sentence Management Unit, the role of co-ordinating information gathering and analysis by the 3 organisational units within the Department does not rest with the Commissioner. Following a recent restructure of the Department, responsibility for strategic planning in the Justice area has been given to the newly created positions of Director, Justice Policy and Assistant Secretary Portfolio Planning, which should encourage better co-ordination of policy and planning issues relating to prisons.

Some adverse ramifications of inadequate planning

6.25 In response to a request by audit for prisoner information, audit was advised by the then Director of Monitoring and Assessment and the Acting Commissioner that there were problems accessing basic information about the prisoner population without the design of special programs to extract data from the prisoner information management system and a wait of up to 4 weeks for the information to be processed and collated. Consequently, it was evident to audit at the time that it would be difficult for the Commissioner’s Office to effectively undertake its planning responsibilities without timely access to prisoner information. This position meant that there was limited attention directed to strategic consideration of the future capacity requirements of the prison system.

6.26 This lack of planning restricts the ability of the Commissioner’s Office to effectively manage the prisoner management process because the absence of projected numbers of prisoners with particular profiles prevents accurate determination of the nature and level of required accommodation to suit the needs of such profiles. As a consequence, with circumstances such as those experienced currently in the State where the prison system is operating with capacity pressures, there is a critical shortage of appropriate accommodation for certain specific categories of prisoner including women, protection prisoners, and men with medium security classification.

6.27 It also means that, because of capacity constraints, individual prison operators are not in a position to address the requirements of particular special needs groups by designating specific accommodation for such groups. By way of example, in September 1998, the operator of Port Phillip Prison identified a need to separately accommodate certain types of young offenders and developed a proposal for the Commissioner’s Office to consider. Audit was advised by the operator that the proposal had been rejected because the Sentence Management Unit did not want to reduce the number of available mainstream population beds at the prison.

6.28 The importance of this issue is reinforced by the fact that, for 3 or so years, young offenders have comprised approximately 25 per cent of the total prisoner population and this segment of the prisoner population has quite distinct needs from other prisoners. That these specific needs may not be addressed, despite their identification by prison management, illustrates how capacity considerations can adversely impact on the quality and effectiveness of prison services.



6.29 Weaknesses in planning also contribute to situations such as those identified by audit at Port Phillip Prison. A unit at the prison accommodates prisoners with intellectual disabilities, but has also been used to accommodate vulnerable prisoners requiring protection, but who are not intellectually disabled.

6.30 This co-mingling of prisoner categories gives rise to complex prisoner management problems because intellectually disabled prisoners require a different regime to other types of prisoners. In addition, even though the other prisoners may be seen as vulnerable in the context of the mainstream prisoner population, they may not be so in the context of the unit’s population which could place the intellectually disabled prisoners at some risk themselves. It obviously defeats the purpose of establishing a special unit if eligibility criteria are disregarded to accommodate other types of prisoners.

6.31 In addition, prisoners placed in the unit who are not intellectually disabled have to live in an environment designed to suit intellectually disabled prisoners. Such a practice is less than satisfactory because these prisoners become subject to a regime which is not aligned to their needs. Also, staff in the unit advised audit that some of the intellectually disabled prisoners had complained about having to participate in certain programs because other prisoners in the unit were exempted from participation.

6.32 All prison operators advised audit of the difficulty experienced when raising accommodation problems concerning prisoners with special needs with the Sentence Management Unit. Because the operators are not able to change placement decisions once they have been signed off by the Sentence Management Unit, they find themselves in a position where they have identified a need and devised a strategy to address it, but cannot move any further on the matter unless the Commissioner is in agreement.

6.33 In summary, it is clearly important for the Department to pursue its strategy of upgrading the quality of planning for prisons. Such action is necessary for it to be assured that key decisions reached during the prisoner management process contribute to a maximum degree in achieving the rehabilitation needs of all prisoners, but particularly those prisoners designated as having special needs.

Specific issues dealing with prisoners requiring protection

6.34 Prisoners requiring protection, more commonly described within the system as protection prisoners, are prisoners identified and assessed by both the Commissioner’s Office and the prison operator as unable to be managed in the general mainstream prisoner population. In addition, any prisoner with a concern for his or her safety may request protection status or such a request may be made on a prisoner’s behalf by a legal representative, a member of Victoria Police or any of the many correctional staff with whom contact is made during a sentence period. These individual requests are assessed by either or both prison management or the Sentence Management Unit.

6.35 At the time of audit examination, the Ararat and Langi Kal Kal prisons were designated as protection prisons while 4 other prisons, Barwon, Fulham, Port Phillip and the Metropolitan Women’s Correctional Centre have specific areas set aside to accommodate protection prisoners.



Barwon Prison includes an area designed to accommodate prisoners requiring protection.

6.36 In August 1997, the Commissioner engaged an external consultant to examine the activities and efficiency of the Office’s Sentence Management Unit. The consultant delivered a comprehensive final report to the Commissioner in April 1998.

6.37 On the subject of protection prisoners, the consultant stated that *“Of the current prisoner population approximately 23 per cent are managed as protection prisoners. There has been an incremental increase in the size of this population which, if not stabilised, will result in acute vacancy management problems in the medium term”*. At that time (March 1998), there were 622 beds made available for protection prisoners and the occupancy rate was approximately 96 per cent.

6.38 The consultant concluded that:

- *“the steady increase in the number of protection prisoners is beginning to provide placement difficulties in the system;*
- *“the number of protection prisoners has gradually increased in the last two years; and*
- *“the rate of increase is minimal however should it continue at the same rate, existing protection facilities will not provide adequate beds for this population by early 1999”.*

6.39 The consultant recommended that:

- *“It is necessary that PIMS [the prisoner information management system] be reconfigured to enable identification of the number of prisoners on protection, trends identified and management practices developed to reduce the number of prisoners managed under these regimes;*
- *“A study of the protection prisoner profile ... as a means of identifying mechanisms for reducing the size of this population and managing the future of the system;*
- *“The current process for placement of prisoners on protection requires review by OCSC [the Commissioner’s Office] and providers; and*
- *“It is necessary that a process which is both efficient and thorough in determining the need for protection and alternative options for managing these prisoners is developed. The continued incremental increase in protection prisoners in the system can be expected to create considerable accommodation and service delivery pressures”.*

6.40 The consultant’s report also mentioned that the problem with protection prisoner numbers can be attributed to the fact that providers are operating in a very risk averse manner, choosing to err on the side of caution when faced with a request for protection. However, the consultant also identified the following possible reasons for the increase in numbers:

- *“increased number of sex offenders convicted and increases in the length of their sentences;*
- *“the closure of the Coburg Complex reduced the number of ‘mainstream semi-protected locations’;*
- *“settling down’ management issues in Fulham and Port Phillip Prisons; and*
- *“changing prisoner profile and impact of external drug related issues”.*

6.41 The importance of adequate planning is reinforced by the fact that the Commissioner’s Office has found it necessary to resort to double bunking and the placing of mattresses on cell floors to accommodate additional prisoner numbers, especially in protection units (double bunking can be described as the accommodation of 2 prisoners in cells designed to accommodate 1 prisoner only). As pointed out by the Commissioner’s consultant, there has been a steady increase in the number of protection prisoners and capacity pressures would soon be experienced. It is also highly questionable whether the accommodation of prisoners on mattresses on the floor and folding beds can be regarded as ideal practice.

6.42 The practice of double bunking is not consistent with the requirements of the contractual agreements in place for the 3 private prisons. In this regard, the Prison Services Agreements for the Metropolitan Women’s Correctional Centre and Fulham Correctional Centre require the provision of a prison environment which *“... allows each Prisoner to be accommodated in a single room or cell”*. Also, the Prison Services Agreement for Port Phillip Prison requires the provision of a prison environment which *“... allows Prisoners to be predominantly accommodated in single cells”*.



6.43 The *Standard Guidelines for Corrections in Australia 1996*, arising from the Corrective Services Ministers’ Conference March 1995, state in section 5.23 that “*In new prisons, accommodation should generally be provided in single cells or rooms. Provision should be made however, for multiple cell accommodation for the management of particular prisoners*”. While the use of double bunking is not directly contrary to the standards, it is clear that the ideal position is to accommodate as many prisoners as possible in single cells.

6.44 In order to provide a more up-to-date picture of the position concerning protection prisoners within the system, Table 6B compares relevant data at March 1998 (as reported by the consultant engaged by the Commissioner) and at April 1999 as advised to audit by the Commissioner’s Office.

TABLE 6B
STATISTICAL INFORMATION RELATING TO PROTECTION PRISONERS
POSITION, AT MARCH 1998 AND APRIL 1999

	<i>Position at March 1998</i>	<i>Position at April 1999</i>	<i>Variance</i>
Protection prisoners as a percentage of the total prison population	23%	22%	-1%
Number of beds available for protection prisoners	622	676	+54
Occupancy rate of available beds	96%	95%	-1%

Source: March 1998 figures - April 1998 report by Commissioner’s consultant.
 April 1999 figures - Office of the Correctional Services Commissioner.

6.45 It can be seen from Table 6B that, while the occupancy rate of protection prisoners based on available beds has stabilised over the last 12 months, this position has been reached after a need to allocate an additional 54 beds for protection prisoners. However, the April 1999 figures provided by the Commissioner’s Office do not convey the complete picture as the Office advised audit that an additional number of protection prisoners (not recorded in the above figures) are accommodated at the Melbourne Assessment Prison and Port Phillip Prison in areas of those prisons not specifically designated for prisoners requiring protection. Furthermore, the figures furnished by the Commissioner’s Office disclose a serious situation at the Metropolitan Women’s Correctional Centre where 37 protection prisoners were accommodated at 26 April 1999 in an area designated to accommodate only 20 prisoners.

6.46 The circumstances presented in the preceding paragraphs relating to the increasing number of protection prisoners and the capacity of the system to adequately accommodate such prisoners provides further evidence of the importance of the Department’s current moves to upgrade the standard of its strategic planning practices for the prison system.

Increasing capacity pressures on the prison system

6.47 The discussion in the previous paragraphs has identified instances of particular difficulties relating to the management of prisoners with special needs, including protection prisoners, arising from increasing accommodation pressures on the prison system.

6.48 For some time now, the Department has been aware of a progressive growth in prisoner population and the associated implications for system capacity. In this regard, the latest annual Statistical Profile of the Victorian Prison System covering the 3 year period 1995-96 to 1997-98 prepared by the Commissioner's Office in September 1998 referred to the expanding prisoner population in the following terms "*... a 17.2% increase in the size of the prison population between 30 June 1996 and 30 June 1998. The average total prisoner population grew by 10.7% during the same period, reflecting the rapid increase in the size of the prison population to the highest levels in Victorian history. Reflecting the significant increase in the size of the prison population, the prison occupancy rate rose from 87.5% at 30 June 1996 to 93.3% at 30 June 1997 and 97.5 per cent at 30 June 1998*".

6.49 In March 1999, the Director of the Sentence Management Unit advised audit that "*85 per cent is the ideal occupancy rate at which any prison should operate in an ideal world. This is conventional correctional wisdom and as such is generally agreed across corrections*".

6.50 It can be seen that the prisoner population at 30 June 1998 was well over the ideal position and had reached a critical stage in that almost all available beds within the system were occupied.

6.51 Information held within the Commissioner's Office showed instances of overcrowding at 27 July 1998 within particular units of various prisons based on the units' approved capacity at that date. Table 6C presents relevant details.

**TABLE 6C
OVERCROWDING AT 27 JULY 1998 IN PARTICULAR PRISON UNITS**

<i>Prison unit</i>	<i>Approved capacity</i>	<i>Actual occupancy</i>	<i>Number of prisoners held in excess of capacity</i>
Loddon (Avoca)	64	77	13
Loddon (Campaspe)	70	71	1
Barwon (Banksia Waratah)	24	27	3
Barwon (Banksia Heath)	24	28	4
Fulham (Medium)	306	370	64
Port Phillip Prison (Sirius)	65	78	13
Port Phillip Prison (Sirius East)	20	23	3
Port Phillip Prison (Waaksembyd)	56	57	1
MWCC (Amber.1A)	14	23	9
MWCC (Cyan.1)	10	11	1
MWCC (Cyan.2)	10	12	2
MWCC (Cyan.3)	10	12	2
MWCC (Cyan.4)	5	6	1
Beechworth (Ovens)	41	47	6
MAP (Spring)	6	9	3
Tarrengower (Chamomile)	2	4	2

Source: Records held within the Office of the Correctional Services Commissioner.

6.52 When considering the above information, it should be recognised that the extent of overcrowding at the time related to particular units within prisons and did not necessarily indicate an overall over-capacity position at all of the respective prisons at 27 July 1998. On this point, audit examination of the relevant data indicated that, of the prisons mentioned in Table 6C, each had experienced capacity problems to varying degrees.

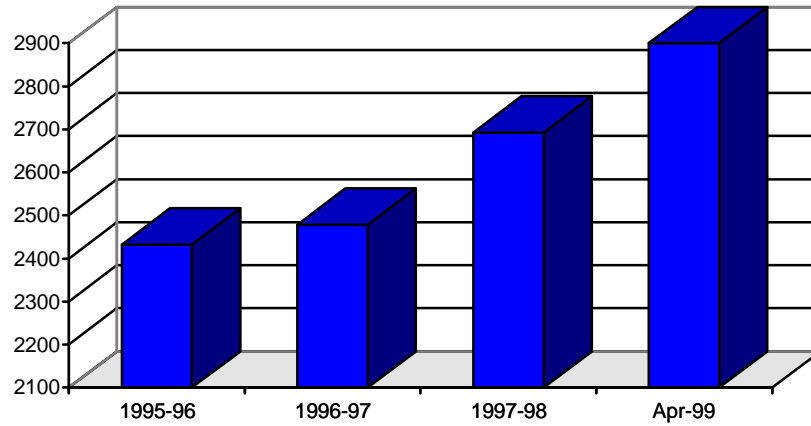
Emergence of more serious capacity pressures in recent times

6.53 In recent times, significant attention within the media has focused on issues associated with overcrowding within prisons and a consequential overloading of prisoners in police cells. In this regard, average prisoner numbers within the system increased from 2 806 in February 1999 to 2 900 in April 1999 at which point the prison occupancy rate based on permanent capacity was 98.9 per cent.

6.54 In effect, the system in April 1999 was at full capacity and has required the utilisation of temporary stretcher beds or mattress places within particular prisons. At 15 April 1999, temporary accommodation involving a total of 121 stretcher beds or mattress places have had to be used across 6 prisons to address acute accommodation problems in those prisons.

6.55 An indication of the significant increase in prisoner numbers within the State over the period from July 1995 to April 1999 is presented in Chart 6D.

CHART 6D
AVERAGE PRISONER NUMBERS IN VICTORIAN PRISON SYSTEM,
JULY 1995 TO APRIL 1999



Source: Office of the Correctional Services Commissioner.

6.56 Based on the information shown in Chart 6D, average prisoner numbers within the State’s prison system increased by around 19.2 per cent from 2 432 to 2 900 prisoners over almost the last 4 years. Should this rate of increase continue, the State’s prisoner population would reach around 3 500 by 2004. In relation to prisoner numbers as at April 1999, the Commissioner advised audit that this month each year represented a seasonal peak in terms of the total prisoner population within the system.

6.57 A temporary solution to capacity problems at the Metropolitan Womens Correctional Centre was announced by the Government in March 1999. This solution which was expected to be provided over a period of 2 months involves purpose-built portable accommodation at the prison.



The Metropolitan Women's Correctional Centre experienced capacity problems in early 1999.

6.58 A further action taken by the Government, also during March 1999, was the filling of 100 places available in total at Beechworth and Barwon Prisons as a means of working through an overload of prisoners in police cells.

6.59 An important issue associated with the expansion of capacity is the responsibility of the Department to ensure that prison operators are in a position to meet any increased level of demand on services. In other words, the Department has to be satisfied that the safe custody and welfare of all prisoners is not compromised as a result of capacity expansions.

6.60 In summary, it was very evident to audit that the Department needed to adopt more effective long-term strategies for addressing the capacity problems within the prison system.

6.61 The Department also should give high priority to the development of a model to assist in projecting prisoner numbers and characteristics and the formulation of plans to guide decision-making on future capacity issues. Without adequate identification and planning mechanisms to monitor prisoner numbers and trends in prisoner placements and characteristics, the Commissioner's Office will not be in a strong position to ensure that decisions reached in the implementation of the prisoner management process contribute in an optimum way to achievement of the Government's high level correctional objectives.

.....

Government strategies to improve quality of planning and longer-term management of capacity issues

6.62 In the light of the issues identified in the preceding paragraphs on shortcomings in the approach to strategic planning and on the increasing capacity pressures within the prison system which were clearly evident at 30 June 1998, audit sought from the Department details of strategies it had formulated around that time to address these matters.

6.63 Also, with the emergence of the serious capacity issues in more recent times, audit requested information on the nature of the action taken by the Department to alleviate immediate overcrowding developments and on its strategic approach to addressing the circumstances from a medium to long-term perspective.

System demand study - female imprisonment trends

6.64 In relation to the earlier period, audit was advised that during 1998 a system demand study in respect of female imprisonment trends was undertaken by the Department's Corrections Strategic Policy Branch to assist the Department in its mid to long-term planning of correctional services in Victoria.

6.65 The study led to the conclusion that there have been significant increases in the number of females in custody over the last decade, with a more rapid increase over the previous 3 years.

6.66 Specifically, the report arising from the review, which was issued in October 1998, found that "... *there has been a significant increase of 23% in individuals [women] entering the prison system each year over the 10 year period from 326 in 1988 to 402 in 1998*". It also highlighted that, while the number of women entering prison had increased, sentence lengths have continued to decrease. The report stated "... *in 1993, 54% of female prisoners were imprisoned for less than 12 months. By 1998 this had increased to 73 per cent. There is consequently a higher throughput of females serving shorter sentences*".

6.67 Audit is not aware of any action taken by the Department on the matters dealing with female imprisonment trends addressed in this system demand study.

Analysis of trends in prisoner populations

6.68 As mentioned in an earlier paragraph, the Criminal Justice Statistics and Research Unit within the Department was undertaking at the time of the audit examination a research analysis of trends in prisoner populations in Victoria.

6.69 Audit was advised that this exercise is not yet finalised.

Review of rates, trends and implications of male imprisonment in Victoria

6.70 As also mentioned in an earlier paragraph, the Department's Corrections Strategic Policy Unit was carrying out during the course of the audit a review of rates, trends and implications of male imprisonment in Victoria. At the time, audit was advised that the results of this review were expected to be available sometime in February 1999.



6.71 Again with this review, audit was advised that the results were not yet available.

Other recent strategic reactions by the Government

6.72 In terms of the emergence of the serious capacity issues in the prison system which have attracted public attention in more recent times, audit sought from the Department information on strategic measures, in place or planned, to alleviate immediate capacity problems and address the circumstances from a medium to long-term perspective.

6.73 Information on strategic actions relating to capacity issues has recently been forwarded to audit by the Department.

6.74 The Government has recently announced, through its 1999-2000 budget, some specific measures relating to prison capacity and the management of prisons. In this regard, the *Budget Statement 1999-2000* referred to these measures in the following terms:

“Over the past 3 years there has been a significant increase in the overall prisoner population within Victoria such that prisoner numbers have reached or exceeded prison accommodation capacity. The challenge for Victoria is not only to meet the current demand but also to respond to the underlying causes of the problem and develop a long term strategy.

“In response to this challenge an innovative and comprehensive strategy has been developed by the Department and supported with budget funding. An additional \$6.7 million will be provided in 1999-2000 to fund:

- *expansion of prison capacity;*
- *piloting of diversion programs to provide further alternatives to prison; and*
- *substantial enhancement of the programs provided to offenders, particularly drug treatment and rehabilitation.*

“New streams of management and programs will be introduced catering for the changing mix in the prison population. Smaller units with intensive programs are being designed to break the cycle of re-offending. Pre-release programs that attempt to focus on establishing link with the community will also be facilitated.”

6.75 The *Treasurer’s Speech* on the 1999-2000 budget indicated that the financial commitment to cater for the growth in prisoner numbers was a further \$19 million over 2 years.

6.76 The budget papers do not provide any information on the nature (for example new or portable buildings) and number of additional prison beds across the prison system. However, the Minister has recently announced that the prison capacity will be increased by more than 300 beds with an injection of \$49.5 million over the next 3 years.

6.77 As mentioned in an earlier paragraph, if the prisoner population continues to rise at the current rate, prisoner numbers are likely to increase by around 600 over the next 5 years. This situation reinforces the importance of effective outcomes from the Treasurer's budget announcement concerning the allocation of additional funding for piloting of diversion programs to provide further alternatives to prison.

ADEQUACY OF SECURITY CLASSIFICATION AND PLACEMENT DECISIONS

6.78 As pointed out in the earlier paragraphs of this Part of the Report, the prisoner management function commences with an initial detailed assessment and the reaching of some key decisions by the Sentence Management Unit within the Commissioner's Office on:

- a prisoner's security classification (3 classifications, namely, maximum, medium and minimum are utilised within the system);
- creation of an individual management plan for the prisoner including consideration of any special needs of the prisoner, e.g. a special protection requirement; and
- optimum placement of the prisoner to a selected prison based on the 2 prior decisions.

6.79 This comprehensive assessment by the Sentence Management Unit encompasses consideration of, but is not limited to, the following prisoner-related factors:

- age;
- length of sentence;
- socio-economic background;
- medical history and any current needs;
- substance abuse history (if any);
- maintenance of family ties;
- work history and level of education; and
- nature of offending behaviour.

6.80 In addition to the above tasks undertaken on entry of a prisoner into the system, the Sentence Management Unit has responsibility for the ongoing monitoring of the prisoner management process (including decisions on subsequent placements) throughout the term of the prisoner.

6.81 The latest draft of the Sentence Management Policy Manual (dated November 1998) provided to audit shows that the Sentence Management Unit had a staff of 18, with 4 positions funded from sources other than the Commissioner's Office. The Unit's key functions and procedures dealing with the supervision of matters relating to prisoner management within the system are documented in this draft manual. As at 26 March 1999, the manual was still in draft form and yet to be approved by the Commissioner.



6.82 The Unit processes approximately 4 000 initial assessments each year on arrival of prisoners in addition to a multiplicity of ongoing assessments associated with prisoner management during the term of prisoners.

6.83 A further function of the Unit involves co-ordination of emergency movement of prisoners following any serious incidents in prisons. For example, after the March 1998 disturbance at Port Phillip Prison, 48 cells were deemed unusable by the Commissioner’s Office and 30 prisoners had to be urgently moved to Barwon Prison which in turn led to further movement of prisoners (an additional 70) across the system.

6.84 In order to adequately support achievement of the Government’s correctional objectives, the prisoner management function should incorporate an assessment process which accurately identifies prisoners’ needs in order that the placement of prisoners and their subsequent management can, as far as practicable, reflect such needs.

6.85 It is clearly not reasonable to expect that all needs of all prisoners can be met at all times. In this regard, the policy manual indicates that sentence management activities form part of a process of “... *identifying and matching the security and management risk and program needs of individual prisoners to available resources. It is a process of balancing security risk, management concerns, needs of prisoners, the need of the public for protection and the efficient and effective operation of the prison system*”.

6.86 Audit examination of this aspect of the Unit’s operations found that prisoner needs were strongly considered during the assessment process and in reaching initial placement decisions. However, audit also found that the following factors are present within the system and can adversely influence the Unit’s placement decisions:

- the previously described system capacity pressures which mean that bed availability can influence a prisoner’s placement; and
- informal practices influencing the assignment of security classifications to prisoners entering the system.

Impact of using informal security classifications

6.87 In addition to the above matter concerning protection prisoners, audit considered that there were specific problems arising from the Unit’s use of a long established practice under which remanded and newly sentenced prisoners are classified as maximum security, irrespective of the outcome of the initial assessment of their backgrounds. The practice provides for many prisoners, after sentencing, to automatically serve the first one-third of their sentence as a maximum security classified prisoner.

6.88 This approach is followed for 2 principal reasons that prisoners at this stage are largely not known to the system and to ensure they do not progress too quickly to the medium and minimum security classification stages. In the case of remandees, the adoption of this practice means that all prisoners are mixed together irrespective of their backgrounds.

6.89 The application of this policy has a specific impact in terms of prisoners placed at Port Phillip Prison. That prison does not segregate its remanded and sentenced prisoners, nor its maximum security and medium security prisoners. This practice affects the ability of the Commissioner to guarantee the safety and welfare of prisoners within the prison. Additionally, the needs of prisoners may not be met given that minimum and medium security prisoners are accommodated in a maximum security environment with restrictions that may not be commensurate with the security ratings assigned to them.

6.90 Such a practice is not consistent with the Standard Guidelines for Corrections in Australia which state that “... *where practicable remand prisoners must not be put in contact with convicted prisoners against their will ...*” or the Commissioner’s Standards for Men’s Prisons in Victoria which identify that “... *remand prisoners who are not also serving a sentence of imprisonment must be kept separate from sentenced prisoners (where possible)*”.

6.91 With an approach of this nature, there is limited opportunity for a prisoner to be initially classified at a lower level, irrespective of the nature of the committed offence or personal characteristics of the prisoner. The reason for this situation, according to advice provided to audit by the Director of the Sentence Management Unit, is that there are more places available in the system at the maximum security level than at the medium security level, so the emphasis is on keeping the maximum security beds full and taking the pressure off the medium security beds, which are not enough in number to cope with the system’s demand.

6.92 Furthermore, the Department advised audit that the State’s prison system experiences a recidivism rate of 70 per cent, i.e. 70 per cent of prisoners entering the system have previously been convicted of a crime. The established classification practice therefore essentially ignores existing knowledge of the prisoner.

6.93 The Unit’s Sentence Management Framework establishes the policy setting for classification of prisoners and states that “... *each prisoner will be classified to a prison consistent with his or her security rating, taking into consideration any special needs and/or prisoner management concerns*”.

6.94 It is evident, therefore, that the use of this informal approach to security classifications has led to a departure from the formally documented procedures as a consequence of factors which can be linked to the capacity pressures of the prison system.

6.95 In making the above comment, it is important to recognise the existence of system capacity influences on decision-making and that at times it becomes necessary to depart from prescribed procedures. Audit has suggested to the Department that, when experiencing such circumstances, there would be merit in ensuring that, as a minimum, assigned security classifications be based to the degree possible on the assessment of the prisoner’s background. If, because of capacity factors, the initial placement is not directly in line with this classification, there should be sufficient flexibility within the system to enable re-placing of the prisoner if there is a subsequent alleviation of capacity pressures.



6.96 In any event, it was evident to audit at the time that the Department needed to reassess the appropriateness of its classification and placement strategies in order for it to be fully satisfied that the assessment and placement of each new prisoner into the system reflect the true nature of the risk to the system posed by that prisoner.

Appropriateness of prisoner placements

6.97 To assist in forming a view on the appropriateness of placement decisions made by the Sentence Management Unit during the term of prisoners, audit sought the following information from the Unit on the number of:

- complaints formally received or questions raised during the financial year 1997-98 by prisoners and prison operators, respectively, concerning placement decisions; and
- placement decisions reversed during this 12 month period.

6.98 The Sentence Management Unit advised audit that it does not collect this information. Audit considers there would be merit in the periodic compilation of such data as one means of assisting the Commissioner’s Office in forming a view on the soundness or otherwise of decisions reached in the placement of prisoners.

6.99 The Unit’s *Sentence Management Framework* states that “... each prison is ascribed a security level, which reflects the type of accommodation, physical security and type of management regime. Locations may only accommodate prisoners of an equivalent or lower security rating”.

6.100 On the other hand, the Commissioner’s standards for the prison industry specify that all prisoners within the system must be “... placed within a prison according to their legal status and security ratings and prisoners must be placed within prison at the lowest security rating for which they qualify”.

6.101 The question of a conflict between the framework and the standards has been raised by audit with the Commissioner. Under the framework, a prison designated to accommodate maximum security prisoners can receive medium or minimum security prisoners. In contrast, the Commissioner’s standards for the industry preclude placement of prisoners to prisons with a security rating higher than that assigned to the prisoner, e.g. the placement of a medium security prisoner in a maximum security prison. In audit opinion, action should be taken to address this conflict.

6.102 During the course of the audit 2 instances were identified where the underlying circumstances suggested that optimum placements of prisoners had not occurred. These instances are summarised below:

- *Barwon Prison, a maximum security facility* - The prison’s June 1998 prisoner listing showed that of the 256 prisoners situated at Barwon, 155 or 60 per cent of prisoners were classified as medium security prisoners. The Sentence Management Unit advised audit that an unspecified proportion of these prisoners had been placed at Barwon to access methadone treatment because such treatment was not available at medium security prisons. Since that time, a methadone program has commenced at Fulham Correctional Centre which provides a placement option for medium security prisoners requiring such a program; and



- *Won Wron Prison, a minimum security prison farm* - During the period March to May 1998, 4 prisoner escapes occurred from this prison (15 March 1998, involving 2 prisoners, 24 April 1998, 1 prisoner and 12 May 1998, 1 prisoner). The circumstances relating to the escape of 2 prisoners on 15 March 1998 were examined by a special review team within the Commissioner’s Office which recommended that the decision to place the prisoners at Won Wron should be reviewed by the Director of the Sentence Management Unit. There was no evidence available to indicate whether a review by the Director had actually taken place.

Memoranda from the General Manager, South Eastern Region Prisons to CORE’s Director of Prison Services in response to the 2 escapes of 24 April 1998 and 12 May 1998 conveyed the view that in both cases the prisoners who escaped had been inappropriately placed at the minimum security prison. In relation to the escape of 24 April 1998, the Manager’s memorandum stated that the prisoner had been implicated only 4.5 months prior to his transfer to Won Wron in an attempted escape and that it was “... *very evident that he was inappropriately placed at a minimum security prison ...*”. In the case of the escape of 12 May 1998 the General Manager stated in another memorandum that “*Sentence Management have noted in successive interviews that the prisoner would require close supervision and monitoring at all times ... notwithstanding this [the prisoner] was seen to be suitable for an open camp placement where such close supervision could not be provided*”.

6.103 As identified by audit in Part 5 of this Report, 51 of the 54 escapes from the Victorian prison system during the 3½ year period July 1995 to December 1998 were from minimum security prisons. The audit comments in that Part indicated there is scope for the Commissioner’s Office to examine the question of why there is such a high rate of escapes from minimum security prisons.

Importance of recent initiatives taken by the Commissioner’s Office to provide greater assurance on the soundness of placement decisions

6.104 The importance of greater accountability and transparency in sentence management decision-making was recognised in the April 1998 report by the consultant (mentioned in earlier paragraphs) engaged by the Commissioner to examine the operations of the Sentence Management Unit. The report stated that “... *sentence management and decision making and assessment processes need to be more accountable and transparent to ensure the OCSC [the Commissioner’s Office] responsibilities for duty of care to prisoners and impartial treatment of providers are able to be met and that stakeholders can have confidence in the integrity of the decision making processes*”.

6.105 The specific findings of the consultant in this subject area were:

- “*Sentence management decisions are not routinely randomly monitored from within the Unit;*
- “*Monitoring is confined to the occasions on which an inquiry is made concerning a particular decision;*



- *“Random monitoring of decisions should be undertaken by the Manager of the Sentence Management Unit for internal control and staff development purposes;*
- *“Security rating and placement decisions cannot meet policy standards. It cannot be demonstrated by the process adopted and the information recorded that decisions are consistent, fair, open, impartial, criterion based and accountable. As such they may not stand scrutiny in the event that these decisions are challenged;*
- *“The current practice of interviewing alone on some occasions and lack of weighted criteria, combined with the limited documentation, creates a situation in which allegations of corruption would be difficult to refute; and*
- *“In the case of contentious decisions it is necessary that there is clear evidence to support decisions”.*

6.106 In effect, corrective action by the Sentence Management Unit to improve documentary evidence to support classification and placement decisions and to provide for more structured monitoring of such decisions was necessary in order that it could demonstrate its decision-making reflected the principles of impartiality, openness, consistency, accountability, individual focus and fairness.

6.107 In addition, the identified lack of adequate monitoring processes creates doubt as to whether all prisoners are appropriately placed within the prison system and could prejudice achievement of the Government’s principal policy objectives for prisons. It could also lead to a lack of confidence by prison operators in the rigour and integrity of the placement process.

6.108 It was pleasing therefore to find, at the time of the audit examination, that the Sentence Management Unit had embarked on 2 initiatives to address this important element of its responsibilities, namely:

- development of a Criterion Based Decision Making Tool; and
- establishment of internal monitoring procedures for the review on a random basis of classification and placement decisions.

6.109 The Criterion Based Decision Making Tool is a documented point scoring system for assigning security classifications and identifying the resultant optimum placement of prisoners. The Tool gives weightings to such factors as current offence severity, length of remaining sentence, a prisoner’s escape and attempted escape history, institutional disciplinary history and prior convictions (most serious offences).

6.110 In discussions with audit, the Unit’s Director advised that use of this initiative should improve the accountability and transparency of decision-making. The Director indicated that a working party, incorporating representatives of each prison operator, was established in September 1998 to refine the new approach and trial its application, with an intention of implementing a fully developed tool by the end of February 1999. It is understood that trialing is still in place.

6.111 The Director also informed audit that the specific reasons for assigning a particular security classification and for placing a prisoner to a particular prison were, under revised procedures, now required to be documented on file. This action will facilitate implementation of the Unit's second initiative, the establishment of random internal monitoring of classification and placement decisions.

6.112 While audit supports the implementation of these internal initiatives, there would be benefit in the Commissioner arranging for some form of external scrutiny, on a selective basis, of classification and placement decisions reached by the Sentence Management Unit. Such an approach would complement the internal monitoring strategies and help to reinforce the external accountability obligations to the industry, the Parliament and the community associated with these decisions.

6.113 An external monitoring option, suggested by audit to the Commissioner, involved the creation of a special review panel, comprising 1 or 2 specially qualified external parties and a representative of the Commissioner's Office and of each prison operator, to periodically review selected classification and placement decisions. A further option could be to appoint a process probity auditor to monitor compliance with prescribed procedures in the reaching of classification and placement decisions.

NEED FOR EFFECTIVE USE OF INFORMATION IN MANAGING CASE PLANS

6.114 The Commissioner's Office is *inter alia* the key repository of data in relation to the prisons system and as such its management information systems must be sufficient to ensure that relevant information is recorded efficiently and complete and accurate data can be accessed by key users.

6.115 As mentioned in Part 5 of this Report, the Office's prisoner information database, the Prisoner Information Management System known as PIMS (introduced in 1984), is the principal information facility within the prison system. PIMS receives data input by both the Commissioner's Office and prison operators relating to those critical factors which must be considered during the course of a prisoner's sentence such as, progression through education and rehabilitation programs and changes in prisoner classification and placements etc.

Action in train to enhance the technological status and capability of the prisoner information management system

6.116 The previously mentioned April 1998 report of the consultant engaged by the Commissioner drew attention to the need for action to improve the technological capability of PIMS.

6.117 A major finding of the consultant was that "... *the technology available to the staff [in the form of PIMS] is not adequate to enable them to carry out their roles in a sufficiently efficient and comprehensive manner. Real gains for both the OCSC and the provider can only be made through addressing the limitations of the information technology system [PIMS] and access to additional computer technology*".



6.118 In earlier paragraphs, audit commented on difficulties experienced by the Commissioner’s Sentence Management Unit with PIMS in:

- accessing basic prisoner information; and
- identifying trends and changes in the prisoner population.

6.119 Following receipt of the consultant’s April 1998 report the Commissioner’s Office determined to engage a second consultant to identify “... *management information needs of the OCSC and other key stakeholders and how they may be satisfied with the existing IT and data systems. Against a framework of (a) short term needs and (b) medium to long term needs, the existing systems are to be reviewed to determine whether the systems should be enhanced beyond the medium term or replaced with other technology options*”.

6.120 The consultant’s report presented to the Commissioner in September 1998 concluded that “... *the systems were never designed to be an all encompassing management information system for the corrections environment. PIMS and OASIS [this later system is used for community-based corrections services] were developed around the statutory and operational responsibilities of the day and were not designed to support the requirements of a multiple provider environment*”.

6.121 The consultant presented a number of options to the Commissioner’s Office for upgrading the usefulness of its management information processes, including the feasibility of automating all or part of the prisoner individual management plans.

6.122 This area was also commented upon by the Victorian Correctional Services Task Force which recommended that the “*Department of Justice should develop as a matter of urgency an electronic system for the maintenance and transfer of prisoner records and modify the Individual Management Plan system accordingly*”.

6.123 It was not clear from the information provided by the Department to audit whether significant progress has been made in enhancing, through the use of modern information technology, the prisoner management information system. In audit opinion, the Department should ensure that leading edge technology is applied to its information systems relating to prisons as soon as possible.

Nature and importance of individual management plans for prisoners

6.124 The initial paragraphs within this Part of the Report outlined the steps within the prisoner management process and identified that the Sentence Management Unit establishes an individual management plan (IMP) file for each new prisoner following its initial assessment and assignment of a security classification to the prisoner. When a prisoner is transferred to a prison selected by the Sentence Management Unit, the relevant IMP file is passed to the particular prison operator for designation of a case manager to manage the prisoner’s individual plan. In essence, the IMP file is the key operational tool supporting the management of individual prisoners as they proceed through their prison term.

6.125 Within the IMP process, prison operators have the important responsibility of ensuring that information pertaining to a prisoner's individual needs, circumstances (including movements between prisons) and progress during the sentence period is adequately recorded and kept up-to-date within the prisoner's IMP file. The service delivery outcomes for each prison operator under the contractual agreements require that all IMP files must be kept up-to-date at all times, an area which is subject to periodic monitoring by the Commissioner's Office.

6.126 Each prison complements the groundwork laid by the Sentence Management Unit in the initial assessment phase through its management of individual prisoners. In effect, each IMP file represents the vehicle through which all relevant information relating to a prisoner is accessible to prison operators, members of local Review and Assessment Committees formed within prisons and staff of the Commissioner's Office.

Assessed quality of IMP files

6.127 The April 1998 report of the consultant engaged by the Commissioner stated, in relation to IMP files, that:

- *“The OCSC Unit and provider staff are dependent on the comprehensiveness, accessibility, timeliness and accuracy of information recorded on the IMP files when making decisions about the future program, security rating and placement of a prisoner;*
- *“Random reviews of these files indicated that it is often difficult to locate information on the file;*
- *“A typical file comprises papers not easily differentiated from each other. The information is entered in hand writing, not necessarily easily deciphered and paperwork relating to earlier sentences not necessarily separated;*
- *“This results in inefficiencies in accessing all relevant information prior to any review and in the day to day management of prisoners;*
- *“The problems are both structural and related to differing management attitudes concerning the use of files; and*
- *“It is the assessment of the consultant that the structure of the IMP files does not lend itself to efficient access to information”.*

6.128 Following identification of these many shortcomings, the consultant recommended that a working party comprising representatives of the Commissioner's Office and prison operators be formed to review the structure and content requirement of IMP files and propose a revised file management framework.

6.129 The consultant also recommended that the identified weaknesses with IMP files be addressed as priority issues in order to increase the capacity of the Sentence Management Unit to adequately discharge its responsibilities in this area.



6.130 Subsequent to the consultant’s report, in July 1998, the Commissioner established a sentence management working party, comprising representatives of the Commissioner’s Office and prison operators. The objectives of this working party were to consider the following specific recommendations presented by the consultant concerning the sentence management area:

- “revise the initial risk/needs assessment;
- “create a revised social history interview;
- “determine the structure and content of individual prisoner files required to support the sentence management function; and
- “determine a case plan structure”.

6.131 The Department has not provided any information to audit on the extent of progress which has been achieved by this working party since its establishment in July 1998.

6.132 A further indication of concerns in relation to the quality of individual management plans for prisoners can be gleaned from the November 1998 report of the Victorian Correctional Services Task Force. This Task Force was appointed by the Minister on 31 August 1998 to review suicides and self-harm in Victorian prisons.

6.133 On the subject of IMPs, the Task Force quoted advice from the then Acting Commissioner as follows “... there is no discipline across the system in the implementation of individual management plans (IMPs) for prisoners. He indicated the Sentence Management Unit (SMU) is hamstrung by an outmoded psychiatric alert system which retains prisoners at Melbourne Assessment Prison and results in there being only 80 usable beds. Yet no decisive action has been taken to rectify these shortcomings”.

Issues arising from audit examination of IMP files

6.134 From the time when an IMP file is established for a new prisoner by the Sentence Management Unit, it is structured according to a standard format for use in relation to that prisoner across the system. In addition, the Commissioner’s Office has established *Minimum Standards for Transfer for IMP files* which establish the extent of information which must be recorded on IMP files when a prisoner (and the relevant file) is transferred from one prison to another within the system. These standards are designed to ensure that the movement of critical information relating to a prisoner’s progress against the IMP is managed on a consistent basis and in a manner which does not adversely impact on the achievement of the prisoner’s rehabilitation goals.

6.135 Notwithstanding the importance of such standards, the Commissioner’s Office had not, at the time of the audit examination, issued guidance to prison operators in the form of minimum case management standards.

.....

6.136 The Victorian Correctional Services Task Force also mentioned the fact that Victoria does not have a specific case management policy or case management standard. The Task Force commented in its report to the Minister that “*Rather, case management is a general facet of prisoner management which providers are expected to undertake within their institutions. Accordingly providers approach case management from various perspectives.*”

6.137 The absence of specific case management standards was reflected in the results of the examination of IMP files undertaken by audit. In this regard, audit examined a randomly-selected sample of IMP files at the 3 private prisons and at Barwon, Dhurringile and Loddon prisons within CORE. This examination identified:

- a number of instances where information critical to effective management of prisoners was not recorded on files;
- IMP files at Port Phillip, Barwon, Dhurringile and Loddon prisons did not contain up-to-date information on a prisoner’s progress against the individual management plan;
- few files at all 6 prisons contained evidence that an assessment of the educational status and future educational needs of prisoners had been undertaken and used in the management of the case;
- most files examined at Port Phillip Prison contained little information on the outcomes of the meetings of its local Review and Assessment Committees in relation to individual prisoners; and
- many files at all 6 prisons contained file notes which were illegible, undated or unsigned and file entries either unnumbered or not in chronological order, which raised doubts as to the completeness and accuracy of all recorded information.

6.138 With regard to the first point mentioned above, the following 4 examples illustrate the significance of some of the information found to be missing from particular IMP files:

- a prisoner with epilepsy did not have this noted on his IMP file,
- a prisoner with a psychiatric history did not have this noted on his IMP file,
- a previously suicidal prisoner was not noted as such on his IMP file; and
- a prisoner’s reception form stated that he was taking major psychiatric medication but this was not noted on the IMP file.

6.139 While pointing out the above shortcomings, it is appropriate for audit to recognise some positive initiatives taken at particular prisons to improve the overall quality of IMP files. For example, Fulham Prison has introduced a checklist to be completed by the manager of each section of the prison as a control measure for ensuring that the IMP adequately addresses all identified rehabilitation needs of a prisoner. Also, at Dhurringile and Fulham Prisons, it was pleasing to find that most files showed evidence of regular review by program or senior custodial staff.



6.140 In addition, CORE is involved with Swinburne University in a collaborative action research project which is aimed at developing a case management system to be used as the major process by which prisoners are managed. The Victorian Correctional Services Task Force indicates that this research project is exploring 2 areas which it described as *“First, in contrast to case management in the health field, case management in correctional settings does not necessarily meet the assumptions of willing participation by those being managed. Second, security tasks must be balanced with prisoner assessment, monitoring, service brokerage and advocacy which raises boundary management dilemmas for correctional officers and confusion in the minds of some prisoners.”*

6.141 Audit strongly suggested to the Commissioner’s Office, following completion of its examination of this area, that priority be given to the development and adoption of case management standards for use within the prison system. Such standards should ideally encompass:

- clear articulation of the steps necessary for a soundly-based initial risk assessment of new prisoners;
- the need for development of prisoner case plans which identify prisoner needs and action required to address the rehabilitation goals of the prisoner and manage the prisoner’s welfare and protection;
- the specification of core competencies required of prison staff in fulfilling the role of case managers;
- the manner in which information is to be recorded within IMP files so that the files consistently represent a well structured record of objectives specified in each case plan and the status of progress against these objectives; and
- the specific responsibilities of Review and Assessment Committees within prisons in relation to the monitoring of each prisoner’s progress against his or her case plan and to the identification of any necessary variations to the plan.

6.142 The formulation of case management standards would help to provide assurance that all management functions associated with this most critical element of prison operations are carried out on a consistent basis and in accordance with established quality and timeliness yardsticks.

THE IMPORTANCE OF EFFECTIVE PROGRAMS AND REVIEW MECHANISMS TO SUPPORT THE PRISONER MANAGEMENT FUNCTION

6.143 As explained in previous paragraphs, responsibility for a prisoner’s management moves to the respective prison operator after placement by the Sentence Management Unit to a selected prison.

6.144 In addition to the work of designated case managers relating to individual management plans, the management of prisoners at each prison involves 2 main elements:

- the use of prisoner programs which are the primary means by which prisoners can address their rehabilitation goals; and
- the work of Review and Assessment Committees in periodically reviewing progress by prisoners against plans and established programs.

6.145 In terms of the role of the Commissioner’s Office, the Sentence Management Framework provides for monitoring by the Sentence Management Unit of decisions reached by the Review and Assessment Committees.

Prisoner development programs in prisons

6.146 Because prisoner programs are the primary means by which prisoners are able to address their rehabilitation goals, it is obviously critical that quality prisoner programs providing opportunities for prisoner development are in place and there are mechanisms within the system to ensure that programs are adequately evaluated by prison operators as well as by the Commissioner’s Office.

6.147 Under the contractual agreements, all prison operators are required to deliver a range of programs which address a variety of prisoner needs. The Victorian Correctional Policy and Management Standards, formulated by the Commissioner, requires the prison operator to ensure that “... prisoners have access to skills development and therapeutic programs that are based on research and proven methods and that address issues relevant to the life experiences and histories of offending of prisoners”. The agreements also obligate operators to provide “... a range of facilities, Programs, educational and training courses relevant to the needs of Prisoners including those with special needs such as non-English speaking Prisoners and Prisoners with disabilities ...”.

Scope for upgrading effectiveness of programs at local prison level

6.148 The audit examination of programs managed at the local prison level showed that a range of prisoner development programs are delivered focusing on anger management, alternatives to violence, recreation and other personal development needs. Audit considered that the processes relating to program development, delivery and evaluation at the local level in prisons were generally unsophisticated with little change in the profile of local prison programs over the past 10 years, notwithstanding the participation of private operators in the system.



6.149 With the exception of Fulham Correctional Centre and the Metropolitan Women’s Correctional Centre, audit did not find any evidence to indicate that the content of programs was directly linked to prisoner needs which had been identified through initial assessments of prisoners on arrival in prisons, individual management plans, prisoner surveys and minutes of meetings held by Review and Assessment Committees.

6.150 Further, the internal evaluation of local prison programs mainly involves quantitative factors such as numbers of prisoners attending program activities or the number of program hours. The more significant qualitative outcomes expected from programs such as improved literacy and numeracy of prisoners have yet to be specifically addressed. In addition, the lack of meaningful evaluation of programs delivered at each prison means there is no information available on the effectiveness of programs in terms of their impact in assisting prisoners to address their offending behaviour.

6.151 In terms of external evaluation, the Commissioner’s Office has limited its focus to centrally determined programs such as the Drugs in Prison program which has been assigned a high priority by the Government. It has not conducted any detailed analysis of the outcomes generated by programs at the local prison level.

6.152 Audit also considers that the emergence of a competitive environment has contributed to the isolation of program staff within individual prisons as there is now little opportunity for the sharing of expertise and ideas between prisons. Meetings of program managers or other specialists such as psychologists do not occur and program managers are often marginalised from day-to-day prison management issues because of the specialised nature of their work.

6.153 An important consequence of this situation is that there is limited integration of programs across the public and private prison operators. In addition, there is little sense of a single system but more of a loosely connected group of operators working in isolation from each other.

6.154 The Victorian Correctional Services Task Force also commented on the fragmentation of the prison system. It stated in its report to the Minister that *“One of the most consistent concerns raised with the Task Force has been the degree to which the system has become fragmented as a result of multiple correctional and health providers. It is evident that tensions are arising from different provider approaches. It is apparent that integration of public and private prison operators has not fully occurred”*.

6.155 The Task Force also commented in relation to this subject that *“Opinions offered to the Task Force suggest that providers are somewhat unwilling to share information about their services for fear that a competitive edge will be lost. From this perspective the correctional system is unable to capitalise on the total intelligence potential of the system, thereby adversely affecting case management for prisoners”*.



6.156 As emphasised in an earlier paragraph, the prisoner management function constitutes a critical means by which the Government strives to achieve its high level objectives for the prison system. In turn, prisoner programs represent key avenues for providing opportunities for prisoner rehabilitation and facilitating reparation to the community, which are 2 of the Government’s principal expected outcomes from the system.

6.157 It then becomes logical to assume that, if programs are well structured in design and content and effectively meet the needs of individual prisoners, there is a greater likelihood that some prisoners will successfully rehabilitate and avoid re-entering the system.

6.158 It follows, therefore, that the Commissioner’s Office needs to urgently review the nature and quality of prisoner programs provided in each prison and to determine whether existing evaluation strategies, both internal and external to the prisons, are conducive to measuring the effectiveness of programs.

Review and Assessment Committees

6.159 The Commissioner’s Office has developed a draft *Sentence Management Policy Manual* which requires the establishment of a review and assessment committee by prison operators. A committee is responsible for the “... *monitoring of a prisoner’s progress and involvement of the prisoner in decisions that affect that progress whilst in prison*”. It also requires that the review and assessment committees must comprise no less than 2 members drawn from prison staff. Some of the specific responsibilities of committees include “... *but [are] not restricted to:*

- “*allocating a case worker for each prisoner transferred from another prison within 3 days of reception of the prisoner;*
- “*interviewing prisoners transferred from other prisons within 3 days of their reception to review the existing sentence plan provisions, determine the implementation of the identified program intervention requirements, identify additional needs and determine the appropriate management interventions to meet those needs;*
- “*reviewing the security rating, program participation and placement of all prisoners at least annually;*
- “*reviewing a prisoner at review dates nominated by a Sentence Management Panel for the reason(s) specified by the SMP; and*
- “*approving the lowering of a prisoner’s security rating by not more than one level from that last determined or endorsed by a Sentence Management Panel ...”.*

6.160 In addition to those matters requiring periodic scrutiny by a Review and Assessment Committee, a prisoner may at any time request a meeting of his or her prison’s Committee to address any issues which he or she wishes to raise for the Committee’s consideration.

6.161 Committees are empowered to furnish recommendations to the Commissioner’s Sentence Management Unit on any prisoner management issues requiring attention but falling outside the boundaries of a Committee’s responsibilities.

Quality of documentation to support decisions reached by Committees

6.162 In earlier paragraphs, audit has commented on the poor quality of key information recorded within IMP files and that often such information is either missing or difficult to identify and use for prisoner management purposes. With this position, audit considers that Review and Assessment Committees cannot effectively monitor the progress of prisoners against management plans.

6.163 While, as pointed out above, Review and Assessment Committees have both decision-making and recommending powers, audit found that it was very difficult to establish if Committee decisions and recommendations had been made on the basis of a systematic analysis and review of a prisoner’s circumstances. It was also evident from a sample examination of minutes of Committee meetings that decisions made by the Committees at various prisons were not always recorded on the relevant prisoner’s IMP file.

Lack of monitoring by the Sentence Management Unit of decisions reached by Committees

6.164 Given that decisions of the Review and Assessment Committees impact directly on prisoners, audit believes that such decisions should at least be randomly monitored by the Sentence Management Unit. Audit understands that, due to resourcing constraints and limitations of the prisoner information management system, the Unit has restricted its examination of tasks undertaken by Committees to recommendations submitted by Committees for ratification by the Unit.

6.165 In the absence of at least selective examinations across the system of the activities of Review and Assessment Committees, the Commissioner’s Office has not been in a position to be assured that decisions reached by Committees are soundly-based and contribute in a positive manner to effective rehabilitation of prisoners.

Comments on operation of Committees in April 1998 consultancy report

6.166 The April 1998 report by the consultant engaged by the Commissioner drew attention to inefficiencies in the Review and Assessment Committee process and recommended that:

- *“a formal case plan be developed and maintained on PIMS;*
- *“Current Review and Assessment Committees be known as Case Management Development and Review Teams to more accurately reflect their role in developing and supporting the management of prisoners’ program participation;*
- *“The Case Management Development and Review Team should comprise, at minimum;*
 - *Correctional Management Representative;*
 - *Programs/Education/Psychologist Representative;*
 - *Case Worker;*
 - *Industries/Employment Representative.*
- *“The Case Management Development and Review Team should adopt a Case Conference approach to developing and reviewing case plans;*



- *“The proposed process needs to provide for specified review periods for those prisoners:*
 - *undergoing sentences of 12 months and less - 4 monthly;*
 - *undergoing sentences of more than 12 months - 6 monthly.*
- *“Reviews of case plans by Case Management Development and Review Teams should include:*
 - *review of progress toward objectives during the period of review of security rating; and*
 - *determination of interventions required and program participation for the subsequent review period.*

Comments on Committees in November 1998 Ministerial Task Force report

6.167 The November 1998 report of the Victorian Correctional Services Task Force (which reviewed suicides and self-harm in prisons) included comment on review and assessment committees and the role of the sentence management unit in this process.

6.168 The Task Force commented that *“Currently RACs are focussed on administering local prison matters such as changes in work assignment and processing prisoner applications for reclassification. RACs do not monitor case progress. Indeed the Task Force has been advised that at some prisons the RAC does not even see the prisoner in person. The Task Force is of the view that the RAC, or a case management working committee reporting to the RAC, should always see the prisoner”*.

6.169 The Task Force further commented *“Furthermore the SMU should be responsible for chairing all RACs, ensuring that they are properly constituted with multi-disciplinary staff relevant to a prisoner’s case management plan and for monitoring the implementation and subsequent discharge of the case management plan where the prisoner is released or transferred”*.

Urgent need for corrective action

6.170 It was clearly evident, at the time of the audit examination, that urgent corrective action by the Commissioner’s Office was necessary to upgrade the effectiveness of the role of review and assessment committees and the Office’s related monitoring work in the prisoner management function.

6.171 The need for remedial action for this critically important element of prisoner management has been reinforced by the additional criticism made in the Ministerial Task Force report.



□ **RESPONSE** provided by Secretary, Department of Justice

Sentence Management

The Sentence Management function is recognised by the Commissioner as a critical systemwide function. It is a highly skilled and professional function undertaken in an environment in which the competing complexities of the system and the individual must be met. While the Commissioner welcomes the attention given to this function by audit, it is disappointing that the report fails to recognise that a fundamental responsibility of the Sentence Management Unit is to achieve an appropriate balance between individual and systems needs.

The Department believes that several of audit’s proposals run counter to contemporary correctional practice, are regressive in nature and do not reflect best practice.

For example, the argument that security ratings should be the primary determinant of placement and that prisoners who present differing levels of risk should not be held in the same facility at any time is not reflective of contemporary practice. The Commissioner has actively sought to develop multi-purpose prisons operating flexible regimes which enable effective management of a range of prisoner types and security ratings to be held in a single facility, based on experience which demonstrates that multi-purpose prisons increase the capacity to meet the prisoners’ needs and are more cost-effective for the community.

For similar reasons, it is not consistent with accepted correctional practice to assert, as audit has done in paragraph 6.30, that prisoners who are seen as vulnerable, but are not intellectually disabled as such, should not be held with prisoners who are intellectually disabled. There will be occasions where such a placement will be the best available option for such prisoners.

The placement of prisoners is necessarily limited by the range of available facilities. There will never be sufficient placement options to cater to the precise needs of every prisoner, for the simple reason that every prisoner is different. There will always be borderline cases requiring a difficult decision between two or more placement options. In cases such as the example given above of vulnerable prisoners of low intellectual ability, the option which minimises prisoner vulnerability is to be favoured.

The Commissioner acknowledges the need for continual review and refinement of sentence management processes. In doing so it is recognised that sentence management decision making processes must be, and are, independent of providers, while at the same time actively consulting and working co-operatively with both public and private providers to enable the Unit to take a ‘whole of system’ approach.

This co-operation extends from day to day interaction concerning individual prisoners to industry wide forums involving all providers, at which systemwide sentence management issues are addressed, including future capacity issues.

The Commissioner has sought to implement best practice in the Office’s sentence management processes as a result of these continual processes of review and adjustment to accommodate new and changed circumstances. It is unfortunate that the report does not adequately reflect the current reality of high levels of positive work with providers and development of best practice initiatives.

□ **RESPONSE** provided by Secretary, Department of Justice - continued

Initiatives during audit's investigations have included the presentation of a sentence management Issues Paper to a Corrections Industry Forum comprising public and private sector management. This paper ranged widely from assessment process issues to broader systems configuration matters and saw active and collaborative interaction between the different providers and the Commissioner in debating issues and evaluating new approaches.

A multi-provider working party has developed an electronic case management plan prototype. Implementation of this initiative will address many of the issues raised by audit concerning transparency of decision making, transfer of information between providers and enhancement of prisoner case plan implementation and review.

Regular complex case reviews are undertaken with experienced practitioners, as are intermittent reviews of sentence management practitioner decisions, with the results of these reflective practices informing the Commissioner's continual improvement approach to all aspects of the Office's operations.

In summary, the Commissioner has made significant improvements to sentence management practices since the introduction of the multi-provider environment, its processes being enriched by the alternative viewpoints and differing experiences of all providers.

Strategic planning

Audit's assertion that planning undertaken by the Department is insufficient to predict future capacity requirements does not give adequate recognition to the large volume of work that was undertaken by the Department in its submission to the Budget and Expenditure Review Committee of Cabinet in respect of the year 1999 - 2000. This submission was based on projections of future growth in the prisoner population, together with an analysis of the characteristics of the recent growth, that is the offending behaviour characteristics of prisoners.

These prisoner projections will govern development of the planned expansion of the correctional system. Further, the degree of planning has been sufficient to secure significant Government support for diversionary programs and a range of other program-based initiatives, with the central aim of stemming the growth of prisoner numbers.

It is worthy of note that this growth in prisoner numbers is an Australia-wide phenomenon, in which Victoria is experiencing a relatively minor population increase. In Queensland alone, for example, 60% of prisoners are currently being accommodated in a double bunking situation and the authorities in that State are presently embarking on an expansion program for 1,800 new prison beds.



□ **RESPONSE** provided by Secretary, Department of Justice - continued

A key priority for the Commissioner is to provide a specific focus on business planning and strategic development for the correctional services system in Victoria. This strengthening of capacity within the Office will, inter alia, address: improved service demand analysis and modelling; better and more flexible configuration and utilisation of prison capacity; and an ongoing program of innovation. Key current initiatives include:

- improved collation and analysis of service demand data and indicators, and demand modelling. This will improve identification and analysis of actual demand and trends, projections of demand and its components into the short-to-medium term, and modelling of projections by the inclusion of qualitative information. This will be built upon existing Victorian systems and approaches but will be informed by interstate developments and experience and national initiatives, including current moves for the development of a co-ordinated Commonwealth, States and Territories approach to criminal justice system modelling;
- co-ordinated analysis of the business processes of the broader correctional system and a logistical analysis of prison capacity management to meet general demands and specific prisoner group needs. This will support both the current expansion of prison system capacity and its more flexible configuration and improved utilisation in the future. This analysis will be undertaken with the clear recognition that prison capacity should meet specific requirements of the prisoner population (eg, protection, acute psychiatric) in addition to general capacity requirements. However, as with changes in general demands upon capacity, these special requirements will vary significantly over time, and the configuration of prisons must be flexible to respond to these changes; and
- identification, piloting and evaluation of innovative custodial options and diversion initiatives, with implementation on a broader scale for those options and initiatives which prove to be effective. These options and initiatives will generally target the needs and problems of specific offender groups, including emerging problem groups, while implementing the sentences of the courts and ensuring the protection of the community.

Escapes from prison

The Commissioner acknowledges audit's concern about the recent increase in escapes from minimum security prisons. This is not an issue which is unique to Victoria. While Victoria's escape rate from open custody was significantly higher than the national level for 1997-98 (6.10 per 100 prisoner years compared with 3.22 at the national level), it was still well below the rate for Western Australia (7.50). In the preceding four years, Victoria's rate was consistently and significantly below the national level. Nevertheless, the Commissioner in no way wishes to underplay the seriousness of escapes from prison, irrespective of a prison's security rating.

□ **RESPONSE** provided by Secretary, Department of Justice - continued

Use of information technology

The Criminal Justice Enhancement Program (CJEP) was established by the Department in early 1999 to implement key recommendations arising from the Pathfinder Stage 2 Report, and funding of \$14.5m has been provided for implementation of this program over the next three years. The Commissioner's Office will be a key participant in this process.

The vision of the CJEP is to improve key business processes across the criminal justice system, including Corrections, in a way that will enhance interaction between agencies and the effectiveness of the system as a whole. Central to this vision is the notion of a 'shared criminal justice environment' in which agencies co-operate in exchanging key information for which they have a common use.

CJEP will include functions to facilitate the capture and retrieval of information about accused persons relevant to their management and care, from when a charge is laid to the completion of any order relating to the prisoner/offender.

Part 7

Contractual framework

OVERVIEW

7.1 The introduction of prison industry reforms within Victoria has resulted in a purchaser/provider relationship between the Government and a number of public and private sector providers. The relationship is supported by contractual agreements and a contract administration framework.

7.2 Within the arrangements the Government retains the ultimate social responsibility to the community for the operation of the prison system and duty of care to prisoners. However, in line with one of its reform objectives, the Government has been able to transfer significant financial risks to the private sector. Certain operating risks have also been transferred by placing the onus on contractors to provide services which meet the Government's standards. The agreements with contractors provide the Government with wide access and monitoring rights and a number of options where the services delivered are not in line with specified standards.

7.3 Despite these strengths, certain provisions within the agreements work against the delivery of high quality services. In particular, service delivery outcomes used as a basis for paying contractors performance-linked fees, are deficient in that they were developed on the basis of outcomes achieved in outdated prisons identified for replacement. They are also primarily quantitative in nature, do not address some key areas of prison operations and focus attention on short-term achievements. These shortcomings, coupled with provisions which enable performance-linked fees to be paid, even where outcomes have been only partly met, do not encourage service excellence. These issues will need to be considered at the time new agreements are negotiated. In the interim, a major challenge for the Government is to more effectively utilise available options to ensure any poor performance is promptly addressed.

7.4 With the exception of weaknesses in monitoring procedures, as discussed more fully in Part 5 of this Report, audit found that the framework established for administering agreements was generally sound. It could be further enhanced by minimising certain overlaps and duplication of effort which currently exist within the Department, eliminating any perceptions that impartiality could be compromised where conflicts arise between the interests of public and private providers and enhancing market competition by establishing agreements for public prisons which more closely mirror those with private sector contractors.

7.5 There is little doubt that the agreements between the Government and 3 private contractors have resulted in the delivery of some non-financial benefits to the community and prisoners including the replacement of a number of outdated prisons with state-of-the art facilities. However, at this stage, there is some uncertainty whether the cost savings expected to flow from the reforms will be realised.

PURCHASER/PROVIDER RELATIONSHIP

7.6 The development of a prison industry which incorporates both public and private prisons, has resulted in a purchaser/provider relationship between the Government (as the purchaser) and private contractors and CORE (as the providers). It has, in turn, necessitated the establishment of formal contractual agreements and the development of a framework which facilitates the ongoing management of the agreements.

7.7 In assessing the new arrangements, audit examinations focused on a number of key criteria, namely, whether:

- sound contractual agreements are in place which clearly specify the rights and obligations of all parties, protect the interests of the Government and are conducive to the achievement of the Government’s desired outcomes;
- efficient organisational arrangements have been developed which clearly assign roles and responsibilities for managing agreements;
- strong monitoring procedures have been put in place, utilising reliable information;
- procedures have been established for promptly addressing any deficiencies identified in the performance of prison operators;
- payments have been made to contractors in line with agreements; and
- outcomes have been in line with the Government’s expectations.

7.8 Audit comments in relation to each of these aspects follow. In terms of the adequacy of contractual agreements, the matters relating to the design and construction of new prisons were not assessed. Similarly, the financing arrangements for the prisons were not examined in detail as part of this audit.

CONTRACTUAL AGREEMENTS

Private prisons

7.9 The Government has entered into a range of complex agreements with private sector companies, or consortia, (the contractors) which address the financing, design, construction and operation of 3 private prisons. *The Report of the Auditor-General on the Statement of Financial Operations, 1995-96* set out the key terms of the primary agreements. In relation to the financing aspects embodied in the agreements, the Report identified, in summary, that:

- The prisons were to be constructed on land leased by the contractors from the Government;
- The construction of the prisons was to be funded by the contractors primarily through debt financing (totalling \$126 million) with a proportion of equity contribution (totalling \$18 million). A start-up funding contribution of \$7 million was also provided by the Government;



- Prison accommodation services are to be provided by the contractors at a charge to the Government. It is intended that the charge will finance the debt obligations of the contractors, including principal and interest payments;
- Correctional services are to be provided by the contractors in return for a fee payable by the Government for the delivery of the services;
- Ownership of the facilities is to rest with the contractors; and
- The contractors’ financiers are to hold a security interest in the new facilities.

7.10 The primary instrument which governs the ongoing operations of each prison is a Prison Services Agreement between the Government and the contractor. Under the terms of each Agreement, the contractor can, with the approval of the Secretary, appoint an organisation to operate and manage the prison (the operator). The contractor is responsible for ensuring that the operator is suitable in areas such as probity and financial standing, is capable of providing correctional services and complies with the relevant conditions of the Agreement.

7.11 Details of the contractor for each of the private prisons, together with the operators appointed by the contractor, are summarised in Table 7A.

**TABLE 7A
PRIVATE PRISON CONTRACTORS AND OPERATORS**

<i>Prison facility</i>	<i>Contractor</i>	<i>Operator</i>
Metropolitan Women's Correctional Centre	Excor Investments Pty Ltd	Corrections Corporation of Australia Pty Ltd
Fulham Correctional Centre	Australasian Correctional Investment Ltd	Australasian Correctional Management Pty Ltd
Port Phillip Prison	Australian Correctional Facilities Pty Ltd	Group 4 Correction Services Pty Ltd

Form of Agreements

7.12 Although each Prison Services Agreement reflects the specific aspects of the prison, the Agreements are, in essence, the same. Each addresses the following broad areas.

Design and construction

7.13 The Agreement provides for the design and construction of a new prison facility in accordance with approved drawings and specifications. It covers a range of matters such as the contractor’s responsibilities, construction milestones, inspection requirements and processes for any necessary modifications.



Accommodation services

7.14 In accordance with each Agreement, the accommodation services provided by contractors are to comply with all relevant laws, be suitable for their intended purpose, be of the required capacity, be adequately maintained and meet certain defined standards. The standards include the accommodation of the majority of prisoners in single cells, access for disabled persons to all prison facilities, provision of a safe and secure environment including secure prisoner accommodation and a secure physical prison perimeter. The Agreements also address access rights and insurance requirements.

Correctional services

7.15 Each Agreement specifies the correctional services to be provided by the contractor as:

- containment and supervision of prisoners in a safe, secure, humane and just manner;
- provision of opportunities for rehabilitation which prepare prisoners for law-abiding and productive participation in the community on their release;
- facilitation of reparation to the community through work performed in prison; and
- other correctional services defined in the Agreement, such as health services for prisoners.

7.16 The services are to comply with all relevant legislation and policies, specified rehabilitation, reparation, containment and supervision objectives, relevant quality assurance programs, prison management specifications and an operating manual. In the case of the prison management specifications, an Annexure to each Agreement sets out numerous standards to be applied in relation to prisoner management. The Agreement also identifies the expected profile of the prisoners, e.g. the number of remand prisoners, mainstream prisoners, protection prisoners and hospitalised prisoners and defines the expected movement of prisoners as a result of reception and discharge.

Performance-linked fee

7.17 The Agreements provide for the payment of an annual performance-linked fee. The level of fee payable is dependent on the extent to which service delivery outcomes have been met. These outcomes, included in an Annexure to each Agreement, differ for each prison depending on the prison profile.

General provisions

7.18 The Agreements contain a number of general provisions which cover matters such as warranties, default, disputes and confidentiality.

.....
Term of Agreements

7.19 The Agreements apply to the provision of accommodation services for a period of 20 years (the facility term). The Minister may, at least 3 years prior to the expiration of the facility term, request an extension for up to 10 years for the Metropolitan Women’s Correctional Centre and the Port Phillip Prison, and 20 years in the case of the Fulham Correctional Centre.

7.20 Correctional services are to be provided by the contractors for a period of 5 years. The Minister may, at any time, notify the contractor whether he will initiate a competitive tender process in relation to the options for 5 further 3 year terms. If tenders are to be called, the contractors for the Port Phillip Prison and the Fulham Correctional Centre have the first right to make an offer and pursue agreement with the Government for the provision of correctional services at those prisons.

Public prisons

7.21 While there is no formal contract between CORE and the Secretary of the Department of Justice, arrangements relating to the provision of services at the 10 publicly-managed prisons are formalised in 2 documents, namely, a Framework Agreement and a Service Agreement. The Framework Agreement establishes CORE as a Service Agency and sets out the roles and responsibilities of the Deputy Secretary of the Department (the Contract Administrator), the Chief Executive of CORE, the Secretary and the Minister.

7.22 The development of the Service Agreement involved formalising the quantity and nature of services the Government sought to purchase and CORE’s proposed service delivery model. It also defines the service standards and outputs to be delivered in exchange for particular resourcing levels. The Contract Administrator is responsible under the Agreement for the:

- specification of the level and type of services to be provided and the required service delivery outcomes;
- payment for the correctional services provided by CORE; and
- monitoring the financial performance of CORE.

7.23 The Framework Agreement is effective for a 3 year period to 30 June 1999. An annual Service Agreement came into operation on 1 July 1997 and has been renewed for a further 12 months.



Strengths of contractual agreements

7.24 Audit found that the Prison Services Agreement established between the Government and each contractor protects the rights of the Government in a number of significant respects and facilitates many of the Government’s objectives.

Transfer of risks

7.25 Irrespective of the means of delivering services within the prison industry, the Government cannot totally abrogate its social responsibility to the community and duty of care to prisoners. However, in line with one of the primary aims of introducing reforms to the prison industry, it has been possible to transfer some risks to the private sector.

7.26 As indicated in the *Report of the Auditor-General on the Statement of Financial Operations, 1995-96*, the agreements provide for the contractors to substantially bear the financing risks associated with the construction of new facilities. In terms of the ongoing operational risks associated with accommodating prisoners and delivering correctional services, the Prison Services Agreements also contain a number of provisions which shift responsibilities away from the Government by placing the onus on the contractors to deliver agreed standards of service, namely:

- Specification within the Agreements of the standards to be met in delivering services;
- Provision for a reduction in monthly payments by the Government for accommodation and correctional services where the operator fails to deliver services to the required standard, in any material way;
- Default clauses which provide for a period during which the operator is encouraged to address any deficiencies in service delivery, prior to the Government becoming entitled to exercise termination rights or institute any legal proceedings;
- Provision for the payment of a performance-linked fee, based on the satisfactory achievement of service delivery outcomes. As this payment is intended as the means of providing the companies with a return on their equity investment, they are encouraged to achieve the desired outcomes, particularly given that they have injected significant equity in the facilities;
- Provision for the prisons to remain in the hands of the Government in the event that the Agreement is terminated as a result of accommodation services not meeting a satisfactory standard; and
- A financing structure which is based on the accommodation services charge meeting the debt service obligations of the contractors. This encourages the contractors to provide accommodation services to the required standard as a termination of the Agreement would place the contractors ability to meet its financing obligations at risk.

.....
Default provisions

7.27 The Prison Services Agreement, provides the Government with a number of avenues to address circumstances where the services provided are not to the required standard. A default notice may be issued to the contractor in a range of circumstances (referred to as a non-compliance notice in the case of the Fulham Correctional Centre). For example, a failure to provide correctional services in a manner which satisfies the requirements of the Agreement constitutes a default. Certain defaults are classified as *material* including the escape of more than 2 prisoners in a single incident, a default which the Minister considers has a material adverse effect on the public interest or failure to implement a classification decision which results in the accommodation of a protection prisoner in non-protection accommodation for more than 24 hours in a month. If the Minister issues a default or non-compliance notice, the contractor has a nominated period in which to address the matters specified in the notice.

7.28 Monthly payments to the contractor for the provision of accommodation and correctional services can be reduced in the case of a material default or certain areas of non-compliance with Agreements. In such cases the Secretary (or the Commissioner in the case of Metropolitan Women’s Correctional Centre) can issue a certificate. The issue of a certificate does not prevent the Minister from issuing a default or non-compliance notice. A reduction in, or non-payment of, the annual performance linked fee also occurs where the required standard of service is not met.

7.29 Under the Agreement, the Government has the right, in certain circumstances, to require the contractor to remove a prison operator and appoint a new operator. In an emergency, the Minister, the Secretary or a person authorised by the Minister also has the right to enter the prison with a view to remedying the emergency.

7.30 The Government retains the ultimate right to terminate the Agreement if the accommodation or correctional service requirements are not met over a period of time including when a default notice is not adequately addressed. The Government also retains the right to sue the contractor for any resulting damages.

Monitoring provisions

7.31 A feature of the Agreements is the inclusion of provisions which enable the performance of the contractor to be monitored by the Government. These include the following:

- The contractor must provide the Commissioner with daily, monthly, annual and other reports as required;
- The Commissioner is to certify that the accommodation and correctional services have met requirements, prior to approving monthly payments to the contractors;
- The Minister, Secretary, Commissioner and certain authorised persons have the right to access the prison facilities at any time;
- Probity investigations are to be undertaken of relevant persons including employees of the contractor and operator. The Secretary has access to such information, if required, and has the right to require the contractor to deny the employment of a particular person considered unsuitable;



- Copies of insurance policies must be provided by the contractor as evidence that specified insurance cover has been maintained;
- The operating manual developed for each prison, which is to include a range of matters including staff training programs, is to be endorsed by the Secretary;
- The contractor has a general responsibility to keep the Government fully informed of operational matters and developments and to be available to discuss prison performance; and
- From time-to-time, the Government may arrange for a review of the correctional services provided, including an assessment against best practice.

Other provisions

7.32 A number of other aspects of the Prison Services Agreements protect the Government’s interest, including provisions for:

- Specified facility maintenance standards to be met by the contractor;
- Some flexibility in relation to prison capacity. For example, each Agreement defines a maximum prison capacity in addition to a standard prison population. If the actual prison population varies from the standard prison population, the fee payable to the contractor increases or decreases accordingly;
- A performance bond to be paid in advance by the contractor and used by the Government where any amounts are outstanding from the contractor; and
- Any damages to the facility to be repaired by, and at the expense of, the contractor.

Contractual weaknesses

7.33 While there are a number of strengths in the agreements which the Government has entered into for the provision of accommodation and correctional services, audit is of the view that some provisions currently work against the delivery of high quality services within a competitive environment. These matters, which are detailed in the following paragraphs, will need to be considered at the time the Agreements are renegotiated.

Service delivery outcomes

7.34 There are approximately 20 service delivery outcomes included in each Agreement, broken into 5 broad categories. The categories (and examples of the outcomes for various sub-categories) are as follows:

- prison operation (the number of prisoner escapes, self-mutilations, assaults, positive drug tests);
- education and training (the proportion of prisoners identified as requiring adult basic education or vocational training who are enrolled in and complete relevant programs);
- prison industries (the number of skill areas in which prisoners are able to participate, proportion of sentenced prisoners participating in prison industries);



- health (the proportion of prisoners medically screened within 24 hours of reception into the prison, number of valid complaints relating to health services which are received by the Commissioner); and
- other programs (the availability of programs, the proportion of prisoners completing programs).

7.35 In the case of the Port Phillip Prison, the final category is health: secondary and tertiary care. This variation is due to the fact that the prison is responsible for providing the major men’s prison hospital and the only Psycho-Social Unit in the Victorian corrections system.

7.36 The service delivery outcomes to be achieved are expressed as maximums (e.g. 1 prisoner escape) or minimums (e.g. 80 per cent of prisoners participating). They are a key determinant in achieving the Government’s desired service delivery standards given that they form the basis of any performance linked fees paid to contractors. Despite this critical role, audit found that some aspects of the outcomes are not conducive to encouraging a high standard of service delivery within prisons. Specifically:

- They were primarily established on the basis of the performance of Victorian public prisons, with comparable profiles, over the previous 3 years. Documentation within the Department also states quite clearly that many of the outcomes were not necessarily based on an average performance but on the lowest standard achieved during the 3 year period. In particular, the service delivery outcomes for self-mutilations, assaults and positive drug test results were based on the highest rates recorded over the period. As a result, the outcomes do not place any expectation on the contractors to improve on minimum standards or adopt best practice. In contrast they reflect a level of performance, which was achieved in outdated prisons which had been identified for replacement with an aim of improving the quality of services provided;
- They are essentially quantitative in nature. For example, outcomes relating to the education and training of prisoners in adult basic education focus on the number of modules in which targeted prisoners have enrolled or which they have completed. The quality of the programs provided or the outcomes for prisoners in terms of increased skills are not measured by the outcomes;
- They do not adequately reflect all key aspects of the prison operators’ performance. Examples of important areas not adequately addressed include outcomes associated with rehabilitation programs. Given that the provision of opportunities for rehabilitation is a key policy objective of the Government, the measurement of outcomes in this area is essential. Similarly, poor food service operation can have a detrimental impact on prison operations but this area of activity is not covered by the service delivery outcome; and
- In most cases, the outcomes have a short-term focus and, therefore, do not cover some matters which may not have an immediate impact but contribute to the good management of a prison in the longer-term. Examples include the quality or effectiveness of staff recruitment and training.

.....
Performance-linked fee

7.37 In circumstances where a default or non-compliance notice has been issued or the matters raised in the notice have not been satisfactorily addressed, there is a reduction in the annual performance-linked fee payable to the contractor. The reduction relates to the particular component of the services which are in default proportionate to the period of the year when the contractor was in default. However, the total fee, as defined in the Prison Services Agreement, is paid to a contractor where this situation does not apply and all categories of service delivery outcomes have been fully met or exceeded. The Agreement also provides for the full fee or a reduced fee to be paid in certain other circumstances. For example:

- Where a particular category of service delivery outcome has been fully met, the amount due for that category is paid irrespective of the results for all other categories;
- Where only 1 sub-category has not been met (but has been at least 80 per cent achieved) the total performance linked fee is still payable;
- Where 2 or more sub-categories, within a particular category, have been between 80 and 100 per cent met, 80 per cent of the total amount which could be paid for that category is due to the contractor;
- Where 1 sub-category is between 50 and 80 per cent met, 50 per cent of the total amount which could be paid for that category is due to the contractor as long as all other outcomes within the category have been met to at least 80 per cent; and
- Where any sub-category is only 50 per cent or less met, no payment is due for that category.

7.38 As a result of this structure of payments, coupled with the previously discussed limitations of the service delivery outcomes, it is possible for a contractor who is not performing to a high standard or who is performing badly in a number of key areas of prison operations to still receive the full amount, or a substantial proportion, of the annual performance linked fee. This situation is illustrated later in this Part of the Report in relation to the Port Phillip Prison.

Service standards

7.39 Given that 1 of the Government's objectives in introducing private prison operators was to improve service delivery, it is important that the service delivery requirements defined in the Prison Services Agreements are consistent with this aim. It is also important that they are directed at the achievement of the Government's principal accommodation and correctional services objectives.

7.40 The framework for the delivery of correctional services in Victoria comprises the following elements:

- The *Corrections Act 1986* and associated Corrections Regulations 1988. The Act was amended in 1994 to permit private operators to provide correctional services. The Act does not specify objectives for prisons. However, it does specify management and administration requirements of prisons, including private prisons;



- *Standard Guidelines for Corrections in Australia, 1996* developed in a national Ministerial forum as an agreed common standard to be adopted by all Australian States and Territories; and
- *Correctional Policy and Management Standards* (for men’s and women’s prisons) developed by the Commissioner as subordinate to the Act to facilitate the consistent implementation of correctional policy in Victoria. They reflect and expand on the Department’s objectives for correctional services and specify the outcomes and outputs required of prisons for specific service or activities.

7.41 The Agreements with public and private prison operators include a range of requirements to be met by prison operators in the provision of services. By way of example, the Agreements define the standards of facilities to be used to accommodate prisoners in areas such as design and construction, physical environment, safety and security and facilities for conducting educational programs. In the area of correctional services, the prison management specifications included in the Agreement define the standards to be adopted and/or procedures to be followed in 45 areas of prison operations including the following:

- bedding;
- classification and placement of prisoners;
- clothing;
- deaths in prison;
- disciplinary process;
- discharge of prisoners;
- education;
- emergency management;
- food;
- health services;
- personal development and life skills program;
- prisoner management;
- security;
- staff selection and training; and
- substance abuse treatment programs.

7.42 The specifications cover many qualitative aspects of prison management. The Agreement also provides for an operating manual to be developed by each contractor and endorsed by the Secretary. The manual is to address a range of operational issues including the way in which the prison management specifications will be met.



7.43 While the Agreements identify the services to be provided and the required service delivery outcomes to be achieved, the method of service delivery is appropriately left to the discretion of the prison operator. For example, the specifications require the operators to ensure that the location of all prisoners is known at all times. It is up to the discretion of the contractors whether this is achieved by means of video surveillance or direct staff supervision and this will be generally documented in the operating manuals.

7.44 An audit assessment of the accommodation and correctional service requirements included in the Agreements and the operating manuals developed for each prison indicated that they are in line with the framework of correctional services requirements in Victoria. While monthly payments to contractors can be reduced where serious or ongoing defaults are identified, the level and extent of monitoring by the Commissioner is not sufficient to identify the extent of serious deviations from the management specifications. Audit considers that for the provisions of the agreement to be effective there needs to be a clearer link between monthly payments and the level of compliance by contractors with the management specifications. This would provide greater incentives for the delivery of services which are in line with best practice.

Inconsistencies between public and private sector agreements

7.45 The Agreements relating to the provision of services in the 10 publicly-managed prisons embody many of the service delivery requirements contained in the Prison Services Agreements with private contractors, including service delivery outcomes and prison management specifications. However, the manner in which services are delivered are more specifically defined in relation to the publicly managed prisons thus providing less flexibility to introduce innovative service delivery practices.

7.46 As CORE remains part of the departmental budgetary process it is not subject to any measures such as a reduction in payments when it does not satisfy its service delivery outcomes nor does it receive a performance fee when outcomes are achieved. In these circumstances, it cannot be said that there is a level playing field in terms of participants in the prison industry. While the establishment of “*real competition in the delivery of correctional services*” was one of the Minister’s aims in introducing prison reform, it is evident that competition between the public and private prison operators is not yet fully in place.

7.47 When CORE was established as a service agency it was anticipated that it would subsequently be established as a statutory authority. Agreements were to be renegotiated at that time and funding was to be established on a cost per prisoner basis, similar to that which occurs with the private prisons. However, as indicated in Part 5 of this Report, changes to the status of CORE have now been postponed to a later date.

7.48 Irrespective of the structural arrangements in place for CORE, in renegotiating current agreements, which expire at the end of June 1999, attention will need to be given to progressing towards a situation where all providers, irrespective of whether they are in the public or private sector, are subject to the same performance requirements.

CONTRACT ADMINISTRATION

Organisational arrangements

Roles and responsibilities

7.49 As indicated in Part 5 of this Report, the Commissioner plays a key legislative and contractual role in relation to regulating and monitoring the Victorian prison industry.

7.50 Under the provisions of the Prison Services Agreements, a Contract Administrator is also appointed by the Secretary to act as agent for the Minister, in line with delegations. The responsibilities of the Contract Administrator are to facilitate the official liaison between the Minister and the contractor. The Corrections Contracts Branch was established by the Department in 1995 to assist the Contract Administrator in managing the Agreements. Related tasks of the Branch include:

- effecting the monthly payment of the accommodation and correctional services fees;
- providing contractual advice to the Contract Administrator, Secretary and Minister;
- working with the Commissioner in assessing the performance of the private prisons;
- administering and managing contractual disputes and default procedures;
- procuring commercial legal advice as required; and
- overseeing probity investigations.

7.51 The Branch liaises with the prison operators in all matters with respect to the implementation, administration or modification of the Agreements.

7.52 In terms of the publicly-managed prisons, the Chief Executive Officer of CORE reports to the Deputy Secretary who is also responsible for the Commissioner and the Corrections Contracts Branch. CORE also provides certain information to the Deputy Secretary/Contract Administrator, through the Branch. The Branch also monitors the performance of CORE.

7.53 As with other contractors, it obtains monitoring information on CORE from the Commissioner, including the following reports:

- the performance of CORE against its Service Agreement and Business Plan;
- the future requirements for service delivery by CORE;
- changes in policy required to achieve best practice; and
- CORE's contribution towards the achievement of outcomes.

Need for arms-length relationship with all providers

7.54 To ensure that each service provider is treated equitably within the purchaser/provider relationship, the Contract Administrator needs to operate, and be seen to operate, at arms-length from all providers. However, the current structural arrangements could compromise the impartiality of the contract administration process.



7.55 In managing the agreements with various contractors, the Contract Administrator and the Corrections Contracts Branch have access to a range of commercially sensitive information relating to all providers. At the same time, the Branch can have input to the directions of the public service provider, CORE. For example, the Branch's 1998-99 Business Plan, indicated that it would assist CORE in the development of its Corporate and Business Plans. While the Contract Administrator indicated to audit that any interaction with CORE would be minor, the perceptions which the current structural arrangements create can work against the establishment of a competitive market in which all participants, or potential participants, can be confident that they will be treated equitably. Concerns in this regard were raised by contractors in discussions with audit where they questioned the impartiality of the Branch in the event that a conflict arose between the interests of CORE and those of another provider.

7.56 Further comments on this issue as it relates to the independence of the Commissioner, are detailed in Part 5 of this Report.

Overlap and duplication

7.57 The assignment of responsibilities between the Corrections Contracts Branch and the Commissioner results in the overlap of some functions, particularly the monitoring role. As the 2 organisations operate as separate bodies and are physically separated, some work, including their interactions with the prison operators, can be duplicated.

Policies and procedures

7.58 Audit examinations indicated that the Corrections Contracts Branch has fulfilled its role with respect to contract administration in an effective and efficient manner. The Branch has established appropriate procedures and controls to administer agreements. These include:

- assigning designated staff for each contract;
- developing contract administration plans identifying the respective responsibilities of the Branch and each contractor under the Agreements;
- developing a Contract Administrator's Guide for each Agreement; and
- appointing a probity auditor to regularly monitor and report to the Branch on ownership and financial developments with respect to each contractor.

7.59 The processes for managing the Agreements were also found to be well organised, systematic, and in accordance with the principles of the Outsourcing and Contract Management Guidelines issued by the Department of Treasury and Finance. A framework is in place which:

- clarifies aims and sets objectives;
- outlines principles to be followed;
- provides a common decision-making process;
- develops management and financial methodologies; and
- establishes an evaluation, reporting, implementation and reporting scheme that defines responsibility and accountability.



7.60 The Guidelines recommend that service level changes be negotiated with the service provider and that an annual benchmark review be conducted to identify alternative services, service levels or performance incentives. The Prison Services Agreements with each of the contractors provide for the Secretary to undertake a performance review of correctional services from time-to-time. Although the Corrections Contracts Branch has not yet undertaken such a review, the Commissioner has recently commenced a review of the service delivery outcomes defined in the Agreements. In line with the Guidelines, audit considers that reviews of this nature should be conducted annually.

Contract monitoring

7.61 There is no doubt that the Prison Services Agreements with the private prison contractors provide ample means of ensuring accountability to the Contract Administrator and the Commissioner. Since the first private prison commenced operations, there has been considerable monitoring carried out to verify the probity of the private prison contractors and operators and to verify their compliance with a range of requirements included in the Prison Services Agreements.

7.62 The Corrections Contracts Branch relies almost completely on the advice of the Commissioner in determining whether services have been delivered in accordance with the Agreements. In addition, the Branch meets regularly with contractors to discuss issues, review performance and resolve any concerns. However, as discussed in Part 5 of this Report, the Commissioner’s monitoring program does not necessarily address all relevant matters or provide a depth of review which enables a full assessment of the performance of an operator. These weaknesses must, in turn, impact on the quality of the contract management process of the Corrections Contracts Branch. In addition, as reports provided by the Commissioner are not received by the Branch’s contract managers until 2 months after they have been received by the Commissioner, the timeliness of their monitoring role is also in question.

7.63 While the establishment by the Branch of its own monitoring program would only add further to duplications, the situation reinforces the need for the Commissioner to have a sound and comprehensive monitoring program in place. It also highlights the need, in enhancing the operational framework of the Commissioner as suggested in Part 5 of this Report, for consideration to be given to clarifying the roles of the Commissioner and Contract Administrator with a view to:

- eliminating any duplication of effort thereby allowing for more efficient use of scarce resources;
- greater sharing of skills and experience through facilitating a closer involvement of the Corrections Contracts Branch in the monitoring process;
- limiting time delays in the monitoring process; and
- simplifying the relationship between the Government and contractors.

Management of contract payments

7.64 The level of payments and the method of calculating monthly payments to contractors are specified in the Prison Services Agreements. Payments comprise the following major components:

- An accommodation services charge paid monthly in arrears. It includes components relating to debt servicing, rent, maintenance and insurance;
- A correctional services fee, also paid monthly in arrears. The fee is adjusted annually to reflect price and wage increases and may be increased or reduced according to prisoner numbers; and
- The previously mentioned performance-linked fee assessed and paid annually.

7.65 The Agreements contain specific clauses which detail approximately 34 events which may effect the level of payments to the Contractor. Examples include the payment by the contractor of a fee where a prisoner escapes, adjustments relating to certain impacts of government policy changes and, as indicated earlier, reductions where the services provided by the contractor are not in line with the terms of the Agreement.

7.66 It was the intention of audit to summarise in Table 7B the total amounts paid to private contractors for the 3 major payment components. The amount to be shown for each prison covered the period commencing on the date the first payment was made to the contractor up to 31 December 1998. The relevant figures have been deleted from the table following legal advice recently obtained by the Department of Justice from the Victorian Government Solicitor (refer to Foreword to this Report).

**TABLE 7B
PAYMENTS TO PRIVATE CONTRACTORS
AUGUST 1996 TO DECEMBER 1998
(\$'000)**

<i>Prison</i>	<i>Accommodation services charge</i>	<i>Correctional services fee</i>	<i>Performance-linked fee</i>	<i>Total</i>
Metropolitan Women's Prison (August 1996 to December 1998)	X XXX	XX XXX	X XXX	XX XXX
Fulham Correctional Centre (April 1997 to December 1998)	XX XXX	XX XXX	X XXX	XX XXX
Port Phillip Prison (September 1997 to December 1998)	XX XXX	XX XXX	XXX	XX XXX
Total	31 584	62 199	4 190	97 973

Source: Corrections Contracts Branch of the Department of Justice.

.....

7.67 An audit examination indicated that the procedures in place within the Corrections Contracts Branch were adequate to facilitate the payment to contractors in line with the terms of the Prison Services Agreements. Testing of a sample of actual payments made during the 1996-97 and 1997-98 financial years in addition to a number of payments and variations examined up to December 1998 indicated that contractors had been paid correctly and punctually.

Action taken as a result of poor performance

7.68 A range of options are open to the Government where the performance of the contractor is not in accordance with the Prison Services Agreements. For example, a default notice may be issued requiring the contractor to take action to address the default within a specified timeframe and/or a certificate can be issued reducing the accommodation services charge or the correctional services fee. The effectiveness of the options available within the Agreements are dependent on how they are exercised by the Government to overcome any performance difficulties. In the following paragraphs which describe the approach of the Government to date in addressing poor performance, it was intended to disclose information on the actual financial penalties imposed on private contractors. However, due to the previously mentioned legal advice recently obtained by the Department, a decision has been made to refer only to percentage reductions rather than to disclose actual dollar amounts.

7.69 In administering the Agreements to date, the Government has endeavoured to work with contractors in a spirit of partnership. For example, opportunity has been given to the contractors to overcome *teething problems* experienced during the initial months of operation.

7.70 In the case of the Metropolitan Women’s Correctional Centre and the Fulham Correctional Centre, the Government has not considered it necessary to issue any default notices or certificates. However, in line with Agreements, the maximum performance-linked fee due to the contractors has been reduced where service delivery outcomes were not fully achieved. For example, the maximum performance-linked fee payable in relation to the Metropolitan Women’s Correctional Centre was reduced by 20 per cent for the year ended August 1997. Details of the areas where results were below the service delivery outcomes established in the Agreement are set out in Table 7C. The table serves as an illustration of the way in which the results against service delivery outcomes defined in the Agreements impact on the calculation of the annual performance linked fee.

TABLE 7C
METROPOLITAN WOMEN'S CORRECTIONAL CENTRE
SERVICE DELIVERY OUTCOMES,
FOR THE YEAR TO AUGUST 1997

<i>Correctional services</i>	<i>Required service delivery outcome</i>	<i>Assessed result</i>	<i>Achievement level</i>
Prison operation			
Incidents of self-mutilation/attempted suicide (as a per cent of the average muster)	3.6	4.5 per cent (18 women)	80 per cent but less than 100 per cent
Assaults on Prisoners - by other Prisoners where an incident is recorded (per prisoner year)	0.3	0.353 (38 assaults)	Over 80 per cent but less than 100 per cent
Assaults on staff or other persons where an incident is recorded (per prisoner year)	0.1	0.167 (17 assaults)	Over 50 per cent but less than 80 per cent
Prison industries			
Participation rate (per cent)	80	70.9	Over 80 per cent but less than 100 per cent
Health			
Per cent of prisoners who are medically assessed and psychiatrically screened on the day of reception into the prison as a proportion of all prisoners received. (per cent)	100	Not reported	Less than 50 per cent
Per cent of prisoners who are psychiatrically assessed within 24 hours of referral, as a proportion of all prisoners so referred. (per cent)	100	Not reported	Less than 50 per cent

7.71 In the case of the Port Phillip Prison, monthly payments to the contractor have been reduced on 2 occasions and the annual performance-linked fee payable for the year ended September 1998 was also reduced. However, audit considers the provision within the Agreements could have been more effectively and decisively utilised to facilitate action to address serious service delivery deficiencies at the Prison. There is also scope to strengthen the Agreements in relation to the Government's ability to reduce monthly payments to contractors where the level of service delivered does not meet the Government's standards.

7.72 As a result of these factors, the financial penalties to the contractor have been minimal in terms of the total contract value. even though deficiencies at the Port Phillip Prison were not fully addressed for over a year and resulted in significant expense to the Government in terms of monitoring. Details of the action taken by the Government in relation to the Port Phillip Prison are presented in the following paragraphs.

.....
Reduction in accommodation services charge - Port Phillip Prison

7.73 On 23 March 1998, the Secretary issued a certificate to the effect that a default in relation to accommodation services had occurred at the Port Phillip Prison owing to the fact that certain facilities, including 48 cells for prisoner accommodation had not been available for use since the evening of 11 March 1998 because of a fire on that day. The daily accommodation services charge was reduced by 8 per cent (reflecting a reduction of an equivalent level in the maximum prison capacity of 600). The total reduction relating to the certificate (covering 12 days) was extremely small. The contractor was allowed 30 days in which to address the situation and the Prison subsequently returned to full capacity on 23 April 1998. Under the Agreement, a reduction in the accommodation services charge does not apply beyond the period of the certificate as long as the contractor is pursuing action to address the matters raised in the certificate. As a result, only 1 reduction occurred in the annual accommodation services charge. This reduction represented less than 0.2 per cent of the annual accommodation services charge payable to the contractor.

Reduction in correctional services fee - Port Phillip Prison

7.74 In February 1998 Port Phillip Prison was assessed by the Commissioner as satisfying the criteria specified in the Prison Services Agreement with respect to the accommodation services charge and the correctional services fee. In meeting the criteria required for payment of the correctional services fee, the Commissioner identified that the prison was only meeting or exceeding 11 of the 19 service delivery outcomes. However, as performance against the service delivery outcomes impacts only on the calculation of the annual performance-linked fee, a reduction in the monthly amount payable to the contractor was not made on the basis of these results.

7.75 Subsequently, in June 1998, the Secretary issued a Correctional Services Default Notice. The Secretary cited a range of performance deficiencies dating back to late 1997. The primary trigger for the issue of the notice appears to have been the major disturbance at the prison on March 11 1998.



Part of Port Phillip Prison. The Government issued a Default Notice in respect of the operation of this prison in June 1998.

7.76 A certificate was also issued in relation to the deficiencies which were identified in the Notice. This resulted in a reduction in the correctional services fee payable to the contractor for the period 12 March 1998 to 31 May 1998. The Department contended in the certificate that the following defaults had occurred:

- The containment and supervision of prisoners had failed to be safe, secure, humane and just as demonstrated by:
 - 5 prisoner deaths, allegedly due to unnatural causes, which occurred after the prison's opening (2 deaths occurred on 19 March 1998 and 1 each on 30 October 1997, 16 December 1997 and 4 January 1998);
 - failure to take remedial action following recommendations relating to the deaths in custody on 30 October 1997, 16 December 1997 and 4 January 1998; and
 - self-mutilations or attempted suicides by prisoners as at end of March 1998 which were double the prescribed service delivery outcome detailed in the Prison Services Agreement.
- Containment and supervision of prisoners failed to be safe, secure, humane and just in that:
 - the general management and supervision of the prison failed to prevent the 11 March 1998 disturbance and deal adequately with that emergency and its aftermath;

-
- ongoing lack of management and supervision evidenced by failure to deal with non-conforming prisoners and the prevalence of illicit drugs, demonstrated by:
 - fires, 126 drug-related issues and 2 instances of protracted difficulties with locking down units at the prison at night (reported between 1 December 1997 and 28 February 1998);
 - assaults on staff and 11 self-mutilations in March 1998;
 - outstanding disciplinary matters (41 drug related) for March 1998 of which 69 were outstanding for more than 60 days; and
 - during April 1998, 29 of 73 prisoner charges were recorded more than 10 days after the incident (outside the appropriate reporting time frame defined in the Agreement).

 - The level of illicit drugs in the prison was excessive with 25 per cent of all prisoners testing positive for drugs during random samples conducted in March 1998. During the period September 1997 to March 1998, 18 per cent of prisoners tested positive. In addition, the 94 drug-related incidents reported in March exceeded the level expected when compared across all prisons in Victoria. This in turn demonstrates a failure to:
 - control substances which threaten the good order or security of the Prison;
 - comply with the Victorian Prison Drug Strategy;
 - implement appropriate levels of drug testing;
 - establish a proactive approach to drug management;
 - undertake targeted drug tests following the incident on 11 March 1998 and failure to undertake appropriate levels of targeted drug testing in April following the high levels identified in March;
 - promptly record urinalysis results on information systems and failure to expeditiously process disciplinary charges; and
 - maintain a register of prisoners classified as *Identified Drug Users*.

 - The control of security of keys and tools by the Contractor was inadequate and did not meet the requirements of the Prison Management Specification incorporated in the Agreement. For example an inventory of all keys was not held, there was no regular reconciliation of keys with records, tools introduced into the Prison were not adequately recorded and controlled, and all ladders were not secured.

 - Prisoner security was inadequate in that the Prison Management Specification requires that the contractor ensures that the location and the movement of all prisoners within the prison were known and controlled at all times. For example, appropriate and accurate records of roll checks were not conducted before unlocking the prisons each day.

 - Failure by the contractor to ensure that sufficient security systems and procedures existed to detect, prevent or deter prisoner escapes. For example, there was a failure to adequately search vehicles entering and exiting the prison, visiting areas were not adequately supervised and searching procedures in relation to visitors were inadequate.



- Failure by the contractor to implement or to comply with its Emergency Management procedures and to train employees in the application of those procedures. For example, staff were not aware of all emergency procedures and how to access and use all appropriate equipment.

7.77 Extensive discussions were subsequently held with the operator and a plan to address the issues was provided by the operator. The Commissioner indicated that the plan was not adequate in itself to address the non-compliance issues and at the June 1998 quarterly meeting with the prison operator, the Contract Administrator expressed disappointment at the lack of commitment to time frames for the rectification of defaults, despite months of communication and feedback from the Commissioner. The Contract Administrator commented that the Department had been very accommodating of commissioning issues in the Prison's first year of operation but this had gone beyond what was considered reasonable. As indicated in Part 5 of this Report, significant resources of the Commissioner continued to be directed at monitoring the Prison operator with a view to ensuring the deficiencies were adequately addressed.

7.78 Although the issues raised in the default notice in June 1998 were not fully addressed until March 1999, the contractor was subject to only 1 reduction in the correctional services fee covering the period from 12 March 1998 to 31 May 1998 (81 days). The reduction represented less than 2 per cent of the annual correctional services fee.

Performance-linked fee - Port Phillip Prison

7.79 In October 1998, the Department undertook an annual assessment of the Prison against the service delivery outcomes defined in the Agreement. The assessment related to the payment to the contractor of the annual performance linked fee for the year ended September 1998. In accordance with the terms of the Agreement, the fee was to be based on outcomes achieved in relation to accommodation services (representing 35 per cent of the maximum performance linked fee) and correctional services (representing 65 per cent of the maximum performance linked fee). The annual performance-linked fee paid to the contractor amounted to 65 per cent of the maximum fee payable, comprising:

- 99.5 per cent of the maximum accommodation services component (the reduction related to the previously mentioned period in March and April 1998 when certain facilities were damaged); and
- 46 per cent of the maximum correctional services component (the reduction was made as a result of the matters raised in the June 1998 default notice and the outstanding status of some of the matters which still needed to be addressed at the time of the assessment).

IMPACT OF CONTRACTUAL AGREEMENTS

7.80 As indicated in Part 2 of this Report, the decision of the Government to introduce reforms to the prison industry, including entering into contractual agreements with private sector providers, was expected to deliver a number of financial and non-financial benefits to the community and prisoners. This aim is reflected in the Prison Services Agreements which indicates that they are “*entered into for the benefit of the public and prisoners*”.

Non-financial benefits

7.81 It is evident that the introduction of the 3 new prisons has resulted in the delivery of a number of non-financial benefits, namely:

- Inadequate and ageing plant at the Coburg Prisons Complex and Fairlea Women’s Prison have been replaced with state-of-the-art facilities. The new facilities are far superior particularly in terms of providing modern accommodation, minimal internal restrictions so as to encourage a normal work and living routine and improved visitor areas. As a result, they are conducive to improved service delivery;
- Permanent prison capacity within the 3 prisons has been established at 1 305 compared with the replaced prison capacity of 1 223. Notwithstanding the increased capacity, the State’s prison system has experienced capacity pressures which have necessitated a strategic response by the Government (refer to Part 6 of this Report);
- Government policy and micro-economic reform objectives have been implemented. In particular, private sector investment funds have been introduced into Victorian prison infrastructure. The commissioning of 3 new prisons within a period of 13 months is unlikely to have been possible under government funding constraints;
- The introduction of competition and the development of service delivery outcomes, prison management specifications and the benchmarking of performance and costs to support the tender process have increased accountability of service providers and have the potential to improve the quality of services;
- The publicly-managed prisons have been required to become more accountable and commercially-focused through the establishment of CORE;
- An improved quality of health services for prisoners has been facilitated; and
- The potential for innovation in design and management approaches has been increased through the introduction of 3 different prisons each with its own particular design features and management regimes.

Financial impacts

Expected cost savings

7.82 The generation of cost savings was also one of the expected outcomes of the prison industry reforms. Table 7D, replicated from the *Report of the Auditor-General on the Statement of Financial Operations, 1995-96*, discloses the estimated net present value of savings in service provision costs which the Government expected to achieve under the new arrangements over the 20 year terms of the agreements with private prisons.

**TABLE 7D
ESTIMATED SAVINGS IN COST OF SERVICE PROVISION FOR THE
NEW PRISON FACILITIES**

<i>Facility</i>	<i>Number of prisoners</i>	<i>Initial term of agreement</i>	<i>Estimated savings in service provision costs (a)</i>
	<i>(no.)</i>	<i>(years)</i>	<i>(\$m)</i>
Metropolitan Women's Correctional Centre	125	20	16
Fulham Correctional Centre	600	20	157
Port Phillip Prison	600	20	62

(a) Total net present value over the term of the agreements.

7.83 One of the key reasons for the Government's expectation of cost savings was that financial benchmarks were developed and used in assessing tenders for each prison. The benchmarks, calculated in 1993-94 dollars after applying an inflation adjustment, were based on actual costs associated with the prisons identified for replacement. Prison Services Agreements with the Government were based on tender prices which were all below the established financial benchmarks. Further comment in relation to the benchmarks is included in Part 4 of this Report.

7.84 Since the new prisons became operational, the Government has not undertaken a review to determine whether cost outcomes have been in line with expectations. However, a number of factors discussed in the following paragraphs raise some doubts in this regard and pose some limitations on making meaningful cost comparisons under the previous and current arrangements.

Increase in overall costs for total corrections program

7.85 The cost of the Government Corrections Program, which includes services other than prisons, indicates that overall costs have increased significantly in the 3 years since the introduction of the private prisons. Table 7E provides details of the costs over the past 5 years based on figures disclosed in the *Annual Reports* of the Department of Justice and, in the case of the 1998-99 figure, the budget estimates prepared by the Department of Treasury and Finance.

TABLE 7E
NET COST OF SERVICES -
CORRECTIONS PROGRAM
(\$'000)

Year	Cos
1994-95	113 500
1995-96	115 900
1996-97	144 100
1997-98	173 700
1998-99	(a)184 800

(a) Budgeted figure only.

7.86 There are also indications that there was an expectation that the costs of operating the 3 new private prisons would increase significantly, at least in the initial years, compared with the cost of operating the prisons they replaced. For example, it was estimated by the Department in January 1995 that the annual costs of operating the 4 existing prisons was around \$42 million compared with the expected cost of operating the 3 new prisons in 1998-99 of \$72 million.

Analysis of operating costs relating to private and public prisons

7.87 In order to provide Parliament with cost data relating to both private and public prisons, audit sought from the Department details of cost to the Government relating to the delivery of services in both public and private prisons for 1997-98 and to date in 1998-99.

7.88 Table 7F presents the data prepared by the Department.

TABLE 7F
ANALYSIS OF OPERATING COSTS FOR PRIVATE AND PUBLIC PRISONS

	<i>Public prisons</i>		<i>Private prisons</i>		<i>Total</i>	
	<i>1997-98</i>	<i>1998-99 to March 1999</i>	<i>1997-98</i>	<i>1998-99 to March 1999</i>	<i>1997-98</i>	<i>1998-99 to March 1999</i>
Costs of delivery of prison services (\$million)	102.8	73.1	60.5	51.1	163.3	124.2
Estimated average daily prison population	1 637	1 539	1 055	1 303	2 692	2 842
Estimated average daily cost per prisoner (\$)	172	173	157	143	166	159

Source: Corrections Contracts Branch of the Department of Justice.

.....
Factors impacting on cost comparisons

7.89 The information presented in the above paragraphs relating to trends in overall costs and comparisons between public and private prisons needs to be considered in the context of the following:

- The estimated cost savings from the 3 private prisons are to be derived over a 20 year period, but not necessarily in the first few years or evenly over that period. This is due to the payment level and structure of the accommodation services charge which varies for each contractor over the facility term. While the base charge for the Metropolitan Women's Correctional Centre is consistent over the 20 facility term, the corresponding charge for the Fulham Correctional Centre is lower for several years then gradually increases over the remaining period. On the other hand, payments of the base charge for the Port Phillip Prison are condensed over a 15 year period with payments steadily increasing over the period;
- Certain costs such as those associated with capital, maintenance and employee superannuation now included in payments to contractors were not included in initial estimates or under the previous costing arrangements;
- given that there has been a transfer of financial risk through the introduction of equity by the private sector, it could be expected that such a transfer would involve a cost to the Government; and
- there have been initial change-over costs involved in transferring from publicly-managed to privately operated prisons.

7.90 It also needs to be recognised that the corrections environment has changed significantly since the private prisons were commissioned. This situation makes direct cost comparisons of public and private operators and of the current system with the system which existed in, and prior to, 1995 very difficult. Structural changes likely to have impacted on the total cost of providing services include:

- the introduction of the roles of Commissioner and Contract Administrator to manage and monitor the arrangements;
- the abolition of the Victorian Prison Industries Commission with each prison provider now assuming the Commission's responsibilities;
- the tendering-out of health service provision and prisoner transport arrangements; and
- the increase in the proportion of maximum security and protection prisoners, sex offenders and drug-related offenders who are now accommodated in special units in addition to an unforeseen increase in women prisoners.

7.91 While acknowledging these limitations, audit considers that it is important for the Government to periodically review cost outcomes of the new arrangements. A planned review by the Department is therefore strongly supported by audit given that the private prisons have now been operating for a number of years. Such periodic reviews will provide useful input to the ongoing management of contractual agreements and should assist in any future negotiations with contractors which are necessary at the end of the current agreement terms.



□ **RESPONSE** provided by Secretary, Department of Justice

The Prison Services Agreements for private providers are predicated on a regime that requires the delivery of correctional services, which meet the standards specification of Government. The Agreements specify 42 correctional service standards, a number of specific policies in respect of drugs, suicide and self-harm, health delivery, and quality assurance. The payment of the contractor’s correctional services fees are predicated on the operator meeting each of the service standards and policy requirements specified in this suite of documents. It should also be noted that many of the standards described above have a qualitative measurement component and are not solely quantitative in nature.

The service delivery outcomes are only used for the assessment of the annual performance linked fee, which in itself represents less than 5% of the total aggregate annual payments payable to each of the contractors under all three contracts.

The New Prisons model was implemented to specifically promote innovations and improvements in service delivery. The contracts provide for the variation of service delivery outcomes at the Commissioner’s sole discretion. As service delivery outcomes are based on the last three years performance, this mechanism ensures that these measures become more challenging to the performance of each operator over time.

The reality of service contracts where there is a duty of care responsibility is that only through the adoption of a contractual partnering approach will this duty of care be properly exercised. The more adversarial model which appears to be advocated by audit would, in the Department’s view, inevitably lead to litigation, particularly in relation to commercial issues, rather than focus on service delivery issues and prisoner welfare.

Part 8

**Prison security,
catering and health
care services**

OVERVIEW

8.1 It was considered that value could be added by examining operational areas of key significance that were not heavily monitored by the Correctional Services Commissioner. Specialists engaged by audit assessed the appropriateness of security, catering and health care services in 3 private and 3 public prisons.

8.2 At the time of the inspections, with some key exceptions, each prison generally met the audit criteria for the delivery of appropriate security, catering and health care services. Audit found a number of issues of a systemic nature as well as some specific matters relating to the operation of individual prisons that, if addressed, would lead to the more effective and efficient achievement of the Government's correctional objectives.

8.3 Key suggestions for improvement arising from the examination of the 3 operational areas are outlined below:

Prison security

- Appropriate measures need to be implemented to ensure that the actual incidents at the following prisons are, in future years, contained within the acceptable limits specified in the Prison Services Agreements. The audit disclosed that the position for various periods to 28 February 1999 was that:
 - Metropolitan Women's Correctional Centre had exceeded the acceptable limit for self-mutilations and attempted suicides by 91 per cent and assaults on prisoners by other prisoners by 20 per cent;
 - Barwon Prison had exceeded the acceptable limit for assaults on prisoners by other prisoners, assaults on staff and positive drug testing of prisoners by 32 per cent, 66 per cent and 44 per cent, respectively; and
 - Loddon Prison had exceeded the acceptable limit for assaults on prisoners by 27 per cent.
- The Correctional Services Commissioner should ensure that private prison operators conduct regular risk assessments, using external expertise in the same way as CORE prisons, so that key risks are included in operational manuals and annual security plans.
- Despite the commercial tensions associated with the evolving multi-service provider industry, the Commissioner needs to promote greater co-operation between prison operators. One avenue would be to establish a security forum that meets regularly to consider matters of mutual interest.
- The Commissioner should encourage prison operators to introduce compatible hand scanning systems across all prisons to minimise the potential for suspect or barred persons gaining access to any prison.
- Staff need to maintain an adequate span of control to ensure appropriate supervision across the visits centres, given the high number of visitors and prisoners involved at any time and a requirement to strip search prisoners at the end of contact visits.



OVERVIEW - *continued*

- The Commissioner should encourage prison operators to use electronic video surveillance in areas where staff supervision of prisoners is below an acceptable level.
- The Commissioner should request all prisons to retain their video surveillance tapes for a period of 14 days to improve post-incident investigations and staff debriefings.
- Prisoners who commit a "minor" drug offence for the first time in prison, such as for cannabis use, should receive a lesser penalty than that received by a hard drug user.
- Consideration should be given to a pilot program which introduces incentives to break the drug use cycle of those prisoners who have committed 3 or more drug-related offences in prison.
- An appropriate balance between staff with extensive service and those with suitable qualifications would enhance the capacity of prison operators to provide leading edge security management.
- The Commissioner should insist major variations to, or the addition of, newly developed security procedures at Port Phillip Prison be tested under controlled conditions prior to submission for approval.
- Given that Port Phillip Prison and the Metropolitan Women's Correctional Centre are maximum security prisons, the Department of Justice should evaluate whether there is a demonstrated need for the installation of an inspection pit in the prisons' main vehicle sally-ports.
- The prison operator at Port Phillip Prison needs to ensure procedures for escorting vehicles within the prison are consistently adhered to at all times.
- An induction package that provides prisoners at Port Phillip Prison with appropriate information relating to prisoner rights and responsibilities, and gives consideration to illiterate prisoners or those with English language difficulties should be introduced.

Prison catering

- Each of the prisons need to implement an intensive cleaning program to ensure that unacceptable levels of bacteria are not present in the food preparation and storage areas, and undertake a regular testing program to monitor bacterial levels.
- To maintain the nutritional value of food provided to prisoners at Barwon Prison and the Metropolitan Women's Correctional Centre, the re-use of old deep-frying fat over and over again and its subsequent use as a substitute for margarine in pastries should be immediately discontinued.
- Prison operators at Port Phillip and Dhurringile Prisons should monitor kitchen staff's compliance with appropriate personal hygiene practices, including wearing clean uniforms and aprons and use of gloves and hair nets, to ensure the safe preparation of food.



OVERVIEW - *continued*

- Given that there is a potential risk in using prisoners as kitchen workers, there is a need for the Port Phillip and Dhurringile Prisons and Metropolitan Women’s Correctional Centre to ensure that prisoner kitchen workers are constantly supervised and that inappropriate activities, such as the theft of potentially dangerous utensils and the sabotage of food, do not occur.
- Controls need to be developed at Port Phillip Prison to ensure that food prepared under the cook-chill system is reheated to the correct temperature.
- The prison operator at Port Phillip Prison needs to ensure that special diets do not contain inappropriate ingredients.
- Prison operators at the Dhurringile and Port Phillip Prisons need to develop improved procedures for receipt and control of food stock.

Health care services

- All prisoners at Barwon Prison, who are considered at-risk to themselves, need to be assessed by a psychiatric professional, given that only 7 out of every 10 at-risk prisoners received the required assessment in the first 8 months of 1998-99.
- Psychiatric services provided to prisoners need to be responsive to demands and delivered in a timely manner.
- Psychiatric services need to be well co-ordinated as psychiatric and associated problems are usually of long-term duration and impact on the total management of the prisoner.
- At-risk prisoners in the Metropolitan Women’s Correctional Centre, and Dhurringile and Barwon Prisons should not be accommodated in single observation cells in close proximity to the management cells.
- The Commissioner needs to investigate alternative means of accommodating at-risk prisoners in light of new authoritative research into the effects on prisoners of being accommodated in observation cells which have been stripped of all amenities.
- Policies and practices to be applied to prisoners likely to harm themselves need to be reviewed on a system-wide basis.
- The prescription of medication by doctors and whether targeted education on medication usage for prisoners was appropriate should be monitored by the Commissioner.
- The Department should incorporate standards that describe upper level limits for prescription of medication into the quality improvement and accreditation systems for all prison health care providers.
- Expanding the number of places available for treatment in specialist acute and sub-acute units particularly at Port Phillip Prison should be considered.

KEY OUTCOMES CONTAINED IN AGREEMENTS

8.4 Service delivery outcomes within the Victorian prison system can be described as the level of services that prison operators are required to provide under the terms of the Prison Services Agreements.

8.5 As indicated in Part 7 of this Report, there are approximately 20 service delivery outcomes included in each Prison Services Agreement. These outcomes are expressed in the form of numeric targets and vary depending on the profile of prisoners within each prison. The Agreements also include 45 areas of prison operations and a range of service standards and/or procedures to be followed. The outcomes in relation to the private prisons relate to a performance-linked fee whereas CORE, which operates the public prisons, is funded directly by the Department of Justice irrespective of the level of performance achieved.

8.6 Prison management is required to report monthly to the Correctional Services Commissioner on its performance against 18 outcomes contained in the Prison Service Agreements.

8.7 The 18 service delivery outcomes reported to the Correctional Services Commissioner are listed below:

- Prison operations
 - Escapes;
 - Self-mutilations/attempted suicides;
 - Assaults on prisoners by other prisoners;
 - Assaults by prisoners;
 - Assaults on staff or other persons; and
 - Drug testing.
- Education and training
 - Vocational training/prisoner enrolments in modules;
 - Completion/certification of vocational training achieved;
 - Adult basic education/prisoner enrolment in modules; and
 - Completion/certification of adult basic education achieved.
- Prison industry
 - Skills, number of skill areas or functions in which prisoners are able to participate; and
 - Participation rate.
- Health
 - Reception screenings within 24 hours;
 - Risk prisoners (proportion of prisoners considered a risk to themselves) who are assessed by a psychiatric professional; and



- Complaints received regarding health issues or access to appropriate health care, which the Commissioner receives directly and/or via the Ombudsman and proved to the Commissioner’s satisfaction to be valid.

- Other programs
 - Substance abuse awareness;
 - Substance abuse education; and
 - Substance abuse treatment.

8.8 There are 2 other service delivery outcomes which relate to accreditation of health services provided by the prison operators. Currently, these are not part of the reporting framework, as they do not come into effect until 2 years after operations commenced.

8.9 All health service providers within prisons are required, under the Prison Services Agreements, to seek accreditation from an agreed authority body in healthcare standards. Port Phillip Prison must obtain accreditation from The Australian Council on Healthcare Standards for its secondary and tertiary medical services within 2 years of commencing operation.

8.10 The Agreements state that accreditation must be obtained. While the 2 parties can initially work outside the Agreement, it is important that they obtain some form of accreditation within 2 years of commencing operation.

8.11 If providers do not seek accreditation they must satisfy the Prisoner Health Care Monitoring Unit of the Department of Human Services that they have obtained an alternative and acceptable form of accreditation. For example, Fulham Correctional Centre has sought an exemption because it has achieved ISO 9002 quality accreditation. The Unit does not consider this particular accreditation to be sufficient in itself because it is not “medical” specific. It has asked the prison operator at Fulham Correctional Centre to identify a course of action more suitable and present it for consideration.

8.12 The monitoring undertaken by the Correctional Services Commissioner focuses on those activities which are measured against the service delivery outcomes. However, as there has been little or no monitoring of certain key activities against outcomes, audit selected for detailed examination 4 of these areas critical to the effective management of prison operations where audit perceived that the Report could add value. These areas were:

- prison security;
- prison catering;
- health care services; and
- human resource management practices.



8.13 The specialists engaged by audit to examine each of these areas developed criteria in the form of checklists. The criteria were derived from the correctional standards, legislation, Prison Services Agreements, and operational manuals, and was also based on the expertise and knowledge of the specialist. The checklists were used to assess the performance of the 6 selected prisons. Detailed comments on the results of these assessments were included in comprehensive reports provided to the Department. Summary comments in relation to prison security, prison catering and health care services are outlined later in this Part of the Report.

8.14 In relation to human resource management practices the following paragraphs briefly outline the key findings contained in the report prepared by the specialist engaged by audit to examine this area. The findings were substantially of a positive nature, however, some of the more important suggestions for improvement are listed below:

- casual staff need to be subject to the same recruitment procedures as contract or permanent staff and reference checks should be conducted in all cases;
- competency assessments should be incorporated into the performance management and development process;
- all prisons need to ensure that prison staff training is approved by the Commissioner’s Office and in accordance with the requirements of the State Correctional Industry Training Board; and
- management development and training in supervision need to be implemented in all prisons.

8.15 While the Commissioner’s Office advised audit that quality assurance procedures assessing delivery and outputs relating to recruitment and training had not been conducted, there will be a shift towards content, delivery and an output focus in future.

PRISON SECURITY

Overall audit comment

8.16 The application of appropriate security measures for the effective operation of prisons is of fundamental importance to the community, prison management and prisoners themselves.

8.17 Breaches of security contributing to prisoner escapes, deaths in custody, prisoner mutilations, prison riots and the trafficking of contraband including illicit drugs are matters of great sensitivity and concern to society. As such the Government, in encouraging the involvement of the private sector in the operation of prisons, needs to ensure that security arrangements in place in both public as well as private prisons are effective and risks are adequately mitigated.



8.18 Given the above background and irrespective of whether a prison is classified as maximum, medium or minimum, prison authorities are faced with the complex issue of having to strike an appropriate balance between providing a level of security within a harmonious prison environment that meets industry standards and community expectations, while also ensuring prison operations are conducted in a cost-effective manner.

8.19 In reaching conclusions on the adequacy of prison security across a range of prisons, it needs to be recognised that some prisons such as the Port Phillip Prison had been in operation for only a relatively short period of time and the audit observations were based on circumstances in place at a particular point of time.

8.20 While operational manuals for the 6 prisons examined by the security specialist contained adequate direction for the management of security-related matters, the effectiveness of these arrangements can really only be judged by the way they are applied during an emergency or live situation.

8.21 Overall the specialist found that the prisons were generally complying with the requirements of prison services agreements by providing:

- an effective security system that protected the community and minimised the risk of prisoner escape;
- a secure environment for prisoners, visitors and staff; and
- adequate control over unauthorised articles or substances that may pose a threat to prison security.

8.22 All 6 prisons examined contained the actual number of security-related incidents within the acceptable limits specified in the Prison Services Agreements for various periods to 28 February 1999. The exceptions were that:

- Metropolitan Women’s Correctional Centre exceeded the acceptable limit for self-mutilations and attempted suicides by 91 per cent and assaults on prisoners by other prisoners by 20 per cent;
- Barwon Prison exceeded the acceptable limit for assaults on prisoners by other prisoners, assaults on staff and positive drug testing of prisoners by 32 per cent, 66 per cent and 44 per cent, respectively; and
- Loddon Prison exceeded the acceptable limit for assaults on prisoners by 27 per cent.

8.23 From a central management perspective the development of comprehensive agreements between the Minister for Corrections and prison operators that detailed targeted security-related outcomes was a positive feature, as was the advent of risk assessments for CORE prisons. Risk management would clearly be strengthened by the introduction of similar assessments for the private prisons.

8.24 Security measures that were generally found to be satisfactorily applied across the 6 prisons are summarised below:

- back-up facilities in place in the event of lighting or power failures and systems malfunction;
- control over prison keys and locks;



- prison patrols and staffing of security posts situated at strategic points to supervise prisoners;
- documenting instances where use of force is required, and emergency response capability of prisons;
- regular program of random searches of prisoners and their accommodation for unauthorised articles;
- regular drug detection programs and urine testing of prisoners;
- procedures and training for managing emergencies such as fire and other disasters;
- fully-tested and documented policies and procedures in operation;
- access and exit controls for persons including staff, vehicles and escorted prisoners;
- internal movement controls over prisoners;
- identification systems for staff, prisoners and visitors;
- the placement of prison officers in appropriate locations;
- controls over tools and utensils that could be converted to, or used as, weapons;
- segregation of prisoners, accountability for the number of prisoners held, custody of property and other strategies designed to sustain a harmonious existence; and
- intelligence gathering for maintaining an awareness of prisoner activities to detect breaches of security and other pro-active security measures.

8.25 The audit, however, also disclosed a range of weaknesses from a systemic perspective as well as various shortcomings in individual prisons that require attention. Issues of a systemic nature that need to be addressed included:

- greater co-operation between prison operators;
- improved security over prison visits in terms of banned visitors and supervision of visitors;
- enhanced supervision of prisoners by way of electronic surveillance;
- retention of video surveillance tapes;
- improved monitoring and a reassessment of penalties associated with illicit drug use in prisons as well as the need for incentives to be introduced;
- improved qualifications and role of security staff; and
- further development of formal strategies for prison security.

8.26 Weaknesses that were specific to individual prisons comprised the following:

- non-compliance with certain security arrangements;
- unsatisfactory testing of new security procedures;
- lack of supervision of prisoners in the engineering electroplating workshop area;
- insufficient control of prisoner movements;
- inadequate control over vehicles entering and leaving a prison and excessive traffic flow;
- inadequate induction programs for prisoners;



- unsatisfactory location and design of visitor facilities;
- inappropriate access to medical centre; and
- inadequate segregation of prisoners.

Background

8.27 Security matters are among the most significant issues facing prison management. A primary obligation for any prison operator is to ensure prisoners are contained and supervised in a safe, humane and just manner. As prisons must also be secure, prison operators are faced with a constant challenge of balancing security requirements with correctional objectives.

8.28 The Prison Services Agreements include the following over-riding requirement with respect to security:

“The Contractor must:

- (a) provide an effective security system which ensures the protection of the community by minimising the risk of prisoner escape;*
- (b) provide a secure working and living environment for prisoners, visitors and staff; and*
- (c) within the prison, control any article or substance which may threaten the good order or security of the prison.”*

8.29 The key elements of a sound security system in prisons are the utilisation of contemporary surveillance equipment, appropriately trained and selected prison officers, and formal policies and procedures for security and safety standards.

8.30 The classification of prisons according to maximum, medium and minimum security governs the measures applicable to security arrangements for each prison. The extent to which security poses a risk both within prisons in terms of fellow inmates and prison management as well as to the wider community is essentially dependent on the type of prison in question and the adequacy of the procedures in place.

8.31 Given the above, a specialist engaged by audit assessed the adequacy of system-wide operational functions in conjunction with individual security arrangements across the 6 selected prisons. Contractual obligations, operational manuals, general industry standards and specific security standards operating in each prison were used as the basis for establishing checklists to evaluate security procedures in place.

8.32 In terms of the new prisons, audit acknowledges the view held by the prison operators that the process can go on for up to 2 years before a prison becomes fully operational. As such, any interpretation of the comments made throughout this Part of the Report relating to newly constructed prisons need to be cognisant of this view. Notwithstanding this philosophy it is important that appropriate security measures be in place during this period when the risk is potentially higher.

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Positive features of prison security

8.33 In examining the security practices at the 6 selected prisons the specialist developed a checklist addressing 18 factors considered essential for adequate prison security. The results of the examination of these factors are listed below.

Common findings across prisons

8.34 Audit found that satisfactory arrangements were in place at each prison to address the following 7 factors:

- back-up facilities in place in the event of lighting or power failures and systems malfunction;
- control over prison keys and locks;
- prison patrols and staffing of security posts situated at strategic points to supervise prisoners;
- documenting instances where use of force is required, and emergency response capability of prisons;
- regular program of random searches of prisoners and their accommodation for unauthorised articles;
- regular drug detection programs and urine testing of prisoners; and
- procedures and training for managing emergencies such as fire and other disasters.

8.35 Satisfactory arrangements in relation to the following 8 factors were found to be in place at 5 out of the 6 prisons examined:

- fully tested and documented policies and procedures in operation;
- access and exit controls for persons including staff, vehicles and escorted prisoners;
- internal movement controls over prisoners;
- identification systems for staff, prisoners and visitors;
- the placement of prison officers in appropriate locations;
- controls over tools and utensils that could be converted to, or used as, weapons;
- segregation of prisoners, accountability for the number of prisoners held, custody of property and other strategies designed to sustain a harmonious existence; and
- intelligence gathering for maintaining an awareness of prisoner activities to detect breaches of security and other pro-active security measures.

8.36 The individual prisons found not to satisfactorily comply with the above factors were Port Phillip Prison (6 factors) and Metropolitan Women’s Correctional Centre (2 factors).

8.37 In relation to the other 3 factors, the audit revealed that:

- Loddon Prison was the only prison that was assessed as fully meeting the adequate standards for electronic surveillance;
- Fulham Correctional Centre and Loddon and Port Phillip Prisons had satisfactory central control operations and communication systems including staff duress, fire and security alarms; and



- No prison had satisfactory facility rules covering the internal movement of visitors, appropriate identification of previously barred visitors and supervision of the visits area.

Improvements required to security arrangements of a systemic nature

Central arrangements

Risk assessments

8.38 The audit disclosed that CORE conducts formalised risk assessments for the public prison system in terms of prison security. These assessments, which are conducted regularly, comprise a detailed review of operational security matters such as observation checks of access procedures.

8.39 In audit opinion, the Correctional Services Commissioner should ensure that private prison operators also conduct regular risk assessments using external expertise so that all key risks are identified and included in their operational manuals and annual security plans.

Review of buildings for all prisons

8.40 Each of the facilities examined was found to be well-equipped, with processes in place to adequately address the maintenance of buildings and facilities. At the time of audit, there was provision in the prison services agreements for monitoring the condition of the prison infrastructure through an independent process. Up until now, the Major Projects Branch within the Department of Justice conducted the first annual review of buildings in the new prisons.

8.41 Audit is of the view that all monitoring of prison infrastructure required under the Prison Services Agreement should be co-ordinated through the Commissioner’s Office. The Correctional Services Commissioner should arrange for an assessment of all prison buildings which is independent of the Department, especially maintenance planning in terms of appropriate security arrangements.

Technology for the Victoria Police Prisons Squad

8.42 The Victoria Police Prisons Squad, a specialist investigative body within the Criminal Investigation Branch, is primarily concerned with prison operations and is responsible for criminal investigation and intelligence gathering throughout the prison system.

8.43 In conducting a comparison of security-related incidents in prisons such as assaults on prisoners and detection of contraband that were reported to Victoria Police over the past 3 years, the audit disclosed that the relevant information was recorded manually and this impeded meaningful analysis. Manual recording also severely limited the capacity for cross-referencing of names or aliases and other incident details to assist in linking or investigating matters. The analysis conducted by audit disclosed that the most frequent security-related incidents involved assaults on prisoners and drug-related matters.



8.44 In the absence of contractual provision for reporting notifiable incidents to Victoria Police, the Correctional Services Commissioner should encourage prison operators to work closely with the Victoria Police Prisons Squad to assist in the development of a suitable system for recording reported incidents, including those relating to breaches in prison security.

Co-operation between prison operators

8.45 A lack of cohesion between private and public prison operators is not totally unexpected given the short period that private prisons have operated and the commercial realities of the evolving multi-service provider prison industry. This lack of cohesion has led to a fragmented system that limits opportunities for specialist staff such as key security personnel to work more closely together to identify and address common issues. For example this discourages innovative solutions to be shared between prison operators, or the co-operation necessary for joint operations between prisons involving intelligence matters.

8.46 Security in prisons is critical. Accordingly, audit is of the view that, despite the emerging commercial tensions, the Correctional Services Commissioner needs to promote greater co-operation between prison operators. One avenue of response would be to establish an industry security forum that meets regularly to consider matters of mutual interest.

Security over prison visits

Banning of certain visitors

8.47 The system for banning the access of certain visitors to Victorian prisons is not consistent across all prisons. Under current arrangements, a person who is banned from entering one prison, e.g. on grounds of bringing contraband into the prison during a visit, may be able to gain access to another prison as prison operators do not have shared intelligence networks such as industry-wide hand scanning systems and visitors may be able to produce false identification. Port Phillip Prison already has a hand scanning system in place which enables it to identify previously banned visitors to that prison. Audit has been advised by CORE that it is currently trialing a finger scanning visitor identification system at Barwon and Loddon Prisons with a view to introducing it across all CORE prisons.

8.48 Because of industry fragmentation, audit acknowledges the difficulty in developing a common approach to the detection of banned visitors. Nevertheless, it may be useful for the Correctional Services Commissioner to encourage prison operators to introduce compatible scanning systems across all prisons to minimise the potential for suspect or barred persons gaining access to any prison.



Supervision of visitors

8.49 Audit observed that staff had difficulty in maintaining full security over the visits centres where visitors meet with prisoners. Staff were required to strip search prisoners at the end of contact visits immediately after their visitor had departed while at the same time maintaining supervision in the visits centres, including any outdoor areas. In the larger prisons, there was a high turnover with in excess of 100 visitors and prisoners in each centre at any given time. In audit opinion, these conditions restricted the ability of staff to maintain a span of control across the visits centres.

8.50 The Correctional Services Commissioner should encourage prison operators to develop formal “span of control” policies to ensure appropriate supervision during visits. Such a policy should include minimum staffing requirements and documentation of all key supervisory tasks, and form part of renegotiated prison services agreements.

Supervision of prisoners

Electronic surveillance

8.51 The use of an electronic surveillance mechanism such as closed circuit television can assist custodial officers in monitoring prisoners.



Electronic surveillance facilities in the control room of Barwon maximum security prison.



8.52 The audit disclosed that all prisons examined, except for the smaller minimum security Dhurringile Prison, utilised electronic surveillance equipment covering perimeter and prison grounds. However, most prisons did not have adequate surveillance equipment operating in prisoner accommodation units and kitchens. Generally, it is argued by prison operators that electronic surveillance has been sacrificed because human supervision is considered more effective. Audit is of the view that this situation was particularly significant in the case of Port Phillip Prison which did not have sufficient staff to maintain adequate observation of these areas. In the case of the Metropolitan Women’s Correctional Centre and Dhurringile Prison, there were no custodial staff rostered to supervise prisoners working in the kitchens on weekends. The use of closed circuit television provides an opportunity for constant observation of specific areas, evidence for post-incident review, and as a training and de-briefing tool for staff.

8.53 The Correctional Services Commissioner, in supporting prison operators to provide the most effective configuration of security measures, should encourage the use of electronic video surveillance with recording capacity in areas with limited or no staff supervision of prisoners.

Policy for retaining video surveillance tapes

8.54 Video surveillance tapes are retained for evidentiary and staff training purposes. None of the prisons examined by audit had a formal system whereby video tapes were retained.

8.55 To improve the quality of evidence and post-incident debriefings, and consistent with standard practice in the security industry, the Correctional Services Commissioner should request that all prisons retain their video surveillance tapes for a period of 14 days.

Monitoring and sanctions for illicit drug use and the introduction of incentives

8.56 The Commissioner is responsible for the oversight of the Government’s Prisons Drug Strategy. This strategy is intended to provide a consistent framework for all aspects surrounding the management of drugs in prisons. The Department indicated that this is a very complex issue requiring considerable work and it has been, and continues to be, a very high priority task for the Commissioner.

8.57 A critical component of the Prisons Drug Strategy is the provision of a range of education and treatment options for prisoners. The Department advised that *“these programs were significantly expanded as a result of funds granted through the Government’s “Turning the Tide” initiative against drug abuse. A grant of \$5.3m over three years was provided to upgrade Corrections programs. This funding has been used to supplement prison drug education and treatment services in both public and private prisons to ensure that a wide range of programs are accessible to all prisoners. Programs have now been fully implemented and program evaluations are to be completed, in accordance with “Turning the Tide” requirements, early in 1999-2000”*.



8.58 The Commissioner has addressed the question of illicit drug use in prisons through the introduction of a 3-tiered holistic approach involving prevention, detection and treatment. Effective implementation of the prevention and detection aspects of this holistic approach requires the support of complementary security measures and sanctions for those prisoners identified as drug users within the prisons. Those prisoners who have successfully participated in education and treatment programs may achieve modification to their drug user status.

8.59 Given the supply of illicit drugs to prisoners can only, at best, be minimised without the use of expensive detection-based technology, the monitoring and detection procedures, including the testing of prisoners' urine samples, were considered to be adequate.

8.60 Sanctions in relation to breaches of prison security could be applied in a fairer manner if sanctions regarding "minor" drug usage by prisoners were not as severe. For example, a prisoner returning a positive result for cannabis or alcohol use receives the same penalty as a user of hard drugs such as amphetamines or heroin. An example of the severity of sanctions imposed according to the drug user status of prisoners, irrespective of the type of drugs involved, is demonstrated below:

- First offence - No contact visits for 3 months;
- Second offence - No contact visits for 6 months; and
- Third offence - No contact visits for 12 months.

8.61 The severity of the above sanctions varies substantially from the level of penalties imposed through the judicial system which reflects the seriousness of the offence and an offender's prior convictions. For example, first offender cannabis users are automatically cautioned or given a good behaviour bond.

8.62 In a prison environment, the severity of sanctions for relatively minor breaches could have an adverse effect in terms of the safety of, and co-operation between, custodial staff and individual prisoners. Some of the implications that could arise are listed below:

- undermining the achievement of a harmonious existence between prisoners and staff, and between prisoners themselves;
- an increase in illicit drugs entering prisons;
- a potential increase in demand for hard drugs accompanied by an increase in trafficking; and
- an increase in drug-related violence within prisons.

8.63 In audit opinion prisoners who commit a "minor" drug offence for the first time in prison, such as for cannabis use, should receive a lesser penalty than that received by a hard drug user. This approach if adopted will provide some incentive to a prisoner to refrain from taking hard drugs by continuing to use drugs of a less harmful nature. With regard to all prisoners who have committed 3 or more drug-related offences in prison, consideration should also be given to introducing incentives for them to break the drug use cycle. A pilot program should be considered to determine whether such concepts are beneficial to the welfare of prisoners.



8.64 The Department recently advised it had engaged consultants to carry out a wide-ranging evaluation of the Prisons Drug Strategy.

Qualifications and role of security staff

8.65 Most staff in prisons with responsibility for security have many years of experience and generally have no formal security management qualifications. In addition, the range of these and other associated responsibilities weakens their capacity to focus on security matters.

8.66 The audit found that, without detracting from the importance of security personnel having an appropriate level of experience, there was not an appropriate balance between experience and qualifications. In addition, the audit revealed that insufficient attention had been given to attaching a high professional status to the position of security manager.

8.67 To address these shortcomings, the Correctional Services Commissioner should encourage each prison operator to appoint a security manager with specific responsibility for ongoing maintenance of security within their respective prison. In audit opinion an appropriate balance between length of service and suitable qualifications would enhance the capacity of prison operators to provide leading edge security management.

8.68 The Commissioner should also consider making arrangements for certain staff to possess formal qualifications in security management and establishing industry standards for competencies and qualifications for these prison security managers.

Procedural standards and strategies

8.69 Procedural standards and strategies operating in each prison included in Prison Services Agreements are intended to cover security-related matters in a range of different ways.

8.70 A typical Prison Services Agreement requires the contractor to provide a safe and secure environment within a prison which includes:

- a secure physical perimeter;
- secure prisoner accommodation in rooms and shared units or double or single cells;
- control over the introduction into the prison of any article including illegal drugs or substance which may threaten the good order or security of the Prison; and
- the development and implementation of a security system and procedures which will discourage escapes, detect escapes, apprehend escaped prisoners and prevent incidents which may lead to escapes.

8.71 Correctional Policy and Management Standards for men’s prisons in Victoria provide for the following outcomes from prison security systems:

- ensuring the protection of the community by minimising the risk of prisoner escape;
- providing a secure working environment for prisoners, visitors and staff; and



- controlling any article or substance which may threaten the good order or security within the prison.

8.72 While operational manuals for the 6 prisons examined by the audit specialist contained adequate direction for the management of security-related matters, the effectiveness of these arrangements can really only be judged by the way they are applied during an emergency or live situation. If procedures are rigorously tested and staff possess the required level of knowledge and understanding of their application, a satisfactory framework should be in place for prison security to be maintained.

8.73 Unlike drug, violence and sexual offender strategies, formal strategies for prison security, including the use of advanced technology were not in place due to limited opportunities for system development and interaction between providers. Audit is of the view that this situation has arisen because there is a focus on meeting service delivery outcomes rather than seeking the most innovative or effective solution to security issues.

8.74 As Prison Services Agreements are re-negotiated during the next 2 years, provision should be made for:

- an equipment inventory and maintenance and purchasing plans;
- competency requirements and successional planning for key security staff;
- training and development plans for staff which include references to security functions; and
- opportunities for industry development such as encouraging greater interaction and co-operation between operators and with external agencies such as Victoria Police.

8.75 Apart from the above issues of a systemic nature, the examination of security arrangements at the 6 selected prisons resulted in the following observations for each prison.

Port Phillip Prison

Overall comment

8.76 Port Phillip Prison is a privately-owned and operated maximum, medium and minimum security prison, which commenced operation in September 1997. It is a modern, well-equipped facility that is undergoing extensive review in terms of its organisational and staffing structure, operating procedures and general correctional activity.

8.77 In general terms, the prison met the criteria established by audit for the implementation of appropriate security arrangements although there was room for improvement. This was openly acknowledged by prison management.



A modern prisoner cell at Port Phillip Prison.

Actual performance compared with outcome targets

8.78 Table 8A shows the performance of Port Phillip Prison for the period 10 September 1998 to 28 February 1999 against certain security-related service delivery outcomes contained in the Prison Services Agreement.

TABLE 8A
SERVICE DELIVERY OUTCOMES FOR PORT PHILLIP PRISON,
10 SEPTEMBER 1998 TO 28 FEBRUARY 1999

<i>Category of service delivery outcomes</i>	<i>Required service delivery outcomes (not more than)</i>	<i>Actual performance for period 10 September 1998 to 28 February 1999</i>
Escapes (prisoners per year)	1	0
Self-mutilation/attempted suicide (percentage of average muster)	11.783	6.2130
Assaults on prisoners by other prisoners where an incident is recorded (per 100 prisoner years)	24.13	12.426
Assaults by staff (per 100 prisoner years)	0	0
Assaults on staff or other persons where an incident is recorded (per 100 prisoner years)	4.33	4.020
Drug testing - percentage of prisoners tested who test positive for non-prescribed drug use as a result of random testing over time (per cent)	8.00	5.71

Source: Office of the Correctional Services Commissioner.



8.79 As indicated in the above table the prison has performed well in comparison with the limits set for the security-related outcomes for the period to 28 February 1999.

Security arrangements that need improvement

Non-compliance with security requirements

8.80 Audit observed a number of instances of non-compliance with Port Phillip Prison’s operational manual. These included failing to search and then escort vehicles entering the prison.

8.81 Audit recommends that prison management regularly conduct assessments of staff compliance with documented policies and procedures to ensure the maintenance of security standards at all times.

Testing of new security procedures

8.82 At the time of the visit to Port Phillip Prison, audit was advised that its new security procedures for emergency response would not be tested before their submission to the Correctional Services Commissioner for approval. The process of developing new security procedures was led by a staff member with no specific security expertise.

8.83 The Commissioner should insist that major variations to, or the addition of, newly developed security procedures be tested under controlled conditions to ensure the prison environment and resourcing arrangements are adequate, prior to submission to the Commissioner for approval.

Sally-ports

8.84 A sally-port is the area of the prison through which all vehicles enter and exit. The sally-port has doors at each end and it is here that vehicles are stopped and searched before they are allowed to proceed. In a maximum security prison, any weaknesses detected in the operation of the sally-port would constitute a major security risk.

8.85 Port Phillip Prison’s main sally-port does not contain a vehicle inspection pit to facilitate the physical inspection of the undercarriage of vehicles. As a result prison staff have to rely on the use of hand held mirrors for vehicle inspections to detect instances of illegal entry of contraband concealed under a vehicle. The use of a vehicle inspection pit would enable more efficient and effective searches to be conducted of vehicles entering or leaving the prison.

8.86 In audit opinion, given that Port Phillip Prison is a maximum security prison, the Department should evaluate whether there is a demonstrated need for the installation of an inspection pit in the Prison’s main vehicle sally-port.



Unescorted vehicles

8.87 To ensure that prison security is maintained at all times, vehicles entering a prison must be escorted by custodial staff while within the confines of the prison.

8.88 During the audit inspection, instances were observed where vehicles were permitted to enter Port Phillip Prison and proceed to their destination unescorted, despite operational procedures prohibiting such occurrences.

8.89 The prison operator needs to ensure that procedures for escorting vehicles within the prison are consistently adhered to at all times.

Induction program for prisoners

8.90 Formal induction information for prisoners, explaining the rules of the prison and the rights and responsibilities of prisoners, was not in place at the time of audit's visit.

8.91 The prison operator at Port Phillip Prison should implement an induction package that provides prisoners with appropriate information relating to prisoner rights and responsibilities. Consideration should also be made for illiterate prisoners or those with English language difficulties.

Other matters

8.92 Audit observed the following breaches of prison security which require the attention of the prison operator at Port Phillip Prison:

- unsupervised prisoners in the engineering electroplating workshop area;
- potential for widespread misuse of prisoner movement slips; and
- prisoners failed to comply with the requirements of the prison's operational manual in relation to the display of appropriate identification.

Fulham Correctional Centre

Overall comment

8.93 The privately-owned and operated Fulham Correctional Centre, a modern well-equipped facility, is classified as a medium and minimum security prison. The centre, which commenced operation in March 1997, has a continuous improvement program designed to maintain procedures at the highest level.



Modern facilities at the privately-operated Fulham Correctional Centre.



8.94 The audit found that the centre met the criteria established by audit for the implementation of appropriate security arrangements. From a security perspective the management structure, staffing levels and organisational philosophies at all levels of the operation were considered impressive. It was encouraging to find that the centre had recorded its policies and procedures on a computer system which is accessible to all staff members at any time.



Actual performance compared with outcome targets

8.95 Table 8B shows the performance of the Fulham Correctional Centre for the period 7 April 1998 to 28 February 1999 against certain security-related service delivery outcomes contained in the Prison Services Agreement.

**TABLE 8B
SERVICE DELIVERY OUTCOMES FOR FULHAM CORRECTIONAL CENTRE,
7 APRIL 1998 TO 28 FEBRUARY 1999**

<i>Category of service delivery outcomes</i>	<i>Required service delivery outcomes (not more than)</i>	<i>Actual performance for period 7 April 1998 to 28 February 1999</i>
Escapes (prisoners per year)	1	0
Self-mutilation/attempted suicide (percentage of average muster)	2.19	0.94
Assaults on prisoners by other prisoners where an incident is recorded (per 100 prisoner years)	10.38	8.13
Assaults by staff (per 100 prisoner years)	0	0
Assaults on staff or other persons where an incident is recorded (per 100 prisoner years)	3.50	0.76
Drug testing - percentage of prisoners tested who test positive for non-prescribed drug use as a result of random testing over time (per cent)	7.9	7.74

Source: Office of the Correctional Services Commissioner.

8.96 As indicated in the above table the centre has performed well in comparison with the limits set for the security-related outcomes for the period to 28 February 1999.

Security arrangements that need improvement

8.97 Several operational areas at the Fulham Correctional Centre need to be addressed as outlined below:

- Prison visitors were able to view the monitoring and surveillance equipment from the visits centre which reduces the effectiveness of these particular facilities. This means that visitors can determine the range of sight of monitoring equipment;
- The visits centre was poorly designed in that prisoners were not locked into their side of the non-contact visits area, thereby limiting the ability of staff to maintain security over this area; and
- Some door handles within the medical centre were not secure.

8.98 In audit opinion, there is a need for:

- the monitoring and surveillance facilities at the visits centre to be upgraded to conceal direct observation of surveillance monitors by visitors to the centre;
- the design faults of the non-contact visits area to be rectified in order to improve officer control over prisoners in this area; and
- the door control within the medical centre to be reviewed.



Metropolitan Women’s Correctional Centre

Overall comment

8.99 The Metropolitan Women's Correctional Centre, which was commissioned as a privately-owned and operated prison in August 1996, is a modern, well-equipped maximum, medium and minimum security facility that is subject to ongoing internal review. The management structure, staffing levels and organisational philosophies at all levels are adequate.



Modern facilities at the privately-operated Metropolitan Women’s Correctional Centre allow for children to reside with their mother, where it is in the best interests of the child.

8.100 The audit disclosed that the centre generally met the criteria established by audit in terms of implementing appropriate security arrangements.

Actual performance compared with outcome targets

8.101 Table 8C shows the performance of the Metropolitan Women’s Correctional Centre for the period 23 August 1998 to 28 February 1999 against certain security-related service delivery outcomes contained in the Prison Services Agreement.



TABLE 8C
SERVICE DELIVERY OUTCOMES FOR
METROPOLITAN WOMEN'S CORRECTIONAL CENTRE,
23 AUGUST 1998 TO 28 FEBRUARY 1999

<i>Category of service delivery outcomes</i>	<i>Required service delivery outcomes (not more than)</i>	<i>Actual performance for period 23 August 1998 to 28 February 1999</i>
Escapes (per 2 years)	1	0
Self-mutilation/attempted suicide (per 100 receptions)	3.8	7.2
Assaults on prisoners by other prisoners where an incident is recorded (per 100 prisoner years)	30.0	35.966
Assaults by staff (per prisoner year)	0	0
Assaults on staff or other persons where an incident is recorded (per 100 prisoner years)	10.0	7.193
Drug testing - percentage of prisoners tested who test positive for non-prescribed drug use as a result of random testing over time (per cent)	8.26	6.94

Source: Office of the Correctional Services Commissioner.

8.102 As indicated in the above table, the centre has exceeded the limits set for self-mutilations and attempted suicides and assaults on prisoners by other prisoners in the period to 28 February 1999. The limits set for escapes, assaults by staff, assaults on staff or other persons, and the percentage of prisoners testing positive for drugs have not been exceeded for the period.

Security arrangements that need improvement

8.103 Audit considers that the following areas should be addressed:

- the amount of traffic entering the centre for stores and administration should be reduced as excessive traffic flows require additional security resources and increase the risk of contraband entering the centre;
- an inspection pit should be located in the sally-port as the centre accommodates maximum security prisoners;
- electronic surveillance should be installed to overcome a design fault that enables visitors to access internal areas of the centre; and
- a review of the accommodation units and exercise facilities for protection prisoners be undertaken to ensure:
 - segregation from the mainstream prisoner accommodation; and
 - appropriate segregation of individual protection prisoners.

Barwon Prison

Overall comment

8.104 Barwon Prison is a reasonably modern, well-equipped, publicly-operated facility that is subject to ongoing internal review. The management structure, staffing levels, and organisational philosophies at all levels of this maximum security prison are considered adequate.

8.105 The audit revealed that the prison generally met the criteria established by audit in terms of implementing appropriate security arrangements.

Actual performance compared with outcome targets

8.106 Table 8D shows the performance of Barwon Prison for the period 1 July 1998 to 28 February 1999 against certain security related service delivery outcomes contained in the Prison Services Agreement.

**TABLE 8D
SERVICE DELIVERY OUTCOMES FOR BARWON PRISON,
1 JULY 1998 TO 28 FEBRUARY 1999**

<i>Category of service delivery outcomes</i>	<i>Required service delivery outcomes (not more than)</i>	<i>Actual performance for period 1 July 1998 to 28 February 1999</i>
Escapes (prisoner per year)	0	0
Self-mutilation/attempted suicide (per 100 prisoner years)	2.18	1.804
Assaults on prisoners, by other prisoners where an incident is recorded (per 100 prisoner years)	9.60	12.630
Assaults by staff (per 100 prisoner years)	0	0
Assaults on staff or other persons where an incident is recorded (per 100 prisoner years)	2.18	3.609
Drug testing - percentage of prisoners tested who test positive for non-prescribed drug use as a result of random testing over time (per cent)	3.00	4.31

Source: Office of the Correctional Services Commissioner.

8.107 As indicated in the above table, the prison has exceeded the limits set for assaults on prisoners by other prisoners, assaults on staff and positive drug testing of prisoners in the period to 28 February 1999. The limits set for escapes, self-mutilations and attempted suicides, and assaults by staff have not been exceeded for the period.

Security arrangements that need improvement

8.108 Consideration should be given to reducing the amount of traffic entering Barwon Prison for stores and administration as excessive traffic flows require additional security resources and increase the risk of contraband entering the prison.

Loddon Prison

Overall comment

8.109 Loddon Prison is a reasonably modern, well-equipped medium and minimum security facility that is subject to ongoing internal and external review. The management structure, staffing levels, and organisational philosophies at all levels of the operation are adequate.

8.110 The audit found that the prison generally met the criteria established by audit for the implementation of appropriate security arrangements.

Actual performance compared with outcome targets

8.111 Table 8E shows the performance of Loddon Prison for the period 1 July 1998 to 28 February 1999 against certain security-related service delivery outcomes contained in the Prison Services Agreement.

**TABLE 8E
SERVICE DELIVERY OUTCOMES FOR LODDON PRISON,
1 JULY 1998 TO 28 FEBRUARY 1999**

<i>Category of service delivery outcomes</i>	<i>Required service delivery outcomes (not more than)</i>	<i>Actual performance for period 1 July 1998 to 28 February 1999</i>
Escapes (prisoners per year)	0	0
Self-mutilation/attempted suicide (per 100 prisoner years)	0.81	0
Assaults on prisoners by other prisoners where an incident is recorded (per 100 prisoner years)	4.05	5.164
Assaults by staff (per 100 prisoner years)	0	0
Assaults on staff or other persons where an incident is recorded (per 100 prisoner years)	0	0
Drug testing - percentage of prisoners tested who test positive for non-prescribed drug use as a result of random testing over time (per cent)	3.00	1.87

Source: Office of the Correctional Services Commissioner.

8.112 As indicated in the above table, the prison has exceeded the limit set for assaults on prisoners by other prisoners in the 8 month period to 28 February 1999. The limits set for escapes, self-mutilations and attempted suicides, assaults by staff, assaults on staff and positive drug testing of prisoners have not been exceeded for the period.



Dhurringile Prison

Overall comment

8.113 Dhurringile Prison is an aged facility that is reasonably well-equipped as a minimum security facility. It is subject to ongoing internal review and the management structure, staffing levels and organisational philosophies at all levels are adequate.

8.114 The prison generally met the criteria met by audit for the implementation of appropriate security arrangements.

Actual performance compared to outcome targets

8.115 Table 8F shows the performance of Dhurringile Prison for the period 1 July 1998 to 28 February 1999 against certain security-related service delivery outcomes contained in the Prison Services Agreement.

**TABLE 8F
SERVICE DELIVERY OUTCOMES FOR DHURRINGILE PRISON,
1 JULY 1998 TO 28 FEBRUARY 1999**

<i>Category of service delivery outcomes</i>	<i>Required service delivery outcomes (not more than)</i>	<i>Actual performance for period 1 July 1998 to 28 February 1999</i>
Escapes (prisoners per year)	3	1
Self-mutilation/attempted suicide (per 100 prisoner years)	0	0
Assaults on prisoners by other prisoners where an incident is recorded (per 100 prisoner years)	5.06	4.2559
Assaults by staff (per 100 prisoner years)	0	0
Assaults on staff or other persons where an incident is recorded (per 100 prisoner years)	0	0
Drug testing - percentage of prisoners tested who test positive for non-prescribed drug use as a result of random testing over time (per cent)	4.00	2.44

Source: Office of the Correctional Services Commissioner.

8.116 As indicated in the above table, Dhurringile Prison has performed well in comparison to the limits set for all security related outcomes for the 8 months to 28 February 1999.

Security arrangements that need improvement

8.117 Consideration should be given to up-grading the closed circuit television system at the prison.

PRISON CATERING

Overall audit comment

8.118 The following comments summarise the findings of the food services specialists.

Quality of food services

8.119 The food services at the Fulham Correctional Centre and the Loddon and Barwon Prisons were very well managed and assessed to be on a par in either all or most food service operations with similar community-based institutions such as hospitals, nursing homes and residential facilities. In contrast, the food services at Port Phillip and Dhurringile Prisons were below the industry standard in some operational aspects with the former prison experiencing problems in relation to the quality of food and related operational practices. While the Metropolitan Women’s Correctional Centre had an acceptable food services operation, it did not reflect good management practice particularly in respect of continuous security of kitchen facilities and food stores access.



Kitchen facility at Barwon Prison.

.....

Compliance with catering industry standards

8.120 The conclusions drawn from the evaluation of whether prison meals satisfied various standards are set out below.

Hygiene standards

8.121 Loddon and Barwon Prisons and Fulham and Metropolitan Women's Correctional Centres were conscious of implementing hygienic practices to ensure that their food services operations met acceptable industry hygiene standards. This was evident by the use of protective clothing in the preparation of food and the apparent cleanliness of the facilities.

8.122 Dhurringile and Port Phillip Prisons were less concerned with implementing all of these standards, neglecting to comply with basic hygiene practices.

8.123 The level of hygiene and food handling training varied between each of the 6 prisons.

8.124 Under new legislation due to come into force later this year, the prison food services operations will be held more accountable for ensuring hygienic practices are enforced and monitored in the workplace.

Minimum dietary requirements

8.125 Varying attempts had been made by the prison food service managers to address nutritional dietary requirements. Fulham Correctional Centre was the only prison of the 6 visited to have commissioned a dietitian to undertake a full nutritional analysis based on the national minimum dietary requirements.

8.126 Loddon and Barwon Prisons and Metropolitan Women's Correctional Centre had made contact with a dietitian and sought some input on their menus, however, an ongoing detailed analysis derived from standardised recipes and ingredients had not been undertaken.

Food Act requirements

8.127 Based on the classification criteria set out in the *Food (Amendment) Act 1997*, prisons have been identified as a Class B premises. However, after observing the food services operations in the 6 prisons and given that prisoners are regarded by audit as a vulnerable group, i.e. they have no option but to eat the food provided by the prison, audit considers that prisons should be classified as Class A premises with more stringent deadlines for complying with the legislative amendments. Notwithstanding the categorisation of prisons as Class B premises, a Hazard Control Program as prescribed in the amendments needs to be implemented as soon as possible and constantly monitored.



Minimum standards of the Correctional Services Commissioner

8.128 All of the 6 prisons were aware of the minimum standards set by the Correctional Services Commissioner and attempted to ensure that they were achieved in their individual food service operations. However, there needs to be a more uniform approach to implementing and monitoring these standards.

Prison Services Agreements and/or contractual obligations

8.129 Audit found a lack of clearly defined management specifications and performance criteria for food services set out in the Prison Services Agreements. The current arrangements allow prison management too much discretion in interpreting the requirements outlined in the Agreements and how they are to be implemented. This makes it difficult for the Commissioner to hold prisons accountable.

Prison operating manuals covering catering services

8.130 Procedural manuals need to be living documents that are continually updated to meet new requirements. Such updates may be required as many as 3 to 4 times a year with input from all catering staff.

8.131 Audit's assessment of the catering sections of the prisons operating manuals indicated that the manual in use at the Fulham Correctional Centre was the most up-to-date manual of all the prisons visited and provided an adequate framework for the delivery of high quality food services.

8.132 The manuals and procedures at the Metropolitan Women's Correctional Centre and Dhurringile, Loddon and Barwon Prisons needed upgrading and should incorporate standard performance indicators to ensure uniformity of compliance. Subsequent to the audit examination, in early September 1998 new procedures have been introduced at Loddon Prison.

8.133 The manuals used by Port Phillip Prison are generic and non-specific. The manuals need to be updated to reflect the prison catering environment.

Monitoring procedures

8.134 The results of the examination of the procedures applied to monitor the quality of food provided to prisoners are outlined below.

Prison operators

8.135 There were a number of mechanisms available at Fulham Correctional Centre to monitor the quality of food, including prisoner menu suggestion forms and registers for documenting complaints about the food.

8.136 Loddon Prison undertook annual inspections which addressed issues relating to the Food Premises Code prescribed in the *Food (Amendments) Act 1997*. In addition, meals ordered by prisoners were recorded on a daily basis and collated to inform the Catering Supervisor of the relative popularity of dishes. A committee comprising catering staff and prisoners had also been introduced to monitor food quality.



8.137 Metropolitan Women’s Correctional Centre had introduced both formal and informal monitoring procedures. A committee comprising catering staff and prisoners met regularly to address issues relating to the quality of food.

8.138 Barwon Prison conducted a survey of prisoners to obtain their opinion on the quality of food. There were also formal and informal procedures for prisoners to lodge complaints.

8.139 By way of contrast, there were no formal procedures in place at Dhurringile Prison for management to monitor the quality of food. The only process by which the quality of food was monitored by management was by prisoners providing informal feedback concerning the quality of meals. At Port Phillip Prison there were documented procedures in place, however, evidence was not available to indicate that such procedures had been implemented.

Correctional Services Commissioner

8.140 Audit found that Port Phillip Prison was the only prison where the Commissioner had arranged a review of catering services. The assessment was conducted in July 1998.

Independent assessments of food quality

8.141 The audit disclosed that the quality of food provided to prisoners at the Fulham and Metropolitan Women’s Correctional Centres had been subject to independent assessment in December 1997.

Contracted food services

8.142 Food services in the selected prisons are delivered by staff directly employed by the prison operators, except in the case of Port Phillip Prison where the food services operation is provided under contract to the prison operator. Audit found that the contract does not contain properly defined specifications or performance criteria and as a consequence the prison operator is unable to hold the sub-contractor accountable. This contractual arrangement requires a comprehensive overhaul to ensure better quality food and that various other weaknesses including security problems relating to kitchen operations are addressed.

8.143 In audit opinion the problems arising from the deficiencies in the contract between the prison operator and the catering sub-contractor were compounded by the prison operator not monitoring the performance of the sub-contractor.

8.144 The audit also found that the Commissioner had conducted only limited monitoring of this activity.

8.145 Audit is of the view that this situation can be remedied through re-negotiating the contract to clearly specify performance criteria relating to food quality. Closer monitoring of the contract by the Commissioner is also required.

Background

8.146 The 4 food services specialists engaged to conduct this part of the audit developed a series of questions as criteria which would provide the basis for arriving at objective conclusions as to the quality of food services at each of the selected prisons. The questions covered the following areas:

- food quality;
- facilities and hygiene;
- supervision of prisoners working in kitchens;
- food storage and stock control;
- training for prisoners; and
- compliance with legislative food handling requirements.

8.147 A typical weekly menu for a male prisoner, which includes several choices for the evening meal, is shown below:

<i>Breakfast</i>	(same every day)	cereal, milk and toast
<i>Lunch</i>	Sunday	2 meat pies
	Monday	tomato pasta with meatballs
	Tuesday	rolls with tuna or sliced meat or salad
	Wednesday	dims sims/fried rice
	Thursday	2 hamburgers
	Friday	fish cakes and chips
	Saturday	sausage and onion sizzle
<i>Dinner</i>	Sunday	roast beef or soy bean rissoles or salmon salad and sweets (creamed rice)
	Monday	grilled fish or spinach pie or salami salad
	Tuesday	spicy plum beef or stuffed capsicums or egg and cheese salad and sweets (scones)
	Wednesday	braised steak and onion or stir fry vegetables with honey and soy or chicken salad
	Thursday	crumbed chicken legs or zucchini slice or ham and potato salad and sweets (apple pie and cream)
	Friday	minted lamb casserole or bean curry or tuna salad
	Saturday	spaghetti bolognese or crumbed vegetarian sausages or curried pasta salad and sweets (muffin)

8.148 While most prisoners eat in communal settings, prisoners accommodated in minimum security units at Loddon Prison, and Fulham and Metropolitan Women’s Correctional Centres prepare their own meals in communal kitchens in their units.

Audit criteria

8.149 According to the applicable legislation “... every prisoner has the right to be provided with food that is adequate to maintain the health and well-being of the prisoner”.



8.150 Standards developed by the Correctional Services Commissioner require that prison operators provide:

- 3 meals each day at times acceptable by normal community standards;
- menus that comply with recommended dietary intakes; and
- meals which take account of:
 - prisoner preferences;
 - the need for a variety of food flavours;
 - the need for an interesting and varied diet;
 - the seasonal availability of fresh produce; and
 - medical or special dietary needs.

8.151 When examining issues relating to the standard of food services in a prison setting, audit found that prison operators have interpreted the term “adequate” in the legislation and “normal community standards” prescribed by the Commissioner to mean a standard of food that an average household might consume.

8.152 The Prison Services Agreement with Port Phillip Prison contains an objective for “... the contractor to provide prisoners with food that is of sufficient quantity and nutritional value for health and well-being. Food must be prepared and delivered in a safe and efficient manner”.

Food quality

Background

8.153 The kitchens of each of the 6 prisons were inspected by 2 food services specialists. The site visit to each location lasted 1 day and included a thorough tour of each prison’s food services operation, including inspection of the kitchen equipment and production process, prisoner accommodation, storage areas, dining areas and food transportation equipment. The main contact persons for the visits were the prison Catering Supervisors.

8.154 The specialists took bacterial swabs from the kitchen equipment and surfaces at each prison and tested the swabs at the laboratory located at William Angliss Institute of Technical and Further Education to provide an indication of the cleanliness of the specific areas.

8.155 In addition to the site visits, documentation such as menus, kitchen equipment lists, operational manuals and legislation were reviewed.

8.156 Poor quality food can impact in many ways on the health of a person. The extent of impact is dependent on how long the person is exposed to poor quality food and their state of health before they are taken into custody. Meals are one of the most important events in a prison day.



Cook-chill food preparation system

8.157 The cook-chill system for preparing meals involves a process whereby food is cooked, then chilled in bulk or dished on to plates. When required to be served, the food is rethermalised. Under the cook-chill system, operators are required by law to keep a record of food holding time and food temperature.

8.158 Audit found that there were no controls in place to ensure that food prepared under the cook-chill system at Port Phillip Prison was reheated to the correct temperature. No documentation was available at Port Phillip Prison, the only selected prison using this system, for audit examination. The failure to observe these requirements could, in the event of prisoners suffering food poisoning, expose the prison operator and the food sub-contractor to litigation. It also means that the quality of the meal is not as good as it should be and, therefore, it loses some of its nutritional value.

8.159 Controls need to be developed at Port Phillip Prison to ensure that food prepared under the cook-chill system is reheated to the correct temperature and that food is not used after its use-by date. Documentation required by law needs to be maintained by the prison.

Special diets

8.160 Prisons are required to cater for the special dietary needs of prisoners who are, for example, vegetarians or diabetics.

8.161 All prisons changed their menus on a frequent basis and the majority catered adequately for special diets. The exception was Port Phillip Prison where an analysis of recipes by the food services consultants found that special diets were poorly catered for by the sub-contractor in that:

- the protein content of the vegetarian meals was markedly below acceptable levels; and
- a variety of meat products was used in vegetarian meals, for example:
 - chicken booster, which contains meat and chicken fats, was used in most vegetarian meals;
 - beef mince was used in vegetarian pastie slice; and
 - animal-based margarine was used in other dishes.

8.162 The operator at Port Phillip Prison needs to ensure that special dietary meals prepared by the sub-contractor do not contain inappropriate ingredients.



Nutritional diets

8.163 It is appreciated that it may not be current standard industry practice in commercial operations such as restaurants and hotels to conduct nutritional analyses of menus. However, audit is of the view that prison operators should undertake analysis of food nutrition as the recipients have no choice but to eat the food provided to them by the institution. In the absence of any such analyses, prison operators are unable to demonstrate they are complying with the requirement to provide a nutritional diet for prisoners. Consequently their ultimate health, especially those serving long-term sentences, could be at risk.

8.164 At the time of the visits, each of the prisons supplied adequate portions of food to prisoners. However, due to the absence of standardised recipes whereby portion sizes and quantities, brand names and description of ingredients were not available, it was not possible for audit to assess by reference to recipes the prison's compliance with the Commissioner's requirement that a well-balanced nutritional diet be provided to all prisoners.

8.165 The requirement by CORE that all its prisons should have their menus assessed every 6 months had not been complied with by the 3 CORE prisons (Barwon, Loddon and Dhurringile) visited by audit. Nutritional analyses of menus was a common area of neglect across all prisons visited, which demonstrated that the Commissioner had not been monitoring this important aspect of food services operations.

8.166 These matters can be addressed by prison operators obtaining relatively inexpensive off-the-shelf nutrition computer software to monitor the nutritional content of menus. To enable the monitoring to occur it will be necessary to specify portion sizes and quantities, brand names and descriptions of all ingredients. The use of this software would provide the Food Services Manager of each prison with:

- assistance in planning menus that meet nutritional requirements;
- *a deeper understanding of the need for standardised recipes and quantity control if they are to fully assess the nutritional value of prisoners' food;*
- the opportunity to do spot checks on particular dishes so that ideally a dietitian only needs to check the existing menu rather than conduct a full analysis; and
- a better tool for monitoring the quality of the food in terms of nutritional value.

8.167 Fulham Correctional Centre had its menu reviewed by a dietitian and the kitchen at Metropolitan Women's Correctional Centre was inspected by the Department of Human Services in December 1997, looking at issues of food handling and hygiene. While the health service provider assessed the menu at the Metropolitan Women's Correctional Centre in August 1998, there has been no specific monitoring of the nutritional quality of food at any prison by the Correctional Services Commissioner.

8.168 During mid-1998 the Commissioner requested that a survey be conducted at Port Phillip Prison to ascertain prisoners' views on the quality and distribution of meals. The survey results, which were reviewed by the Commissioner, indicated that:

- the quantities of food allocated per prisoner were insufficient;
- the snap freeze and reheat process employed in implementing the cook-chill system destroyed the quality and freshness of the food;



- there was insufficient variety in the fruits provided;
- the meal distribution process needed to be supervised by staff;
- the kitchen focused on profit rather than providing ample, healthy and nutritious food; and
- prisoners working in the kitchen were inadequately trained in the correct food heating procedures and presentation.

8.169 As a result of the survey in mid-1998, the Commissioner engaged a consultant dietitian to address the survey findings and to provide a general assessment of the food services at Port Phillip Prison.

8.170 The consultant dietitian’s principal areas of concern covered in the July 1998 report included:

- impact of lack of training and supervision of food delivery and service on the maintenance of food hygiene and safety;
- temperature of food to maintain food hygiene and food enjoyment;
- variety of some foods including cereals and fruits;
- food quantity to meet the needs of all prisoners;
- provision of special diets, including nutritional adequacy of vegetarian meals;
- provision of choice to satisfy all dietary, ethno-specific and food preference needs, including providing sufficient choice for those who wish to have meals according to principles of the Australian Dietary Guidelines;
- meal presentation; and
- general supervision of meal collection and service.

8.171 Notwithstanding that a copy of the consultant’s report was made available to the prison operator, audit found some 4 months after the report had been issued that little if any improvements had occurred.

8.172 The Commissioner needs to develop more definitive service delivery standards covering quality of food services. This will require the development of quantitative and qualitative performance measures to support the current use of nebulous terms such as “adequate” and “normal community standards”. These measures should form the basis for sound monitoring of the quality of food services in prisons.

Re-use of deep-fry fat

8.173 Both Barwon Prison and Metropolitan Women’s Correctional Centre adopted a practice of reusing old deep-frying fat that has been used over and over again to fry food. When the fat is no longer acceptable for deep frying foods it is used as a substitute for margarine in pastries. Medical evidence suggests this practice can contribute substantially to increasing cholesterol levels and, in audit opinion, is considered highly distasteful.

8.174 To maintain the nutritional value of food provided to prisoners the repeated use of old deep-frying fat and its subsequent re-use for other purposes should be immediately discontinued.



Facilities and hygiene

Bacterial levels

8.175 Para film cultures are swabs taken from surfaces in food preparation and storage areas deemed to be clean, i.e. those areas which should be regularly cleaned as part of quality control procedures. If more than an acceptable amount of bacteria shows up on a para film, it indicates that correct sanitary practices have not been implemented.

8.176 Audit took para film cultures from supposedly clean surfaces and equipment including kitchen benches, tops of stoves, mixing machines and refrigerator doors in the kitchens of the 6 prisons.

8.177 Subsequent testing at the laboratory of William Angliss Institute of Technical and Further Education indicated levels of bacteria which warranted further investigation.

8.178 When examining whether food preparation surfaces are hygienic, it is critical to be aware that a clean surface may not be bacteria free even though it may have just been cleaned. Without a cleanliness policy which includes a sanitation program the presence of bacteria will always be possible.

8.179 In view of the results of the culture tests, each of the prisons needs to implement:

- an intensive sanitary program to ensure that unacceptable levels of bacteria are not present in the food preparation and storage areas; and
- a regular testing program to monitor bacteria levels.

Preparation, delivery and storage areas

8.180 In addition to levels of bacteria found at each of the prisons, significant variations were observed in the condition of the food preparation and storage facilities of each prison.

8.181 Of the prisons visited by audit, the facilities at Fulham were assessed to be of the highest standard. The areas at the prison where the dry supplies to be used on a daily basis were stored and the bulk dry stores area were assessed by the specialist engaged by audit to be above average compared with premises such as commercial kitchen operations in hospitals, nursing homes and residential colleges. Stock was stored appropriately. The cool rooms and deep freezers were clean, orderly and well maintained.

8.182 In the opinion of the food service specialists engaged by audit, which is based on their wide experience in the food service industry, the overall work areas of the Fulham Correctional Centre were cleaner and more organised than the average commercial kitchen.

8.183 Barwon Prison's kitchen also appeared to be well maintained. Audit considered it to be one of the cleanest and most orderly in that stock was neatly stored and items commonly used were stored in accessible places.



8.184 The visit to Port Phillip Prison found little evidence of any positive outcomes for food services and that there was a need for major improvements. Specifically, the audit disclosed that:

- The main delivery and food storage area located adjacent to the prison was untidy and poorly organised;
- Food products such as tinned food were stored on the ground. The Food Safety Act requires that all food products, tinned or otherwise, must be stored at least 18 centimetres above ground level. This practice has the potential to expose food to dampness, and contamination by cleaning chemicals and rodents;
- There were no signs of regular cleaning of the storeroom or rotation of stock to ensure stock was consumed in the same order that it was acquired;
- The food storeroom was also used as an office by the Food Services Manager; and
- Cigarette butts were seen on the kitchen floor.

8.185 The examination of the small catering operation at Dhurringile Prison revealed the following:

- The kitchen, equipment and dining facilities were dirty. The stove, ovens and benches were grimy indicating prolonged dirtiness. In other words, not just dirty from the day's work. This was surprising given the availability of prisoner labour;
- The kitchen equipment, some dating back to the 1950s, was considered to be outdated and requiring large-scale refurbishment to bring it to an acceptable standard; and
- A state-of-the-art Technical and Further Education training kitchen at the prison was seldom used.

8.186 The food storage facility at the Metropolitan Women's Correctional Centre was generally very clean and tidy, with no evidence of unhygienic practices, such as storing food uncovered. However, on the day of its visit to the Centre audit observed that prisoners working in the storage area were smoking in very close proximity to foodstuffs.

8.187 The food storage facility at Loddon Prison was very well organised and clean, with adequate procedures for stock control. The kitchen area and equipment were equally clean and well maintained.

8.188 It is audit's view that the prison operators with inadequately maintained food storage facilities need to have in place systems and procedures to ensure that all food stuffs are stored appropriately. In addition, prison operators need to implement systematic cleaning and sanitation routines to ensure cleanliness of their kitchen premises.

8.189 Audit also suggests that CORE needs to arrange a maintenance and replacement program to cover the kitchen equipment at Barwon Prison and explore the potential for using the Technical and Further Education training kitchen at Dhurringile Prison or examine options for refurbishing the existing prison kitchen.



Personal hygiene

8.190 The standards for personal hygiene of kitchen workers require that they wear work uniforms, aprons, hairnets and plastic gloves where appropriate. Long hair should be tied back and hands and nails clean.

8.191 Emphasis on high levels of personal hygiene was evident during audit’s visit to Loddon and Barwon Prisons and Fulham Correctional Centre where all kitchen staff were wearing clean uniforms, aprons, gloves and hair nets. It was evident that personal hygiene was closely monitored and regulations observed.

8.192 By way of comparison, the practices adopted at Port Phillip Prison with regard to personal hygiene among prisoner kitchen workers was found to be poor. For example, clothes worn by kitchen staff were dirty, long hair of some workers was not tied back, and gloves and aprons were not worn. A dispute between Port Phillip Prison and the food catering sub-contractor as to who should supply uniforms resulted in prisoners not wearing uniforms. Personal hygiene among prisoners working in the kitchen at Dhurringile Prison was also poor because they were not wearing gloves or hair nets. Although personal hygiene among prisoner kitchen workers at Metropolitan Women’s Correctional Centre was acceptable because the prisoners wore clean clothes, aprons, hair nets and gloves, prisoners were observed smoking in and around the kitchen and while unpacking food deliveries.

8.193 Prison operators at Port Phillip and Dhurringile Prisons should monitor kitchen staff’s compliance with appropriate personal hygiene practices, including wearing clean uniforms and aprons, use of gloves and hair nets to ensure the safe preparation of food.

Supervision of prisoners working in kitchens

Staffing of kitchens

8.194 The composition of kitchen staff in the prisons ranged from unskilled prison labour managed by a qualified Catering Supervisor at Dhurringile Prison to a large-scale catering operation at Port Phillip Prison where prisoner kitchen workers are managed by skilled contracted staff. Prisoners were utilised in all prison kitchens.

8.195 Supervision of prison kitchen workers varied in each prison with not all kitchen staff receiving custodial training.

8.196 The audit revealed that the ratio of food services staff to prisoners varied. Audit observed that prisoners working in the kitchens at Loddon and Barwon Prisons and the Fulham Correctional Centre were supervised at all times by qualified staff. However, audit is also of the view that there were not enough supervisors to adequately control kitchen activities at the Port Phillip and Dhurringile Prisons and the Metropolitan Women’s Correctional Centre. At Dhurringile Prison and Metropolitan Women’s Correctional Centre, there was only 1 professional member of staff working with prisoners. As a consequence, these prisons were not in a position to ensure quality food production and the adherence to preferable security procedures such as utensil control or detection of food sabotage. Specific criticisms relating to the prisons where supervision in kitchens was lacking are described below.



8.197 At Metropolitan Women’s Correctional Centre and Dhurringile Prison, where as previously mentioned there was only 1 professionally trained and qualified staff member in the kitchen, there would have been many times when prisoners worked without any supervision. At Dhurringile Prison, this included every weekend and other times when the Food Services Manager was absent. The same situation occurred at Metropolitan Women’s Correctional Centre where prisoners worked without supervision in the kitchen at weekends.

8.198 This obviously poses serious risks in terms of:

- theft of potentially dangerous utensils, such as knives, and pilfering of food;
- distribution of improper goods from the kitchen;
- deliberate damage to equipment and property;
- occupational health and safety issues in relation to ensuring appropriate food hygiene practices;
- absence of professional supervision and management of food services, for example, technical knowledge about compliance with food processing standards when transporting food to units; and
- sabotage of food.

8.199 Food services staff at Port Phillip Prison stated that they lacked confidence in their interaction with prisoners. The staff advised audit that the first 4 points in the previous paragraph had occurred at Port Phillip Prison.

8.200 Given that there is a potential risk in using prisoners as kitchen workers, there is a need for the Port Phillip and Dhurringile Prisons and Metropolitan Women’s Correctional Centre to ensure that prisoner kitchen workers are constantly supervised and that inappropriate activities, such as the theft of potentially dangerous utensils and the sabotage of food, do not occur.

Distribution of meals

8.201 Prison staff supervised the distribution of meals to prisoners in each prison, except Port Phillip Prison where prisoners reported in a mid-1998 survey that there was no control over food distribution and it was left to prisoners to collect their meals. This practice provides an opportunity for prisoners to stand over other prisoners and take their food or simply to take 2 portions. Also it is particularly unacceptable to first time prisoners or to those prisoners who could be regarded as vulnerable and not in a position to protect their own interests. This had previously been raised in the Correctional Services Commissioner’s review of food services conducted at Port Phillip Prison in July 1998.

8.202 The prison operator at Port Phillip Prison needs to review the operation of its food services area and address the recommendations of the review conducted by the Correctional Services Commissioner in July 1998.



Storage and stock control

Background

8.203 The management of a food services operation is enhanced through the adoption of effective storage and stock control procedures. Such procedures enable management to maintain control over the hygienic storage of food, monitor costs and identify any unexplained excessive use of food stock.

8.204 Particularly in a prison, stock needs to be controlled to avert pilfering, the introduction of contraband such as drugs and the use of substances such as yeast and sugar that can be used to produce illicit substances including alcoholic brews. It is for these reasons that storage and stock control activities should not be undertaken by prisoners without staff supervision.

Sound stock control and storage procedures

8.205 Features of sound storage and stock control procedures observed at Barwon and Loddon Prisons and the Fulham Correctional Centre were:

- prompt attention given to processing food deliveries;
- processes that enabled the Food Services Manager to reconcile stock used with menu requirements;
- no access by prisoners to storage areas without staff supervision; and
- specific substances such as sugar and yeast held in limited quantities under tight security.

Security over foodstuffs

8.206 Unsatisfactory procedures observed at the remaining prisons that presented a serious security problem are described below:

- At Port Phillip Prison, audit observed that foodstuffs were left on the footpath outside the storeroom, located outside the prison perimeter. The stock was not checked in or signed for, and there was no control over how long it was left out in the open. Control over ordering, receiving and storing goods, issuing of goods from the store and recording production of meals under the cook-chill system was assessed as unsatisfactory. There were no procedures in place to oversee the movement of food stock throughout the prison. Packets of yeast and sugar were lying around on benches, accessible to anyone working in the kitchen;
- At Metropolitan Women’s Correctional Centre, which had not established formal procedures for stock control, audit observed that unsupervised prisoners were permitted in the stores area to receive food deliveries; and
- At Dhurringile Prison, food storage and receiving processes were haphazard in that goods were delivered directly into the prison and stored in the 2 main storage areas with no formal process for moving stock from one area to another.

8.207 The risk associated with the poor stock control procedures is compounded by the fact that on some occasions prisoners work unsupervised in the kitchens of these prisons. This lack of control provides prisoners with the opportunity for pilfering and use of some foodstuffs such as sugar and yeast for making home brews.



8.208 Prison operators at the Metropolitan Women’s Correctional Centre and Dhurringile and Port Phillip Prisons need to develop more thorough procedures for receipt and control of stock.

Training of prisoner kitchen workers

8.209 Most of the prisons delivered Technical and Further Education training in Commercial Cookery and Kitchen Attending and Basic Cooking and Food Science to prisoners working in the kitchens. Fulham Correctional Centre was the only prison visited by audit which complied with the Department of Human Services’ directives and the planned food legislative amendments which will require that all people who handle food will be accredited in food handling. At this Centre such training was compulsory for those who work in the kitchen.

8.210 Considering the high risk nature of the prison kitchen environment, the Commissioner should ensure compulsory training programs are available for all prisoners required to work in prison kitchens.

Legislative changes

8.211 The *Food (Amendment) Act 1997* requires all businesses and institutions engaged in food preparation and serving to be classified. In addition all classified premises are required to devise and implement Food Safety Plans by no later than 30 September 1999. A Food Safety Plan is an agreed document prepared by the management of a food business and submitted for approval to the relevant local government authority. The plan describes in simple and clear terms how food safety on the premises will be ensured and the operational hazards controlled. The plan should identify the procedures and systems to manage risks inherent in a food process or operation.

Classification of premises

8.212 All businesses and institutions engaged in food preparation and serving have been classified by their local councils based on the potential risk to public health. The classification allocated to each business or institution will determine the deadline for compliance. Those businesses with higher risk classifications are required to have Food Safety Plans in place sooner than the lower risk classifications. The various classifications are listed below:

- Class A - premises and vehicles which predominantly sell food to a vulnerable group;
- Class B - premises and vehicles which sell unpacked potentially hazardous food not intended to be cooked or otherwise treated immediately prior to consumption;
- Class C - premises and vehicles which sell potentially hazardous food intended to be cooked or otherwise treated immediately prior to consumption, and premises and vehicles which sell food not deemed to be potentially hazardous which is unpacked during any stage of the business operation; and
- Class D - premises and vehicles which sell food which remains packaged during all stages of the business operation.



8.213 Prisons have been categorised as a Class B premises. Audit is of the view that prisons should be classified as Class A premises due to the following factors:

- Prisoners cannot access food, other than supplementary food from the canteen, from any other source. The prison kitchen is the main source of food;
- Port Phillip Prison has a hospital and other prisons accommodate sick prisoners who are obviously vulnerable;
- The number of possible hazards that were identified while conducting the audits were numerous, for example, the food production areas can be used as a way to settle scores among prisoners by deliberate contamination of food;
- The use of prisoner labour to prepare and serve food makes this a high risk and vulnerable food preparation process; and
- Prisoners are a population with high risk of infectious diseases. Their involvement in food preparation also makes this process high risk and increases the vulnerability of prisoners relying on the prison for food.

Food Safety Plans

8.214 Audit observed in August and September 1998 that Port Phillip Prison had developed a draft Food Safety Plan approximately 12 months in advance of the legislative deadline. At that time, none of the other 5 prisons had produced draft plans. However, as Loddon Prison had conducted hazard inspections and risk assessments of the kitchen facilities involving the same areas covered by plans, audit considered there would be no impediment to the prison preparing its plan. Other prisons such as Barwon and Fulham Correctional Centre had well-documented procedures in place, so these facilities should also be able to produce plans by 30 September 1999.

8.215 With regard to the Dhurringile Prison and Metropolitan Women’s Correctional Centre, the Food Services Managers indicated they were not aware of the impending requirement for the development of Food Safety Plans. Given that documented procedures at these prisons were not adequate, and that both facilities only had 1 staff member working in the food services area, it is likely that development of their plans will require considerable time and effort.

8.216 All prison operators need to ensure that they are able to comply with the legislative requirement for the development of Food Safety Plans by 30 September 1999.

HEALTH CARE SERVICES

Overall audit comment

8.217 Audit found that, in general, prisoners received health care services at least equivalent to those available to the community. Health care providers are required under the Prison Services Agreements to seek accreditation from an agreed authority body in health care standards. Port Phillip Prison must obtain accreditation from The Australian Council on Healthcare Standards for its secondary and tertiary medical services within 2 years of commencing operation. Subsequent to the audit fieldwork, the operator at Port Phillip Prison indicated it had recently obtained such accreditation.

8.218 Access to most services was readily available to prisoners. This included access to general practitioners, nurses, pharmacy, hospital admissions, and optometry and diagnostic services. Restrictions to free dental and physiotherapy services applied, but these were consistent with the availability of such services to the community in general.

8.219 While in almost all cases the targets set for health service delivery outcomes were met by the 6 prisons examined, only 71.4 per cent of prisoners considered at-risk to themselves at Barwon Prison, rather than all, were assessed by a psychiatric professional in the first 8 months of 1998-99.

8.220 Psychiatric services were found by audit to be in great demand and specialist treatment in inpatient units was not always available. The number of suicides over the past 12 months had increased markedly compared with recent years and this was of great public concern. Audit also found that policy and procedures for the management of prisoners likely to inflict self-harm was not uniform and co-ordination between custodial staff and clinical staff could be improved.

8.221 Part 5 of this Report includes reference to the monitoring of prisoner health care standards undertaken by the Department of Human Services on behalf of the Correctional Services Commissioner.

8.222 Consideration should be given to expanding the number of places available for treatment in specialist acute and sub-acute units particularly at Port Phillip Prison. Secondly, policies and practices to be applied to prisoners likely to harm themselves need to be reviewed on a system-wide basis and uniform policies and practices be adopted.

Background

8.223 Health care services, which comprise a range of medical, dental and auxiliary health care services, are predominantly delivered through a multi-provider system consisting of the following 5 contracted health care providers:

- St Vincent’s Correctional Health Care to Port Phillip Prison includes a prison-based hospital (St John’s), a prison-based psycho-social unit (St Paul’s) and the St Augustine secure ward located in St Vincent’s Hospital;
- Pacific Shores Primary Health to all CORE prisons except Melbourne Assessment Prison;
- ISIS Primary Care to Metropolitan Women’s Correctional Centre;



- Australian Correctional Management operates its own health service at Fulham Correctional Centre; and
- Forensicare to Melbourne Assessment Prison.

8.224 All prison operators are responsible for primary health care services which include medical practitioner sessions, psychiatric consultations, nursing services, dentistry, optometry, and limited access to pathology and radiology within their prisons.

8.225 Secondary health care, which comprises those services usually found in a community or district hospital is subject to referral from a primary care practitioner. Such services may include in-patient services (acute medical, surgical and accident and emergency) in-patient nursing, ambulatory care, psychiatric services not requiring involuntary admission and specialist medical services. Secondary health care services may also include support and allied health services such as physiotherapy, occupational therapy and diagnostic services.

8.226 Tertiary health care services are those services usually found in a major hospital or referral centre and include the highest levels of diagnostic and treatment services. These services are usually subject to referral from primary or secondary care. Medical and surgical services are provided at St John’s Hospital in Port Phillip Prison and at St Vincent’s Hospital. Any prisoners suffering psychiatric disorders are treated at the Acute Assessment Unit at Melbourne Assessment Prison or St Paul’s (psycho-social unit) at Port Phillip Prison, while prisoners can also be transferred to the Mont Park Forensic Psychiatric Unit operated by the Department of Human Services.

8.227 A typical health service staffing complement in a prison will comprise general and psychiatric nurses, a general practitioner and sessions from other medical practitioners such as a dentist and consulting psychiatrist. Outpatient access to services can be organised as well as access to the prisoner hospital at Port Phillip Prison.

Audit criteria

8.228 Specialists engaged by audit evaluated prisoner health care services against criteria drawn from the following sources:

- relevant provisions in the *Corrections Act* 1986;
- *Standard Guidelines for Corrections in Australia* 1996 issued by the Corrective Services Ministers’ Conference in March 1995;
- Minimum Health Care Standards for Prisons (Victoria) developed by the Department of Human Services; and
- provisions of the Prison Services Agreements.

Service delivery outcomes

8.229 A summary of required service delivery outcomes and actual achievement of those outcomes by the 6 selected prisons for various periods up to 28 February 1999 is contained in Table 8G.

**TABLE 8G
HEALTH SERVICE DELIVERY OUTCOMES**

<i>Service delivery outcomes</i>	<i>Metro Women's required outcome and actual</i>	<i>Fulham required outcome and actual</i>	<i>Port Phillip required outcome and actual</i>	<i>Barwon required outcome and actual</i>	<i>Loddon required outcome and actual</i>	<i>Dhurringile required outcome and actual</i>
Reception screenings within 24 hours	100% 99.7%	100% 100%	100% 100%	100% 100%	100% 100%	100% 100%
Proportion of risk prisoners - by a psychiatric professional to be a risk to themselves	100% 100%	100% 100%	100% 100%	100% 71.4%	100% 100%	100% 100%
Complaints	Not more than 0.33 per prisoner year 0 per prisoner year	0 per prisoner year 0 per prisoner year	0 per prisoner year 0 per prisoner year	0 per prisoner year 0 per prisoner year	0 per prisoner year 0 per prisoner year	0 per prisoner year 0 per prisoner year

Note:

- Actual year-to-date figures for each prison operator in bold.
- Figures not in bold represent outcome targets.
- Year- to-date varies for each provider as follows:
 - Metropolitan Women's Correctional Centre, 23 August 1998 to 28 February 1999;
 - Fulham Correctional Centre, 7 April 1998 to 28 February 1999;
 - Port Phillip Prison, 10 September 1998 to 28 February 1999; and
 - CORE Prisons (Barwon, Loddon and Dhurringile Prisons), 1 July 1998 to 28 February 1999.

Psychiatric services

Background

8.230 Studies undertaken in Australian prisons indicate that, while a small percentage of prisoners will develop a major long-term mental illness, many prisoners will suffer from depression and anxiety with a large number experiencing substance abuse, i.e. abuse of and/or addiction to alcohol and other drugs and behavioural problems.

8.231 Consequently, psychiatric services are a key component of prison health care services. Services need to be responsive to demands in a timely and appropriate way. Treatment, however, often takes place in difficult circumstances due to the nature of the correctional environment. It is very important for psychiatric services to be well co-ordinated, as psychiatric and associated problems are usually of long-term duration and impact on the total management of the prisoner.

Review of Suicides and Self Harm in Victorian Prisons

8.232 In August 1998, the Minister established the Victorian Correctional Services Task Force to review the procedures for identifying prisoners at risk of suicide and self-harm practices in the Victorian Prisons System with particular emphasis on the operating regime.

The Task Force's terms of reference in broad terms were to consider:

- each death in custody since August 1997 and identify factors relevant to suicide prevention;
- reception, screening and assessment procedures for male and female prisoners;



- management policies and procedures for male and female prisoners at risk of self-harm; and
- identifying appropriate recommendations for consideration by the Department and service providers.

8.233 The Task Force concentrated its inquiries on the Metropolitan Women’s Correctional Centre and Port Phillip, Beechworth and Melbourne Assessment Prisons where recent suicides had occurred and made recommendations to the Department of Justice on actions to be taken at a whole-of-system level and by prison operators within each prison.

8.234 Given the level of concern about prisoner suicides and the pressure on medical, psychological and associated services reported by all prisons, the Task Force completed its review in less than 3 months. Its report, entitled *Review of Suicides and Self Harm in Victorian Prisons*, excluding a section withheld to protect privacy, was subsequently tabled in the Parliament on 11 May 1999.

8.235 The Task Force reported in part that:

- *“A number of dispositional factors in an individual, which are abiding, if not life long attributes, will affect that individual’s potential for suicidal behaviour should they be imprisoned. These include:*
 - *personal factors such as impulsiveness, inability to occupy themselves with resultant boredom, poor self esteem, poor tolerance of frustration and instability of mood;*
 - *interpersonal factors including poor interpersonal skills leading to rejection and isolation, suspiciousness and a ready tendency to blame others; and*
 - *social factors including lack of supportive family or social networks outside of the prison, a failure to establish and maintain social contacts in the prison and minority ethnic status (particularly when compounded by poor skills in English).*
- *“These dispositional factors may be added to by various forms of mental disorder or instability including:*
 - *anxiety disorders;*
 - *a tendency to depressive disorder; and*
 - *major mental illness such as schizophrenia”.*

Observation cells for at-risk prisoners

8.236 The use of observation cells, which are single cells, for at-risk prisoners requires further attention. The report of the Task Force stated *“... the Task Force is convinced that isolation of suicidal prisoners is an unacceptable practice”.*



8.237 In the Metropolitan Women’s Correctional Centre, and Dhurringile and Barwon Prisons observation cells for prisoners at risk of harming themselves were poorly located in close proximity to management cells. These observation cells were totally bare as all objects capable of being used to inflict self-harm had been removed. In contrast, new authoritative research suggests that stripping cells of all amenities contributes to a suicidal person’s thoughts of loneliness, isolation, marginalisation and hopelessness. In audit opinion, it is difficult to imagine why any prisoner would voluntarily alert staff to their intention to attempt suicide or inflict self-harm if the final outcome was for the prisoner to be placed in an observation cell.

8.238 In line with the findings from the Task Force, alternative methods of accommodating “at-risk” prisoners should be explored. The Commissioner needs to undertake a review of the location and composition of observation cells to ensure that they are still appropriate for their purpose.

Co-ordination of services

8.239 In audit opinion, the co-ordination of psychiatric services was strained by the multi-provider system. In particular most clinical staff interviewed by audit indicated that the separation of the 2 in-patient type units located at the Melbourne Assessment Prison and Port Phillip Prison was not ideal as it was felt that the 2 units needed to work more closely together and there was a need for a greater capacity for services. This situation was most evident at Port Phillip Prison which received many prisoners who would otherwise be admitted to the Acute Assessment Unit at the Melbourne Assessment Prison.

8.240 A clear need exists for a review of the co-ordination of psychiatric services and some re-alignment of service systems.

Government initiatives

8.241 During the course of the audit, the Government, under its Suicide Prevention Program, announced additional funding of \$860 000 per annum over the next 3 years to prison operators to strengthen access to psychiatric services across the prison system. Audit anticipates that the impact of this will be beneficial in that it should provide more extensive care in mainstream prisons and a lessening of demand on the Acute Assessment Unit at the Melbourne Assessment Prison.

8.242 Other initiatives included the introduction of a 24-hour telephone support service for all CORE prisons. This service provides support to prison staff who are managing an at-risk prisoner.



Medication

8.243 A criticism held by some groups of prisoner health services is the over-prescribing of medication. The audit disclosed that a high percentage of prisoners were receiving some form of medication. However, as nearly all prisoner medication was registered and controlled in prisons whereby medication was given out by nurses under prescription by the prison doctor, the numbers on medication where abuse might be suspected was not high. In addition, most clinical staff were aware of the problems associated with over-medication and the need to limit the supply of medication, particularly for night sedation.

8.244 A study of medication usage among women prisoners was conducted at the Metropolitan Women’s Correctional Centre by the Department of Human Services’ prisoner health monitoring team. This team, whose role is to monitor the delivery of health care services to prisoners, concluded that the levels of medication for prisoners after 6 months in prison was actually lower than the levels when prisoners entered the system. While this study, which involved only 1 prison, was not necessarily conclusive, a further study covering medication levels for prisoners in New South Wales by the New South Wales Corrections Health Service showed that levels of medication prescription to prisoners were comparable with Victorian levels.

8.245 Nevertheless, the requirement in the Prison Services Agreements for health care providers to manage the issue of medication, particularly psychotropic and codeine-based medication, in a responsible and professional manner and provide feedback to the prescribing doctor needs to be monitored by the Department. Keeping track of how medication was being prescribed by doctors and whether targeted education for prisoners in medication usage was appropriate should also be monitored by the Department. The Department should incorporate standards that describe upper level targets for prescription of medication into the Quality Improvement and Accreditation systems for all prison health care providers to make providers more accountable if they do over-prescribe.

RESPONSE provided by Director, Aged Community and Mental Health, Department of Human Services

A number of the issues raised in the Report are extremely complex and require ongoing analysis. The co-ordination of in-patient psychiatric services has been raised in a number of forums including your Report and is currently under review by the Department of Justice. The Department of Human Services will be closely involved in this process.

The Report also makes mention of high levels of medication among prisoners. This is a problem experienced by all prison systems. Prisoners are, in general, a group with poor health status who commonly bring with them into custody a range of issues such as high levels of alcohol and other drug use. Demand for medication among this group is therefore high. While the Department of Human Services will continue to actively monitor this issue, the Department is equally concerned that prisoners receive appropriate medical assessment and treatment based upon sound clinical decision-making.



□ **RESPONSE** provided by Secretary, Department of Justice

Prison security

The Commissioner concurs with audit's acknowledgment that security is a fundamental issue for the industry and notes audit's assessment that prisons generally complied with and met acceptable security standards.

In considering security issues, audit's security consultants put forward a disparate set of recommendations ranging from proposals of minor detail to broader generic security approaches.

An approach which recognised that all aspects of a prison's activities impact on and contain elements of security would have enabled the audit to have been conducted from a perspective which had greater potential to lead to recommendations which were grounded in a specific and identified philosophy and therefore congruent in their development and relationship to each other.

As a consequence of the approach taken, the greater use of the recommendations is their identification of areas which may benefit from a review of current practices, since many of the actual recommendations relate more to those implemented over the last decade in Victoria and do not necessarily demonstrate a full understanding of changed technology, changed circumstances and the changed philosophies which underpin contemporary approaches to prison security.

Examples of recommendations which prescribe a way of achieving a desired outcome but in practice have demonstrated they are not necessarily the most effective approach include the use of external risk assessors, use of common visitor control technology and separation of security from other responsibilities by appointment of a Security Manager.

The Commissioner acknowledges that in the early months of operation of each of the new prisons there was limited contact between the providers. It is clearly evident, however, that this is no longer the case, due to the efforts of the Secretary, Commissioner and the providers themselves.

The Secretary and the Commissioner place a high level of importance on developing co-operation between providers, which is amply demonstrated through the regular promoting of interaction between providers as independent operators and jointly at Industry Forums attended by senior management of the public and private sectors, meetings of the Operations Industry Group comprising prison managers of the public and private sectors, and the across provider security intelligence training undertaken by all providers.

Prison catering

The Commissioner acknowledges audit's concerns about prison catering, and is aware of the issues involved. Food, and its preparation and management is rightly of considerable importance to prisoners. Food inspection is a component of the ongoing prison monitoring program. Providers have been encouraged to conduct self-audits of their catering programs, and these have already been conducted at the Metropolitan Women's Correctional Centre and Port Phillip Prison.



□ **RESPONSE** provided by Secretary, Department of Justice - continued

Banning of visitors to prison

When a visitor is banned from any Victorian prison – public or private- their details are immediately recorded on the prisons computer network. If a visitor attempts to access any other prison while the ban is current, then the ban details are automatically displayed when the visitor’s details are entered onto the computer. All prisons have access to visitor-related data on the Prisoner Information Management System (PIMS).

A hand scanning system in place at Port Phillip Prison is part of that prison’s access control system and may further minimise the possibility of a banned visitor gaining access under another guise.

Drugs in prison

The significance of the drug problem in both the community and prisons is acknowledged by the Commissioner. It is pleasing that audit has recognised the Commissioner’s initiatives in this complex area at all levels of detection, deterrence and treatment. The Commissioner will continue to devote significant resources to this high Government priority area.

Suicides and self-harm in prison

A high level Inter-Departmental Committee has been established to oversee the implementation of action arising from the Victorian Correctional Services Task Force's Report on suicides and self-harm in prisons. Action commenced to date includes:

- *a Corrections Health Board has been established;*
- *\$1.5 million has been allocated in the 1999-2000 Departmental Budget for the creation of an additional ten beds to manage prisoners with acute psychiatric needs. A project is being developed to review the current configuration of the Acute Assessment Unit (AAU) and Psychosocial Unit (PSU), including the development of specifications for the proposed additional ten beds;*
- *\$650 000 has been allocated in 1998-99 to providers to augment their suicide and self-harm initiatives. This has resulted in the provision of additional training for correctional officers, employment of additional specialist mental health staff, development of a specialist unit for young offenders on remand, and additional training for staff in all prisons to enhance their skills in identifying and managing prisoners at risk;*
- *the Commissioner recently organised a workshop run by Mr John Gunn, a world expert on the issue of suicide in prison. This session was attended by more than 100 staff from all prison providers and Community Correctional Services;*
- *a joint data system between the Commissioner’s Office and Victoria Police has been developed, enabling critical information about prisoner risk factors to be transferred as prisoners move between Police cells and prison; and*
- *a consultant has been commissioned to undertake a project to identify ‘best practice’ in case management of high risk prisoners. This project will focus on such issues as the effective exchange of information between health and correctional staff.*



□ **RESPONSE** provided by Managing Director, Group 4 Correction Services Pty Ltd

The identification of issues, and the subsequent analysis, presented in this Report relate to observations which were carried out during September 1998. At that time, there were systemic issues within the Prison, and between the Prison and other elements of the Criminal Justice System which needed improving in order to secure an efficient and effective organisation.

The changes which have been effected by the management and staff, since that time, have been considerable. The intense external pressures experienced by all those working in Port Phillip Prison, were, in my view, extreme, and is a testament to the inner strength of the staff. Port Phillip Prison has now achieved a position where our service delivery meets our customer's requirements.

Security systems have been reviewed; liaison with the Metropolitan Fire Brigade, and Metropolitan Ambulance Service and the Victoria Police, has improved dramatically. Two major exercises involving all the Emergency Services and four exercises, involving the Victoria Police or the Metropolitan Fire Brigade, have been held and the Emergency Procedures modified as a result of the consequential learning. Barrier control at the Prison, to prevent illicit articles being introduced by visitors, has been thoroughly reviewed. During the twelve months between May 1998 and April 1999, the rate of assaults on prisoners has reduced, and the rate of assaults on staff is, for a prison of this type, low.

During the twelve months ending April 1999, the rate of detection of illicit drugs within the Prison, as discovered by a random general testing program, indicates that the barrier controls and other measures designed to prevent such drugs being introduced into Port Phillip Prison have been successful. This has been achieved without alienating visitors to prisoners, or official visitors to the Prison.

The Healthcare provider has gained accreditation, and the catering services have been extensively reviewed and changed.

All targets set by the Government are being met by the Prison. Regular audits managed by the Director, and by the Commissioner for Correctional Services, are taking place. There will always be room for improvement in a dynamic organisation, change is inevitable, and systems and procedures have to be reviewed regularly to ensure that best practice is maintained. Port Phillip Prison has in excess of 15 000 movements of prisoners a year, into and out of the Prison. It is regretted that there have been a number of deaths in Port Phillip Prison, but the procedures for managing those at risk of suicide and self-harm are systematically and regularly reviewed, and, where improvements to procedures can be introduced, they have been.

Port Phillip Prison has been the most audited, inspected and visited Prison in Victoria during the last 12 months. The information which has been provided by those involved in these inspections has proved helpful in assisting the management of the Prison to effect changes which the various stakeholders thought desirable. Group 4 is a responsive organisation, and will continue to evaluate suggestions for change, and to implement those which will improve the delivery of services. The quality of service delivery in May 1999 is not that which is described in this Report, which is focussed upon a period of continuing development in the Prison, in September 1998.