7 Prison safety

The recommendations in this chapter relate to: custodial health and safety (122-167); and the prison experience (168-187).

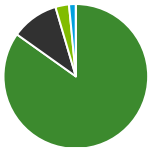
Key themes from recommendations (66 recommendations)

- People in custody may have various medical concerns and risks, including physical and mental health conditions. Members of the police owe a duty of care to protect the health and safety of detainees.
- Strict procedures are required for training of custodial staff, identification of risks in custody, supervision of detainees, access to medical care, and sharing of information between custodial authorities.
- The particular needs and health concerns of Aboriginal and Torres Strait Islander detainees should be recognised. Health and safety protocols should demonstrate cultural awareness and be implemented in consultation with Aboriginal Health Services (AHSs), ALSs, and the broader community.
- Greater support should be provided for Aboriginal and Torres Strait Islander people in corrective institutions, including access to prisoner employment and training opportunities.

Legend: Complete | Mostly Complete | Partially Complete | Not Implemented | Out of Scope

Commonwealth | Key actions: The Commonwealth has addressed recommendations relating to custodial health and safety, and the prison experience through the AFP *National Guideline* and revised procedures. Training requirements have been extended to include a focus on first aid, resuscitation and cultural awareness for AFP members. The AFP also has greater linkages and notifications systems between policing, corrective services, and Aboriginal and Torres Strait Islander organisations.
Remaining gaps: The AFP currently allows for the use of padded cells, but not for punitive purposes.

New South Wales | Key actions: The New South Wales Government has introduced an inter-agency approach to ensuring the delivery of health services in prison, and has responded to recommendations in relation to prisoner care through the *NSW Police Force: Code of Practice for Custody, Rights, Investigation, Management and Evidence (CRIME)* and legislation. Personal development programs, and training courses in first aid, resuscitation, and cultural awareness, have been introduced to implement the recommendations in this chapter.
Remaining gaps: The New South Wales Government does not appear to have undertaken an evaluation of breath analysis technology for blood alcohol concentration. While each of the other recommendations in this chapter have partially been addressed, greater prioritisation should be given to arrangements with Aboriginal Health Services and provisions made for cell visitor schemes.



Victoria | Key actions: The Victorian Government has updated the *Victoria Police Operating Procedures Manual* and the *Corrections Act 1986* (Vic) to reflect the principles of recommendations relating to prisoner health and safety, and the prison experience. Attention paid to the adequacy of health service delivery has been ongoing through Aboriginal Justice Agreements. Personal development programmes and revised training requirements have been introduced to respond to the recommendations in this chapter.
Remaining gaps: It does not appear that the Victorian Government has introduced measures to evaluate the use of breath analysis technology, and greater attention should be provided to cell visitation schemes. Notification procedures for the families of those 'at risk' should also be reviewed.

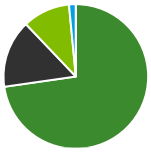
Queensland | Key actions: The Queensland Government has introduced measures to improve the prisoner experience and to ensure the adequacy of health service delivery to prisoners. Work experience and further education initiatives, and renewed training requirements, have also been implemented in response to the recommendations in this chapter.
Remaining gaps: The Queensland Government has partially addressed each of the recommendations in this chapter. Greater prioritisation should be given to recommendations relating to the use of padded cells, the screening of prisoners at admittance, flexible custody arrangements, and ongoing screening of cells for harmful objects.

South Australia | Key actions: The South Australian Government has prioritised the provision of care and health

services to prisoners through legislative and policy response. Emphasis has been placed on first aid, and cultural awareness training; and a range of personal development programs have been introduced as alternative sentencing options.

Remaining gaps: The South Australian Government has introduced measures which partially address each of the recommendation in this chapter. However, greater priority could be placed on the psychiatric assessment of, and provision of health services to, Aboriginal and Torres Strait Islander prisoners. Additionally training is also required for police officers in the use of restraint techniques, and the screening of cells should occur more frequently.

Western Australia | Key actions: The Western Australian Government has responded to recommendations relating



to the provision of prisoner health and safety through legislation and policy. Professional development, improved screening for health services, and the provision of cultural awareness training have been introduced as part of the response to recommendations in this chapter.

Remaining gaps: The Western Australian Government has not taken actions related to the provision of breath analysis equipment for blood alcohol testing. Further action is also required towards processes dealing with shift handovers between police watch-house staff, and the provision of training to police officers in identifying medical issues in prisoners.

Tasmania | Key actions: The Tasmanian Government has incorporated the intent of recommendations relating to

prisoner health and safety into the *Tasmania Police Manual* and other procedures. Additionally, training requirements now incorporate a focus on first aid, resuscitation, and cultural awareness among police officers and other justice staff.

Remaining gaps: The Tasmanian Government should place greater prioritisation on cell visitation schemes and consultation with Aboriginal and Torres Strait Islander people in relation to such schemes. It does not appear that visitation is provided for police custodial facilities. Additionally, flexible custody arrangements are an area for further reform to occur.

Northern Territory | Key actions: The Northern Territory Government has addressed prisoner care, and extended

the provision of health services, through procedural documents including General Orders and the *Correctional Services Act 2014* (NT). Personal development programs have been introduced in an attempt to reduce recidivism; and training requirements cover first aid, resuscitation, and cultural awareness.

Remaining gaps: In the Northern Territory, greater attention is required in relation to detention of persons in police cells where a police officer is not in attendance. Further reform is needed to address segregation of Aboriginal and Torres Strait Islander people in cell custody.

Australian Capital Territory | Key actions: The Australian Capital Territory Government has implemented the *AFP*

National Guideline which incorporates provisions related to custodial health and safety, and the prison experience. The AFP has prioritised the establishment of interconnectedness between policing, corrective services, and Aboriginal and Torres Strait Islander organisations as it concerns notifications procedures. Training requirements have also been updated in line with the recommendations contained in this chapter, and currently place focus on first aid, resuscitation, and cultural awareness of AFP members and other justice staff.

Remaining gaps: Further action is required in providing a transition period for prisoner adjustment, and in discontinuing the use of padded cells in police watch-houses.

7.1 Custodial health and safety (122-167)

Recommendation 122

That Governments ensure that:

> *a. Police Services, Corrective Services, and authorities in charge of juvenile centres recognise that they owe a legal duty of care to persons in their custody;*
>
> *b. That the standing instructions to the officers of these authorities specify that each officer involved in the arrest, incarceration or supervision of a person in custody has a legal duty of care to that person, and may be held legally responsible for the death or injury of the person caused or contributed to by a breach of that duty; and*
>
> *c. That these authorities ensure that such officers are aware of their responsibilities and trained appropriately to meet them, both on recruitment and during their service.*

Background information

Custodial health and safety practices are critically important in the prevention of custodial deaths. The RCIADIC Report noted deficiencies in the standard of care afforded to detainees, and found that many of the deficiencies were the result of officers misunderstanding the duties they owe to detainees.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. Aboriginal and Torres Strait Islander people were involved in the development, presentation, evaluation and modification of Aboriginal cultural awareness training which was provided to members of police and corrective services (*1994-95 Annual Report*). The AFP *National Guideline* establishes benchmark guidelines for managing people in custody, including obligations to provide medical attention to detainees. The AFP Commissioner's Order on Professional Standards, sanctions pursuant to Division 3 of the *Australian Federal Police Act 1979*, as well as training and guidelines for all sworn police members, ensures that members are aware of the legal duty of care to detainees and the potential consequences for breaching this duty of care. In relation to part (b) of Recommendation 122, the AFP ensures that Australian Capital Territory Policing members working within the regional watch-house receive additional, specific training in relation their duties. This reinforces their understanding of the duty of care requirements owed to all detainees. The duty of care is further reinforced through governance relating to 'at-risk' and special needs detainees in the ACT Watch House.

The Commonwealth and Australian Capital Territory governments are compliant with the principles in Recommendation 122. The AFP has implemented Recommendation 122 through its procedures and training programs.

New South Wales Police have addressed part (a) and (b) of this recommendation in the *NSW Police Force: Code of Practice for CRIME* (Custody, Rights, Investigation, Management and Evidence), which explicitly states that police officers have a duty of care towards people under arrest and others in an officer's custody at any time. The NSW Government stated in their 1995-96 implementation report that Corrective Services have also addressed this recommendation through section 8.1 of the *Operations Procedures Manual* which outlines the duty of care. Juvenile Justice NSW outlines the duty of care owed to a young person in detention in the *Children (Detention Centres) Act 1987* (NSW). In addition, juvenile justice staff are required to conform to a Code of Conduct which ensures that staff are aware of their legal responsibilities and the penalties for breaching those responsibilities. For part (c) of this recommendation, the NSW Government stated in their 1995-96 implementation report that this is addressed in all appropriate training courses and lectures at both the Police Academy and patrol level. The implementation report also stated that the Department of Corrective Services has in

place a Pre-Service Training Course, a Senior Correctional Officer Course, and a Commissioned Officer Course which all cover duty of care.

The New South Wales Government has implemented Recommendation 122 the NSW Police Force: Code of Practice for CRIME and the introduction of training.

For part (a) and (b) of this recommendation, **Victoria** has set out duty of care requirements for Correctional Services staff in sections 20(2), 21(1) and 23(1) of the *Corrections Act 1986* (Vic). Under this Act, officers may be charged if they breach duty of care expectations. Victoria Police have recognised their legal duty of care in the *Victoria Police Operating Procedures Manual.* Police are also aware of the legal responsibilities if injury or death result from an incarceration. The Department of Health and Community Services, which managed juvenile justice in 1994, stated that all duty of care provision were prescribed in Department policy and that staff are aware of the legal responsibility if injury or death occurs. For part (c), the 1994 Victorian implementation report stated that recruitment, promotion, and general training reinforces the duty of care as a responsibility to all Correctional Services staff. Police recruits also receive training relating to the care and welfare of prisoners. Lastly, the implementation report also stated that juvenile justice staff receive training relating to the care and responsibility of detainees.

Victoria has implemented all parts of Recommendation 122. Parts (a) and (b) of this recommendation are implemented through sections 20(2), 21(1) and 23(1) of the Corrections Act 1986 (Vic), and part (c) has been implemented through changes to training.

Part (a) and (b) of this recommendation are addressed in chapter 16 of the **Queensland** Police Service's Operational Procedures Manual which sets out the duty of care of police officers; primarily that police officers have a duty of care to those persons in their custody. These duties also relate to the preservation of human life. For Corrective Services, the 1996-97 Queensland implementation report stated that this is in a number of policies, procedures, and legislation relating to the duty of care for detainees. The implementation report also noted that the duty of care in relation to youth detention centres is incorporated in the *Juvenile Justice Act 1992* (Qld). For part (c) of this recommendation there is duty of care and custody training included in the Police Recruit Operational Vocational Education Program and other in-service training courses. For Queensland Corrective Services, the 1996-97 Queensland implementation report stated that the duty of care concept underpins all training associated with inmate management and there is also pre-service training that incorporates this concept. When staff are employed to work at a detention centre they undergo mandatory youth worker training, and included in the training is Protective Actions Continuum training. There is also a Protective Actions Continuum policy, with a specific appendix for death of a young person in youth detention. The Youth Detention Operational Manual provides overarching framework on how to work with young people in youth detention.

The Queensland Government has implemented Recommendation 122 through the Police Services Operational Procedures Manual and the provision of training.

For part (a) and (b) of this recommendation, the **South Australian** Government stated in their 1993 implementation report that the duty of care requirements are reflected in Police General Orders, Code of Ethics, Statement of Values, and the *Correctional Services Act 1982* (SA). For part (c) of this recommendation, the Department of Correctional Services stated that they have a Trainee Officer Induction Training course, which includes the officers' legal responsibilities in relation to the *Correctional Services Act 1982* (SA) and the *Occupational Health Safety and Welfare Act 1986* (SA). In addition to this training, the Department of Correctional Services provides a cross cultural awareness program which is undertaken by trainees as part of the induction program. This training program is also offered to officers already in service and highlights their responsibilities in caring for Aboriginal and Torres Strait Islander offenders. New Adelaide Youth Training Centre staff members are required to undertake a DHS Induction Program, while all new operational staff are required to undergo a seven-week induction program, which includes classroom and field placement. The *Youth Justice Administration Act 2016* (SA) also incorporates recognition for the duty of care owed to young people in custody.

The South Australian Government has implemented Recommendation 122 through Police General Orders, Code of Ethics, Statement of Values, and the Correctional Services Act 1982 (SA) and the provision of training.

The **Western Australian** Government have incorporated duty of care requirements for police officers in *The Western Australia Police Code of Conduct*. The 2010 version of this document states that officers must try to ensure that persons in custody or in their care are prevented from suffering illness, injury or death and officers must be alert to their duty of care as a result of their actions. This is supported by the Police Manual, statutes and other policies. All police officers are additionally required to undertake training in the use of Custodial Management application. Duty of care obligations for corrective services staff are set out in the *Code of Inspection Standards for Adult Custodial Services* and the *Code of Conduct, Policy Directives*, and *Prison Standing Orders* as well as the *Prisons Act 1981* (WA). For the Juvenile Justice Division, the 1995 WA implementation report stated that Director General's Juvenile Justice Rules and detention centre Standing Orders prescribe the manner in which detained persons must be managed in order to ensure their safety and wellbeing. For part (c) of this recommendation the 1995 WA implementation report noted that the WA police service had a training video titled, *Custodial Care*, which set out lockup procedures and had training at recruit level which was updated regularly.

The Western Australian Government has implemented Recommendation 122 through statutes, policies, procedures and documents.

The **Tasmania** Government stated in their 1993 implementation report that Police Standing Orders and Police Regulations address part (a) of this recommendation as they set out duty of care requirements and are reinforced by duty of care lectures. These lectures are delivered to recruits and personnel attending courses at the Police Academy. The Department of Justice custodial officers are also aware of their legal duty of care in terms of persons with the custody of the Department. Part (b) of this recommendation is addressed by Part 07 – Arrest – Custody and Bail of the *Tasmania Police Manual*. Finally, for part (c) of this recommendation, police recruits and those having responsibility for custodial care also receive training with regards to duty of care.

The Tasmanian Government has implemented Recommendation 122 through police standing orders and the Tasmania Police Manual.

The **Northern Territory** Government stated in their 1994-95 implementation report that section 8(2) of the *Prisons (Correctional Services) Act 1980* (NT) specified that the-then Department of Correctional Services has a fundamental duty of care for safe custody of prisoners. This Act has been replaced by the *Correctional Services Act 2014* (NT). Correctional officers are provided with induction and refresher training to enable them to perform this duty of care. Youth workers in juvenile justice were assumed to learn the "skills of the trade" on the job. While for police, the safety and care of prisoners in police custody was stressed in *General Order – Prisoners – Code P12* and in *General Order – Custody Part 1*. For part (c) of this recommendation, Prison Officer Recruit training also emphasises the responsibility to deliver refresher training and promotional courses. Care and custody training was also included in recruitment courses.

The Northern Territory Government has implemented Recommendation 122 through police procedures and training programs.

Recommendation 123

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

Background information

Clear and enforceable policies for the care of persons in custody will help increase accountability of members of police and corrective services, and ensure that standards of conduct are upheld.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP *National Guideline* establishes benchmark guidelines for managing people in custody, and are available to the public. The guideline is enforceable under the *AFP Professional Standards* and the *Australian Federal Police Act 1979*. The AFP also provides training in relation to standards of care and treatment of persons arrested by AFP members, and compliance with these policies is monitored (*1994-95 Annual Report*). Breaches may also be highlighted as a result of complaints made by members of the public, and are investigated by the AFP Professional Standards portfolio. The *Corrections Management Act 2007* (ACT) also implements this recommendation for the Department of Corrective Services and the care of prisoner's in custodial facilities.

In the ACT, Corrections Officers undergo training in the administration of relevant legislation and are governed by the *ACT Corrective Services Corrections Management (Dress Standards and Code of Conduct for Corrections Staff) Policy 2011* which requires Corrections Officers to adhere to the code of conduct. Underperformance and misconduct are both acts which can result in the termination of employment. This is supported by s 9 of the *Public Sector Management Act 1994* (ACT) which establishes the obligations of public servants.

- *The Commonwealth and Australian Capital Territory governments have implemented Recommendation 123 through AFP guidelines and compliance monitoring mechanisms, including systems for public accountability.*

In **New South Wales,** police service documents such as the *NSW Police Force Handbook* and the *NSW Police Force Code of Practice for CRIME* are both publicly available. These documents set out police procedures and code of practice. NSW Corrective Services also have in place a *NSW Corrective Services Operations Procedures Manual* which is a publicly available document. According to the 1995-96 NSW implementation report, all service directives and instructions are available under freedom of information legislation. The implementation report also stated that compliance of police officers is monitored by the Professional Responsibility Command, the NSW Ombudsman, the Police Integrity Commission and the Independent Commission Against Corruption. Corrective Services NSW (CSNSW) also has a staff code of conduct.

- *The New South Wales Government has implemented Recommendation 123 through the development of procedural documents, including the NSW Police Force: Code of Practice for CRIME and the NSW Corrective Services Operations Procedures Manual, as well as the ongoing enforcement of these standards.*

The **Victoria** Police Manual sets out the procedures for Victorian Police, which is available to the public. The 1994 Victorian implementation report also stated that instructions relating to the care and welfare of prisoners are disseminated throughout the Force at all levels. The 1994 Victorian implementation report also stated that Correctional Services Division has procedures and practices in place for breaches of Departmental Instructions. Departmental Instructions are also available to the public. The *Corrections Act 1986* (Vic) contains provisions for the discipline of officers. The Victorian Government committed to ensuring that its practice for the care and wellbeing of Aboriginal and Torres Strait Islander detainees, prisoners and offenders complies with the recommendations of the Royal Commission in its third AJA.

- *Victoria has implemented Recommendation 123 through the procedures in the Victoria Police Manual, departmental procedures for dealing with breaches of the Manual, and the provisions in the Corrections Act 1986 (Vic).*

In their 1997 implementation report, the **Queensland** Government stated that for Queensland Police Services, the procedures are set out in the *Queensland Police Services Operational Procedures,* which is publicly available. The Queensland Police Services Ethical Standards Unit and the Crime and

Corruption Commission will investigate breaches of discipline under the provision of the *Police Services Administration Act 1990* (Qld), the *Police Services (Discipline) Regulations 1990* (Qld), the Code of Conduct and the *Criminal Justice Act 1989* (Qld). For Corrective Services, the Code of Conduct is displayed in all Correctional Centres, in training rooms, and in common areas of the Training Centre. All officers are also provided with a copy of the Code of Conduct. All pre-service officers affirm and sign off on the Code of Conduct as part of their graduation ceremony. Duty of care is also a core principle of Queensland Corrective Services procedures for dealing with risks and management of self-harm, contingency planning and case management.

- *The Queensland Government has implemented Recommendation 123 through the Queensland Police Services Operational Procedures, the ongoing function of Queensland Police Services Ethical Standards Unit, and efforts to raise awareness among officers of these standards.*

The **South Australian** Government stated in their 1994 implementation report that any allegations of breach of Police General Orders are dealt with in accordance with clearly defined procedures and proved breaches in accordance with Regulations. Procedures are in place to ensure all officers are aware of their obligations. For Correctional Services, Correctional Services Instructions are enforced through charges laid out under section 68 of the *Government Management and Employment Act 1985* (SA). Procedures are in place to ensure Departmental Instructions to staff are distributed to all staff, Departmental Instructions that are not confidential are also made available to prisoners. The Performance Management groups drafted task outlines that aimed to ensure Correctional officers adhered to specific routines. This course of action was taken to eliminate potential breaches of Departmental Instructions. *Adelaide Youth Training Centre Orders* cover all areas of the Department of Department of Human Services operations, and are in accordance with the *Youth Justice Administration Act 2016* (SA) which enshrine the current service model. The *Code of Ethics for the South Australian Public Sector*, issued under the *Public Sector Act 2009* (SA), sets out the professional standards expected of all public sector employees, including adherence to departmental policies and procedures, and the repercussions associated with violations thereof.

- *In South Australia, Recommendation 123 is addressed through clearly defined procedures and the ongoing enforcement of these procedures.*

In their 1995 implementation report, the **Western Australian** Government stated that the WA Police Service have in place the *Police Department Lockup Management Manual* which is reviewed and updated on an ongoing basis. Current procedures are also reviewed and updated on a regular basis to address the changing needs of the community. The implementation report also stated that the Ministry of Justice have implemented this recommendation through part X of the *Prisons Act 1981* (WA). The juvenile justice system also has in place the Director General's Juvenile Justice Rules and Standard Orders which are considered to be Departmental policy. Any breaches of these regulations and requirements results in disciplinary action under public service legislation. The Western Australian Government notes that there currently exists clear policies in relation to breaches of departmental instructions, with all staff provided training and guidance on the enforcement of breaches.

- *Recommendation 123 has been implemented in Western Australia through a range of policies and procedures, including ongoing enforcement and review.*

The **Tasmanian** Government stated in their 1993 implementation report that the Department of Justice had implemented instructions relating to the care of people in custody and a process for disciplinary action if such instructions were not followed. This recommendation was also covered by Tasmania Police Standing Orders and Police Regulations, and was reinforced at recruit training level. In 1993, the *Ashely Home Institution Manual* was revised to include instructions relating to the care of persons in custody and the manual was distributed to each staff member. The Tasmanian Government notes that the *Police Service Act 2003* (Tas) in conjunction with the *Tasmania Police Manual* satisfies the governance of this recommendation.

- *In Tasmania, Recommendation 123 is addressed through the introduction of instructions and disciplinary procedures by the Department of Justice and the Tasmania Police. Additionally, the Police Service Act 2003 (Tas) incorporates this recommendation.*

In their 1994-95 implementation report, the **Northern Territory** Government stated that the *Prisons Procedures Manual* sets out operational procedures in all centres and provide the authority for the issue of correctional centre local instructions and procedure manuals. In addition, there are police instructions released regularly that are enforced. For example, the *General Order – Custody Part I* provides directives to staff on behaviours expected and actions that will be taken in the event of a breech. In some instances, instructions are not released to the public since this would be a breach of security. Any breaches of Departmental Instruction by police officers are disciplined and are subject to the *Police Administration Act* (NT). Any breaches of instructions by prison officers are set out in the *Public Sector Employment and Management Act* (NT).

The Northern Territory Government has mostly addressed Recommendation 123 through the Prisons Procedures Manual, other professional standards and procedures manuals, any legislation which provides for the enforcement of these standards. In some instances, instructions are not released to the public since this would be a breach of security.

Recommendation 124

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

Background information

Where incidents such as death, medical emergencies or attempted suicides occur, debriefing sessions are important for assessing compliance with procedures and providing 'lessons learned' for reducing risks in future.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP has a critical incident debriefing program in place. ACT Policing has existing frameworks for welfare support for any incidents occurring within ACT Policing; and de-briefing within the team is required in addition to the support from welfare officers. The *Corrections Management Act 2007* (ACT) also implements this recommendation for the Department of Corrective Services and the care of prisoner's in custodial facilities.

The Commonwealth and Australian Capital Territory governments have mostly implemented Recommendation 124 through the AFP's debriefing programs following critical incidents, however it appears that debriefing sessions and mechanisms for incorporating 'lessons learned' have not been formalised in AFP guidelines.

New South Wales have addressed this recommendation in the *NSW Police Force Handbook.* This document states that there must be a debriefing of any recommendations or findings of an investigation into a death in custody. This recommendation has not been addressed by the Corrective Services. In the NSW Corrective Services *Operations Procedures Manual,* the section on Deaths in Custody has been removed.

This recommendation is implemented under the New South Wales Police Force Critical Incident Guidelines. Critical Incident Guideline 4.5.13 indicates that at the conclusion of an inquest the Senior Critical Incident Investigator will prepare the final investigation report, which will include any comments or recommendations made by the Coroner. The Investigator should also organise a formal debrief following any inquest / trial, in consultation with the review officer for the relevant local area commander/s and region commander; duty officer; professional standards manager; Psychology; duty operations inspector; staff nominated by the Deputy Commissioner's office; professional standards

command (PSC) and PSC Investigations Unit; Forensic Services Group; Marine Area Command and the Crash Investigation Unit.

New South Wales have addressed this recommendation in the NSW Police Force Handbook. This document states that there must be a debriefing of any recommendations or findings of an investigation into a death in custody. Debriefing by correctional centre management staff is also provided under s 13.2.19 of the *Custodial Policies and Procedures* which requires that an operational debriefing be given to all employees who were involved in the death in custody response. The Governor must ensure that individual, private counselling is offered to those personnel who discovered, witnesses or responded to the death in custody. Officers are supported through the Chaplaincy Service and the Employee Assistance Program, as well as through peer support. Every death in custody is subject to a comprehensive independent investigation by CSNSW Governance and Continuous Improvement, and NSW Police Force.

The New South Wales Government has implemented Recommendation 124 through the NSW Police Force Handbook and the Custodial Policies and Procedures.

Victoria have addressed this recommendation through their *Victorian Police Manual.* This document requires that a "hot debrief" must be held where an incident commander considers it necessary to quickly review an incident. A "full debrief" is held whenever a police officer uses force on someone aged under 18 years. In addition, the 1994 Victorian implementation report stated that Correctional Services Division's Incident Procedures checklists indicate that a debriefing session should occur after any incident of a serious nature.

Victoria has implemented Recommendation 124 through their Victorian Police Manual, in addition to the Correctional Services Division's Incident Procedures checklists.

In their 1997 implementation report, the **Queensland** Government stated that the *Queensland Police Operational Procedures Manual* includes procedures for initiating a debriefing session following any incident relating to attempted suicide or suicide of a person in custody. Queensland Corrective Services sets out a standard procedure for responses to critical incidents in *Custodial Operations Standard Operating Procedure - Death in Custody,* which stresses that debriefing is undertaken following any major incident including serious self-harm or death in custody.

The Queensland Government has implemented Recommendation 124 through the Queensland Police Operational Procedures Manual and the Custodial Operations Standard Operating Procedure – Death in Custody.

The **South Australian** Government stated in their 1994 implementation report that this recommendation has been implemented in Correctional Services and police procedures. The Department of Corrective Services has established procedures set out in the *Standard Operating Procedure* relevant to Prisoner Death or Critical Injury. An Adelaide Youth Training Centre operational order outlines the process for conducting staff debriefing sessions, including ensuring operational compliance. Incidents are reviewed in accordance with the Department of Human Services Managing Critical Client Incidents Policy.

The South Australian Government has implemented Recommendation 124 through Correctional Services and police procedures, and the ongoing conduct of de-brief sessions following an incident.

According to the *Change the Record report,* the **Western Australian** Police Manual requires that a debriefing session be conducted by a member in charge following an incident of importance such as death, medical emergency, or attempted suicide. This debriefing session must include a discussion about the actions of people involved, procedures taken, and any lessons learnt. According to the *Change the Record* report, Corrective Services have also implemented this recommendation through their Policy Directive 41 which requires an immediate debrief following a critical incident. There must also be a formal debrief to discuss any lessons learnt. Debriefing officers in the event of serious incidents is part of core business, and is directed by the policies relating to Critical Incident Stress Management, and Critical Incidents Involving Police.

The Western Australian Government has implemented Recommendation 124 through the Police Manual and other policies and procedures for corrective services staff.

The **Tasmanian** Government stated in their 1993 implementation report that this recommendation had been fully implemented by the Department of Police through the Critical Incident Stress Debriefing Program. In addition, Department of Justice and Corrective Services have access to debriefing resources which are accessed following a death or other critical incident. The Tasmania Prison Service's Director's Standing Order *Emergency Management Manual and Emergency Orders 2016* provides procedures to be followed after all such incidents, including de-briefing sessions. All persons taken into custody are subject to a screening form, and the Tasmania Police notify a relative or friend of a person identifying as Aboriginal and Torres Strait Islander and the Aboriginal Legal Service is notified.

The Tasmanian Government has implemented Recommendation 124 through the Department of Police's Critical Incident Stress Debriefing Program, and the Emergency Management Manual and Emergency Orders 2016.

In their 1994-95 implementation report, the **Northern Territory** Government stated that the-then Department of Correctional Services have in place a Departmental Peer Support Program, which ensures that critical incidents are examined to ensure compliance with procedures. Police have also addressed this recommendation in *General Order – Prisoners – Code P12* which includes an instruction to hold a debriefing session when a critical incident such as an attempted suicide, medical emergency or death occurs. This recommendation has also been implemented through NTCS *Directive 2.1.4 Incident Report and Recording* and the *General Order – Deaths in Custody and Investigation of Serious and/or Fatal Incidents Resulting from Police Contact with the Public* which established procedures in the correctional centres. In Darwin, Darwin Correctional Centre has developed a Critical Incident Response Team that comprises of custodial, managers and non-custodial support services including a psychologist.

The Northern Territory has implemented Recommendation 124 through the introduction of a Departmental Peer Support Program and other procedures and directives which outline the conduct of de-briefing sessions.

Recommendation 125

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

Background information

Screening forms can help assess the mental and physical state of persons taken into police custody, and identify prisoners at risk of illness or self-harm. Screening forms can also support dissemination of information between officers, particularly during shift changes.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP *National Guideline* requires an initial assessment by the watch-house staff of a person who arrives in custody (paragraph 15). The assessment is based on a series of pre-defined questions outlined in the *ACT Policing Watch-House Operations Manual*. The screening process is audio and visually recorded, as well as documented on the Police Real-time Online Management Information System (PROMIS) custody module.

The Commonwealth and Australian Capital Territory governments have implemented Recommendation 125 through the requirement for an initial assessment of persons taken into custody, under the AFP National Guideline.

In **New South Wales,** the *NSW Police Force: Code of Practice for CRIME* requires that a detailed assessment of a detainee must be conducted. The 1995-96 NSW implementation report also stated that there was a Prisoner Admission and Management Form which is used upon admission of a prisoner. The implementation report also stated that compliance was monitored by Local Area Commanders and supervisors. This recommendation also falls under the responsibility of the Department of Corrective Services who has developed the position of State Co-ordinator of the Screening and Induction Program who ensures consistent application of Departmental policy and procedures related to screening and induction of inmates in custody. In addition, the Justice Health and Forensic Mental Health Network do health screening to ensure that all issues and risks are identified, considered and managed. Lastly, the implementation report stated that Juvenile Justice NSW has screening forms which includes information about mental illness. Information from police is also reviewed and recorded.

The New South Wales Government has mostly implemented Recommendation 125 through the provisions in the NSW Police Force: Code of Practice for CRIME and the ongoing function of the State Co-ordinator of the Screening and Induction Program. However, it does not appear that the effectiveness of screening is continually evaluated.

In **Victoria,** police have developed a prisoner medical checklist which must be used when a person is taken into custody. This is set out in the *Victoria Police Manual.*

Victoria has mostly implemented Recommendation 125 through the provisions in the Victoria Police Manual. However, it does not appear that the effectiveness of screening is continually evaluated.

The **Queensland** Government stated in their 1997 implementation report that Queensland Police have a computerised Custody Index which records information about inmates, such as their mental and physical health. The information of people taken into custody is entered into this system.

Queensland has partially implemented Recommendation 125 through the Custody Index; however, it does not appear that the effectiveness of screening is monitored.

The **South Australian** Government stated in their 1994 implementation report that screening forms have been used since 1989. Screening forms are subject to an ongoing improvement process and are maintained via electronic database. Currently, South Australia Police conducts a detailed risk assessment involving the detainees mental and physical wellbeing, including details of substance use, medical, psychological, emotional, and physical status is completed by the Charging member before the detainee is placed in a cell.

The South Australian Government has implemented Recommendation 125 through the introduction of screening forms and the implementation of a continual improvement process.

The **Western Australian** Police Manual states that members in charge are required to ensure that all prisoners admitted into custody are adequately screened to assess their needs and a Lockup Admission Form P10A must be completed. The Western Australian Government notes that admission and assessment processes are standardised across the state, and that the admission system has inbuilt checks and balances to ensure that all processes of determining risk are completed. The Perth Watch-house has a Registered Nurse on duty at all times to ensure that every person being admitted is fit for custody. The Western Australian Government is currently developing an improved and common assessment for screening at point-of-contact on admission to lock-ups, which will include triggers for medical assessment.

The Western Australian Government has mostly implemented Recommendation 125 through screening processes which are subject to continued improvement. However, it is unclear whether the effectiveness of these processes has been evaluated.

The **Tasmanian** Government stated in their 1993 implementation report that a screening form was being developed and input was being sought from the Aboriginal and Torres Strait Islander community. The Tasmania Prison Service uses assessment forms to screen all individuals received into the custody. Over recent years there has been considerable investment by jurisdictions in the development of evidence-based assessment and classification systems and an exchange of information across jurisdictions in the ongoing process of enhancing assessment and classification systems through the Corrective Services Administrators' Council. As per Recommendation 124, all persons taken in to custody are subject to a screening form.

The Tasmanian Government has implemented Recommendation 125 through the introduction of screening forms and ongoing investment in their improvement.

The **Northern Territory** Government stated in their 1994-95 implementation report that screening forms were formalised through inclusion in *General Order – Prisoners – Code P12* and had been utilised for some years. The *General Order – Custody Part III* establishes rules for the watch house keeper that are in line with this recommendation.

The Northern Territory Government has mostly implemented Recommendation 125 through General Orders; however, it does not appear that the effectiveness of screening is continually evaluated.

Recommendation 126

That in every case of a person being taken into custody, and immediately before that person is placed in a cell, a screening form should be completed and a risk assessment made by a police officer or such other person, not being a police officer, who is trained and designated as the person responsible for the completion of such forms and the assessment of prisoners. The assessment of a detainee and other procedures relating to the completion of the screening form should be completed with care and thoroughness.

Background information

Screening forms can help assess the mental and physical state of persons taken into police custody, and identify prisoners at risk of illness or self-harm. Screening a detainee before they are placed in their cell ensures that appropriate early action can be taken to minimise the risk of harm.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

As outlined in Recommendation 125 for the **Commonwealth** and **Australian Capital Territory**, the AFP *National Guideline* requires an initial assessment by watch-house staff of all persons who arrives in custody (paragraph 15).

The Commonwealth and Australian Capital Territory governments have implemented Recommendation 126 through the AFP National Guideline.

The **New South Wales** Government stated in their 1995-96 implementation report that the Prisoner Admission and Management Form is completed by a custody officer at those patrols with a staff allocation large enough to roster a person solely dedicated to those duties. In other patrols, the Form is completed by an officer who acts in the capacity of a Custody Officer. All police who go through the Police Academy are taught the roles of the Custody Officer. Any prisoners identified as at risk must have this information entered into the custody management system and assistance sought for these prisoners. The Department of Corrective Services have in place a Screening and Induction Program. In addition, the Justice Health and Forensic Mental Health Network employs a nurse to screen all new prisoners for mental and physical health issues. Lastly, Juvenile Justice NSW also has in place admission forms and risk assessment upon admission at a centre. The New South Wales Government has also introduced measures relevant to this recommendation as part of their response to Recommendation 125.

The New South Wales Government has implemented Recommendation 126 through use of a Prisoner Admission and Management Form, and other procedural practices.

As noted in Recommendation 125, **Victoria** Police use a prisoner medical checklist.

The Victorian Police have implemented Recommendation 126 with the use of a prisoner medical checklist.

In their 1997 implementation report, the **Queensland** Government stated that Corrective Services had in place a screening process that includes information about the mental and physical health of a prisoner. This screening process is conducted upon admission into custody. Queensland Corrective Services has a comprehensive screening process including a risk and needs assessment covering general and medical health, self-harm and suicide, drug and alcohol abuse as well as various social factors. This assessment is undertaken on every admission into a correctional centre (excluding transfers). Any immediate risks relating to health and wellbeing, are referred for further assessment and treatment with Queensland Health. For actions taken by Queensland Police see Recommendation 125.

Queensland Corrective Services and Queensland Police have implemented Recommendation 126 through the introduction of a comprehensive screening process and risk assessment.

The **South Australian** Government stated that Police conduct an 'at risk' physical condition and security assessment upon admission to juvenile secure care. Standard procedures require the admitting officer to assess young offenders' physical condition prior to accepting their admission from the Police. Each admission must also be given a physical examination by a nurse or medical practitioner. Currently, as is the case for Recommendation 125, South Australia Police has a computerised system that directs officers to complete a risk assessment and care plan for every person being taken into custody. This is audited on a regular basis to ensure compliance with this recommendation.

The South Australian Government has implemented Recommendation 126 through the introduction of a screening and risk assessment process for both juveniles and adults.

For **Western Australia's** response to this action see Recommendation 125. Additionally, the Western Australia Police Force is trialling the use of mental health professionals on duty, six days a week during the afternoon and evening, to be involved in the intake and assessment process to identify persons at risk.

The Western Australian Government has implemented Recommendation 126 through their actions taken towards Recommendation 125, which include processes for screening.

In their 1993 implementation report, the **Tasmanian** Government stated that all people entering prison are assessed on the basis of a form developed internally. In Southern Tasmania this process is undertaken by a trained officer and nurse. Currently for receptions to the Tasmania Prison Service, initial screening is undertaken by trained Correctional Officers to identify immediate management needs including the risk of suicide or self-harm, the need for protection, issues of vulnerability and other issues relevant to a person's safety and security while in custody. A health assessment also forms part of the initial screening and is undertaken by Correctional Primary Health Services.

The Tasmanian Government has implemented Recommendation 126 through the introduction of a screening and risk assessment process.

The **Northern Territory** Government stated in their 1994-95 implementation report that screening forms had been used since 1989. More recently, reception cards and health assessment forms have been a part of the screening process for all people coming into police custody. Police officers who use the form are trained in completion of these forms. The *General Order Custody – Part III* provides information on the determination of persons in custody considered to be 'at risk' and outlines instructions for their care while in police custody.

The Northern Territory Government has implemented Recommendation 126 through screening and risk assessment procedures.

Recommendation 127

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

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

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

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

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

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

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

i. intoxicated persons;

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

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

iv. persons with an impaired state of consciousness;

v. angry, aggressive or otherwise disturbed persons;

vi. persons suffering from mental illness;

vii. other serious medical conditions;

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

ix. such other persons or situations as agreed.

Background information

Police officers may have limited medical expertise. Accordingly, greater access to medically trained personnel at police watch-houses would help staff provide the requisite level of management and supervision to assist in preventing deaths in custody.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP *National Guideline* provides that a member responsible for a person in custody must take reasonable steps to ensure a person receives proper medical attention (paragraph 18.1). This includes in situations where the person shows signs of impaired sensibility, physical or mental illness, or presents in a manner that raises doubt about their health. The guidelines also require close surveillance of a person in custody who gives concern about their physical or mental condition, is intoxicated, or appears angry, withdrawn or depressed. The Australian Capital Territory watch-house maintains a contractual arrangement with Clinical Forensic Medical Services a specialist unit of ACT Health, to provide advice and treatment for persons in custody at all times. Where appropriate, and to ensure a detainee who identifies as Aboriginal and Torres Strait Islander receives appropriate medical attention, Clinical Forensic Medical Services will contact Winnunga Nimmityjah Aboriginal Health Service to obtain background information regarding the person's health.

In the *1994-95 Annual Report*, the Commonwealth noted that:

- the AFP provides access to 24-hour medical cover in all jurisdictions;
- it would seek to negotiate with States and Territories to ensure that liaison occurs with AHSs to develop protocols for the provision of health and medical services, and where such services are provided by AHSs, that these are provided on a negotiated fee-for-service basis; and
- that parts (a), (b), (d), and (f) of the recommendation have been implemented through a variety of AFP arrangements.

The Commonwealth and the Australian Capital Territory Governments have implemented Recommendation 127 through the AFP guidelines and policies.

In their 1995-96 implementation report, the **New South Wales** Government stated that the NSW Police have fully implemented part (b), (d) and (f). The NSW Police Service did not propose to implement part (a) of this recommendation because the number of prisoners in police cells had reduced. Also, with the exception of fresh charge prisoners brought into custody outside of court hours, no prisoners remain in police cells overnight in the Sydney metropolitan, Wollongong, and Newcastle areas. Local medical services were deemed adequate to service the needs of these prisoners. For part (c) of this recommendation, Aboriginal Medical Services provide some medical services; however, insufficient funding prevents them from being able to service police cells. Part (e) of this recommendation has not been addressed since it is deemed a potential breach of confidentiality.

This recommendation is reflected within the New South Wales Police Force Code of Practice for CRIME which states the Custody manager must immediately call for medical assistance, if someone in custody:

- appears to be ill;
- is injured;
- does not show signs of sensibility and awareness;
- is unconscious;
- fails to respond normally to questions or conversation;
- is severely affected by alcohol or other drugs (eg: incapable of standing from sitting position unassisted, seen to be lapsing in and out of consciousness);
- requests medical attention and the grounds on which the request is made appear reasonable; or
- otherwise appears to be in need of attention.

This medical assistance is implemented by New South Wales Police Force by contacting New South Wales Ambulance Service who attend and conduct a medical assessments of the person in custody and if required transport the person to hospital for treatment.

CSNSW works with the Justice Health and Forensic Mental Health Network (JH&FMHN) in providing health services for the detainee population at some police and court cell complex, including determining the frequency and extent of medical treatment provided to inmates in accordance with

the *Crimes (Administration of Sentences) Act 1999* (NSW). The JH&FMHN assists CSNSW by recommending cell placement, priority transfers to a correctional centre, and emergency transfers to hospital. Through its AAC, CSNSW seeks the formal involvement of Aboriginal community representatives in developing policies and programs as well as CSNSW responses to new initiatives.

In New South Wales, Recommendation 127 is partially implemented. For full completion, further action is required in respect of parts (a), (c) and (e) of this recommendation.

The **Victorian** Government stated in their 1994 implementation report that in relation to part (a) and (b) of this recommendation, the Office of the Senior Medical Officer, Operations Department is in charge of providing medical services to prisoners in police custody and provides a 24-hour on-call service, including access to doctors for all prisoners, across the state. Employing full-time medical staff in watch-houses is prohibited by staffing levels. In the Melbourne Custody Centre Aboriginal and Torres Strait Islander prisoners are given priority access to a nurse who works 12 hours per day, and other medical staff who are available at all times. All metro and major regional have daily or more access to health staff, while all other centres have on-call health staff available at all times. The Custodial Health Advice Line 24/7 provides care advice and coordination of staff efforts, focusing on clinical risk assessment for suicide and self-harm triggers and medical or mental health issues.

For part (c) of this recommendation, policy issues and specific cases are discussed with the Victorian Aboriginal Health Services Cooperative Ltd. For part (d), Victoria Police staff liaise with all other health providers to obtain relevant medical information. For part (e), the implementation report stated that there was regular liaison between the Office of the Senior Medical Officer, Operations Department and Victorian Aboriginal Health Service Cooperative Ltd. In addition to these responses, the Department of Health and Community Services, Juvenile Justice Specialist Support Service stated that they had developed improved services for young offenders on custodial and non-custodial services. This included introducing an assessment by a psychologist at centres, counselling services, and health education programs.

In Victoria, parts (a), (b) and (e) of Recommendation 127 are mostly implemented through the provision of an on-call medical officer. For part (c) of this recommendation, policy issues and specific cases are discussed with the Victorian Aboriginal Health Services Cooperative. However, parts (d) and (f) of this recommendation has yet to be implemented through formal protocols.

The Queensland Government notes that each component of this recommendation has been addressed by the Queensland Police Service. In relation to part (a), Blue Nurses have been contracted for daily attendance and the Queensland Ambulance Service is in attendance on weekends. In relation to part (b) the Queensland Ambulance Service is the first point of call and part (c) of the recommendation is facilitated through Queensland Health as Required. Arrangements outlined as part of part (d) have been made through Queensland Ambulance Service, local hospitals, and the State Forensic Medical Officer who is either on call or rostered. The Queensland Police Service continues to interact with Queensland Health in relation to part (e) regarding medical and mental assistance. Additionally, the *Operational Procedures Manual* sets out these provisions in chapter 16.

In Queensland, Recommendation 127 has been implemented through Queensland Police Services procedures and the Operational Procedures Manual.

The **South Australian** Government stated in their 1993 implementation report that the current Police General Orders endorsed this recommendation. Under South Australia Police General Orders, persons incarcerated or waiting to be accepted into police cells, who show any signs of illness or injury, are immediately treated by the police medical officer or are immediately conveyed to a government funded hospital. Full time medical officers were also available and there was a formal liaison with Aboriginal Health Services. Clinical Nurse Consultants are also employed by the Drug and Alcohol Services South Australia to assist with the management of prisoners with drug and alcohol related problems. Under their duty of care responsibilities, if a prisoner is ill or says that they are ill, the nurses contact a locum doctor; two locum doctors are contracted to South Australia Police.

The South Australian Government has implemented Recommendation 127 through the Police General Orders.

In the 1995 **Western Australian** implementation report, the WA Government stated that in relation to part (a) and (b), a regular nursing service operated in East Perth, but budget restraints restricted the extension of this service to other areas. Other medical services such as ambulance services are available. For part (c), the Police Service was in discussion with the Aboriginal Medical Services about the establishment of a 24-hour a day telephone 'hotline" service. This would be used to transfer information relevant to the health and medical needs of Aboriginal and Torres Strait Islander prisoners. The Western Australian Government is currently developing an improved and common assessment for screening at point-of-contact on admission to lock-ups, including triggers for medical assessment. The improvement of screening would be to provide enhanced measures when compared with the 1993 response outlined in the implementation report.

The Western Australian Government has partially implemented Recommendation 127 through actions taken towards parts (a), (b), and (c). Further, part (f) has partially been addressed as noted in the 1993 implementation report. Further action is required for the remainder of this recommendation.

In their 1993 implementation report, the **Tasmanian** Government stated that practices set out in Tasmania Police Standing Order and Police Regulations require the presence of medically trained personnel in police watch-houses, where and when required. Major hospitals are also in close proximity of the detention centres. The Tasmania Prison Service has detailed suicide and self-harm guidelines in place and employs psychologists and high needs counsellors in its Therapeutic Services Unit and Needs Assessment Unit. Major hospitals are also in close proximity.

In Tasmania, Recommendation 127 is partially implemented. For full completion, further action is required in respect of parts (c), (d) and (e) of this recommendation.

The **Northern Territory** Government stated in their 1994-95 implementation report that they had developed a protocol so the responsibility for prisoner well-being is shared by the appropriate bodies. *General Order – Prisoner P12* contains all principles from this recommendation, except part (a). The Northern Territory Government notes that police in the Northern Territory have an agreement with the Department of Health to have watch house nurses in all major watch houses. Where there is no watch house nurse in staff, the local medical clinic or hospital is to be utilised.

The Northern Territory Government has mostly implemented Recommendation 127 through the development of appropriate protocols, and actions taken to ensure a nursing presence in watch houses. Action is still required to address part (a) of this recommendation.

Additional commentary

DOH noted that the 2016 *Prison to Work* report recognised high rates of incarceration and recidivism among Aboriginal and Torres Strait Islander people. The need for improvements to the health and wellbeing of Aboriginal and Torres Strait Islander detainees was a finding from the Report.

Recommendation 128

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

Background information

In some instances, police watch-houses are used as prisons on behalf of Corrective Services. It is important to ensure consistency of care and medical services across custodial settings.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP noted that the medical responsibilities of

ACT policing in relation to persons in custody is established within governance and standard practices, which apply to instances where ACT Policing Regional Watch House is used on behalf of ACT Corrective Services. The AFP *National Guideline* provides that a person in custody is entitled to the same standard of medical care as any other member of the public (paragraph 17). Members of the AFP must also be satisfied that a person is fit to be placed in, or remain in, custody.

The Commonwealth and the Australian Capital Territory Governments have implemented Recommendation 128 through the AFP National Guideline.

New South Wales stated in the *Law Enforcement (Powers and Responsibilities) Act 2002* that detainees have the right to medical services. In addition to this, the *NSW Police Force: Code of Practice for CRIME* states that medical assistance must be supplied to prisoners when they appear ill and injured.

The NSW Police Force has developed strategies which have significantly reduced both monthly cell occupancy rates, and the average time each prisoner spends in police cell custody. All prisoners received from court, bail refused, or who are unable to meet bail condition, are rapidly transferred to CSNSW. In areas serviced by CSNSW, transfer occurs on the day of the court appearance. Inmates have access to Justice Health services in some cell complexes and all correctional centres - for urgent/acute illness transport to hospital occurs. The procedure for CSNSW is outlined in the Custodial Operations Policy and Procedures COPP section 13.2 Medical Emergencies.

The New South Wales Government has mostly implemented Recommendation 128 through the Law Enforcement (Powers and Responsibilities) Act 2002 (NSW) and the NSW Police Force: Code of Practice for CRIME. However, it does not appear to be a requirement that the standard of care provided in police cells is generally similar to that in correctional facilities.

In their 1994 implementation report, the **Victorian** Government stated that the Office of the Senior Medical Officer, Operations Department was responsible for all prisoners in police cells and generally provided a similar standard of care to that of Corrections Health.

The Victorian Government has implemented Recommendation 128 as the standard of care provided in police cells is generally similar to that in correctional facilities.

In **Queensland**, the *Queensland Police Services Operational Procedures Manual* sets out the policy and procedures around seeking medical treatment of prisoners. However, it does not specifically refer to the level of care provided to detainees who are held on behalf of a Corrective Services authority.

The Queensland Government has mostly implemented Recommendation 128. However, it does not appear to be a requirement that the standard of care provided in police cells is generally similar to that in correctional facilities.

In their 1993 implementation report, the **South Australia** Government stated that this is current police practice. This remains current practice.

The South Australian Government has implemented Recommendation 128, noting that this is current practice.

The **Western Australian** Government stated in their 1995 implementation report that the WA Police Service had introduced a computerised exchange of information services that identifies any prisoner requiring medical or welfare services. As part of actions taken towards Recommendation 125, the Western Australian Government has introduced the use of a nurse for admission and assessment processes. Persons in custody who are identified with health concerns are either admitted to the Perth Watch-house with a medical treatment report, or referred to the nearest hospital for assessment, treatment and determination of fitness. The Ministry of Justice also stated that they had not implemented this recommendation but support the establishment of a national benchmark in relation to the provision of medical services in police lock-ups.

The Western Australian Government has implemented Recommendation 128 through the healthcare provided to people in police watch-houses.

In their 1993 implementation report, the **Tasmanian** Government stated that these arrangements are already in existence. See also the Tasmanian Government's response to Recommendation 127.

The Tasmanian Government has implemented Recommendation 128, noting that this was current practice in their 1993 implementation report.

The **Northern Territory** Government stated in their 1994-95 implementation report that guidelines for health protocol of prisoners in custody were being developed in collaboration with Territory Health Services and the Department of Correctional Services. *General Order – Prisoner P12* was revised to clearly set out requirements that any prisoner remaining in police custody in excess of 24 hours must be medically examined by either a doctor or nurse. The police *General Order – Custody Part IV* states that persons held on behalf of Correctional Services will be treated as per the Prisons Regulations. Currently, nurses are stationed within the Katherine and Darwin watch houses and serve the function to provide health assessment and ensure the provision of acute care services. They are supported via telephone by the on call Rural Medical Practitioner and abide by standard treatment protocols.

The Northern Territory Government has implemented Recommendation 128 through the General Order – Custody Part IV and the provision of health services.

Recommendation 129

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

Background information

The RCIADIC Report identified that some deaths in custody arose in cases where a person was charged with public drunkenness but was subsequently found not to be intoxicated. The correct usage of breath analysis equipment is important to ensure that persons are not detained unnecessarily.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. In 1996, the AFP conducted research into the efficacy of breath testing equipment in response to this recommendation. As noted in a 2001 Commonwealth Ombudsman's report, the research found that subjective assessment of the level of intoxication of persons in custody and the results of breath testing for alcohol concentrations is highly positively correlated, indicating that it is relatively accurate versus breath testing. More recently, the AFP provided the following information on the procedures in the ACT:

- It is not standard practice in the ACT to conduct breath analysis of all persons who are submitted to the ACT Watch House.
- ACT Policing may use breath analysis in the watch house as an aid in determining levels of intoxication when assessing fitness in custody. This is conducted by consent of the detainee only and does not replace the observations made by the Sergeant regarding the intoxication level of detainees.
- The assessment of fitness is covered by the AFP Practical Guide on Duty of Care, 'at-risk' and special needs detainees in the Watch House (ACT Policing).
- In 1996 the AFP undertook research into the efficacy of using breath testing equipment in direct response to recommendation 129 of the RCIADIC.

The Commonwealth and Australian Capital Territory governments have mostly implemented Recommendation 129, however it is not clear whether research was undertaken in cooperation with the ALS, AHS, or relevant agencies.

In their 1995-96 implementation report, the **New South Wales** Government stated that they had decided against implementing breath testing and instead implemented the Prisoner Admission and

Management Form, which must be completed for all prisoners. This form specifically looks at any information about prisoners that is useful for officers to know that might impact the mental and physical health of the prisoner, including the identification of persons with high blood alcohol levels.

For inmates directly received into CSNSW, section 5.12 of the Custodial Policies and Procedures states that Justice Health and Forensic Mental Health Network staff must be advised immediately if on arrival an inmate has drug or alcohol issues, and the Network will provide advice on managing inmates identified as detoxing from drugs or alcohol. CSNSW will not accept offenders who are detained in NSW Police Force cells who are grossly affected by drugs or alcohol, or who have obvious physical injuries. NSW Police Force are advised to obtain medical clearances for those offenders before they are accepted into CSNSW custody.

The New South Wales Government has chosen not to implement Recommendation 129.

The **Victorian** Government stated in their 1994 implementation report that they had not implemented this recommendation as they believed that breath alcohol analysis of prisoners at the time of entry to the watch-house rarely resolved medical management issues. Instead, police training and policy was aimed at identifying and resolving these issues.

The Victorian Government has chosen not to implement Recommendation 129.

In their 1997 implementation report, the **Queensland** Government stated that the Queensland Police Service had evaluated the use of breath analysis equipment in watch-houses in conjunction with Aboriginal Health and Legal Service representatives. Mandatory breath testing of prisoners was not adopted.

The Queensland Government has implemented Recommendation 129 through conducting an evaluation into the use of breath analysis equipment in watch-houses in conjunction with Aboriginal Health and Legal Service representatives.

The **South Australian** Government stated in their 1993 implementation report that Police General Orders provided safeguards for prisoners' health and wellbeing. Consultation with Aboriginal and Torres Strait Islander organisations, health staff, and legal staff concluded that this recommendation would not be implemented. However, it is now current practice for the Department of Correctional Services to conduct regular drug and breath analysis of offenders. In accordance with the *Police Regulations 1999,* a medical clearance must be provided upon admission of a young person to the Adelaide Youth Training Centre.

The South Australian Government has implemented Recommendation 129 through consultation with Aboriginal and Torres Strait Islander organisations and the introduction of breath analysis of offenders.

In their 1995 implementation report, the **Western Australia** Government had not taken any actions to implement this recommendation. Current policy is that Blood Alcohol Content readings in isolation are considered by the Western Australian Government to be inadequate for determining the effect that alcohol has on the person in custody or the care provided. Western Australia uses other methodology through observations and assessment conducted by the Registered Nurse and Mental Health Clinician in conjunction with observations made by police as to the level of intoxication of a person. The observations of ability to understand, function, fine motor skills and levels of consciousness with medical assessments is considered a better indicator.

The Western Australian Government has chosen not to implement Recommendation 129.

The **Tasmanian** Government stated in their 1993 implementation report that they had conducted a review into using breath analysis equipment to test blood alcohol levels of offenders prior to their incarceration and found that practical and legal difficulties existed. Tasmania Police do not currently test blood alcohol levels of offenders routinely and would refer any such circumstance to be treated in a medical facility.

The Tasmanian Government has partially implemented Recommendation 129 through conducting an internal evaluation. However, it does not appear that Aboriginal and Torres Strait Islander organisations were consulted as part of this process.

In their 1994-95 implementation report, the **Northern Territory** Government stated that they had conducted an internal evaluation and felt that use of blood alcohol equipment in evaluating blood alcohol levels required further research. The-then Northern Territory Department of Law simply recommended a working party be formed to further examine the issues however, after consideration, this was not actioned. The Northern Territory Government comments that the Northern Territory Police Force (NTPF) is aware of the risks associated with highly intoxicated persons and other medical conditions being masked by the appearance of intoxication. The *General Order – Custody Part IV* has clear instructions to ensure that all staff are aware of these risks and that all police watch houses and cells have breath analysis equipment available for use.

The Northern Territory Government has partially implemented Recommendation 129 through conducting an internal investigation. However, it does not appear that Aboriginal and Torres Strait Islander organisations were consulted as part of this process.

Recommendation 130

That:

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

Background information

Exchange of information between policing and corrective services, particularly in relation to a detainee's mental and physical health, can have positive benefits for reducing the risk of death or harm in custody.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP introduced a prisoner transfer form (now referred to as an 'in custody file') in the ACT and Jervis Bay Territory in 1994, to indicate whether a detainee is considered "at risk" (*1995-96 Annual Report*). The use of In-Custody Files was introduced in Jervis Bay Territory to provide relevant medical information when a person is transferred into the custody of another agency (*1995-96 Annual Report*). Where a person falls within an identified risk category, such as Aboriginal and Torres Strait Islander people, the person in custody will be invited to provide further information to enhance their own safety.

A MOU was executed, and is still in place, between the AFP, ACT Corrective Services, ACT Juvenile Justice Services and the NSW Department of Corrective Services to formalise procedures for information transfer. The MOU was developed in 1995-96 in consultation with ALSs, AHSs, and the ACT Aboriginal/Police Liaison Committee. The MOU was renewed in 2017 to provide additional information-sharing arrangements to assist ACT Corrective Services to provide a safe custodial environment, free from injury or death. Information on induction of a detainee is shared between ACT Corrective Services and Justice Health Services.

The Commonwealth and Australian Capital Territory governments have implemented Recommendation 130 through AFP protocols, comprising a prisoner transfer form, In Custody Files and an MOU. However, it does not appear that relevant protocols were subject to Ministerial approval.

The **New South Wales** Government stated in their 1995-96 implementation report that in relation to part (a) the police force has in place the Prisoner Admission and Management Form which is used as a tool to transfer health information from the police service to the Department of Corrective Services. For part (b), the implementation report stated that this form was developed in consultation with senior medical professionals and all information on the form does not breach the person's right to privacy. Juvenile Justice NSW has also stated that part (a) and (b) of this recommendation had been incorporated in Departmental protocols. There are protocols around the transfer of medical information from Juvenile Justice NSW, the NSW Police Force, and CSNSW. However, all information transferred is subject to privacy and confidentiality provisions.

Ministerial approval is not always required for protocols. Arrangements or procedures are developed with input from key medical and technical experts, and are typically approved by the Heads of Agencies. CSNSW and Justice Health and Forensic Mental Health Network also have regard to offenders' privacy interests under law, which regulate the collection, storage, security, use and disclosure of personal information and health information.

In New South Wales, this is covered in Police Commissioner's Instruction 155 - Screening Prisoner, and Police Commissioner's Instruction 155.01. CSNSW intake screening and the Justice Health and Forensic Mental Health Network screening records all issues relating to the physical and mental condition of inmates. CSNSW manages these issues accordingly.

The New South Wales Government has implemented Recommendation 130 as noted in the 1995-96 implementation report.

In their 1994 implementation report, the **Victorian** Government stated that section 128 of the *Health Act* limits the ability to transfer information relating to the medical conditions of prisoners. Additionally, protocols are in place to ensure health information collected in police custody is transferred and accessed by prison health services upon reception. However, there is a forensic nursing service operated by the Forensic Health Services which screens all Aboriginal and Torres Strait Islander detainees at the main city watch-house. This screening includes compiling information about the physical and mental health of the prisoner. The information from this screening is not transferred to the Victorian Aboriginal Health Service Cooperative Ltd unless the prisoner gives approval. In addition, the Prisoner Information Records has allowed for a mechanism to transfer prisoner medical information between the Police Services and the Correctional Services Division. All information is collected and used in accordance with the *Health Records Act 2001* (Vic).

The Victorian Government has mostly implemented Recommendation 130 through a forensic nursing service. It does not appear that protocols are subject to Ministerial approval.

In **Queensland,** under chapter 16 of the *Queensland Police Services Operational Procedures Manual,* any prisoner's health issues should be included in the Custody Report in QPRIME and be transferred when transferring a prisoner between corrective services and police. The officer relinquishing custody must also inform the receiving officer of any health concerns. The Queensland Government also stated in their 1997 implementation report that these procedures were not developed in collaboration with Aboriginal and Torres Strait Islander legal or medical services and the procedures are not subject to Ministerial approval.

Currently, Queensland Corrective Services has a comprehensive admission process outlined in the Admission and Induction Custodial Operations Practice Directives. An Immediate Risk Needs Assessment is undertaken at every admission to determine if the prisoner is at risk to themselves, or has additional special needs such as health needs. If required, a protection needs assessment is undertaken and immediate interventions commence as soon as is practicable after referral. The Queensland Government notes that these processes are consistent with the Standard Guidelines for

Corrections in Australia, which are endorsed by Correctional Ministers and are developed with input by Aboriginal and Torres Strait Islander stakeholders.

Currently, Queensland Corrective Services works with the watch-house staff to monitor the transfer of information and medications for prisoners attending courts. Where a prisoner is transferred to the police watch-house (awaiting trial or sentence), a Discharge Health Report is provided to ensure that Queensland Police Service officers have sufficient medical information to enable provision of medical care and observation.

The Queensland Government has mostly implemented Recommendation 130. It does not appear that consultation fully meets confidentiality and privacy requirements of this recommendation in part (b).

In their 1993 implementation report, the **South Australian** Government stated that SA Police had introduced a "Prisoner Information Sheet" which provides a formal mechanism for the transfer of information about prisoners being moved from Police to Correctional Services custody. This form was developed following consultation with the Police and Public Service Association. Currently, the Department of Correctional Services' *Standard Operating Procedure* relevant to case management addresses protocols for the transfer of prisoners between South Australia Police and Corrections. A Memorandum of Administrative Arrangement between Youth Justice and the South Australia Police outlines the sharing of information to reduce risk to all young people, with consideration to privacy and confidentiality.

The South Australian Government has partially implemented Recommendation 130. It does not appear that Aboriginal and Torres Strait Islander organisations were consulted, or Ministerial approval was sought during the development of these protocols.

The 1994 **Western Australian** implementation report stated that protocols for the transfer of at risk health status prisoners had been reviewed and further changes were being considered. The report also stated review and refinement of these protocols was an ongoing process. These protocols needed to be finalised in consultations with the Aboriginal Medical Service and Aboriginal Legal Service.

Currently, Western Australian policies govern the release of patient medical information and provide for a discharge summary to be provided to a patient's GP or Aboriginal health service on release. These policies provide clear instruction on issues related to continuity of care and processes to be followed in response to requests for information from various sources. The Department of Justice has a Clinical Governance Advisory Committee, which overseas policy development, clinical standards, initiatives and reporting regarding services. Membership includes a representative from Aboriginal Health Services. Banksia Hill Detention Centre employees require the Western Australia Police Force to ensure all urgent medical treatment has been attended to before they will admit a young person.

The Western Australian Government has mostly implemented Recommendation 130; however, it does not appear that Ministerial approval was sought during the development of these protocols.

The 1993 **Tasmania** implementation report stated that there is a close relationship between Tasmania Police and the Corrective Services area, as such, formalising this agreement was not deemed necessary. The report also stated that there were protocols in place which relate to transferring young people to the juvenile detention centre; however, these were not developed in consultation with Aboriginal and Torres Strait Islander agencies. Currently, the Tasmania Police Service has protocols in place with both Tasmania Police and the DHHS, outlining arrangements for information exchange to ensure a continuum of care for all prisoners and detainees.

The Tasmanian Government has partially implemented Recommendation 130. It does not appear that Aboriginal and Torres Strait Islander organisations were consulted, or Ministerial approval was sought during the development of these protocols.

The **Northern Territory** 1996-97 implementation report stated that there was a protocol being developed in consultation with Territory Health Services and NT Police. The report also noted that there was a shared database, which could be accessed by either police or corrections staff. There were already informal processes in place where the transfer of information of a prisoner had any

injuries or diseases. Formal protocol between the police, Department of Correctional Services and Territory Health Services had been negotiated and a draft MOU was being examined by the Attorney General's Department. Currently, the Northern Territory Police Force (NTPF) conducts a health assessment of all persons in custody. This assessment is entered into an electronic patient record and can be shared easily. The *General Order – Custody Part III* sets out clear instructions to seek and obtain medical clearance and health information for persons in custody as the need is identified. All health information and 'fit of custody' information is required to be attached to the person's custody reception card. The Northern Territory Government also makes use of the Integrated Justice Information System (IJIS) and WEBEOC systems in implementing this recommendation.

◑ *The Northern Territory Government has partially implemented Recommendation 130. It does not appear that Aboriginal and Torres Strait Islander organisations were consulted, or Ministerial approval was sought during the development of these protocols.*

Recommendation 131

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

Background information

Monitoring the medical condition of prisoners, facilitating the transfer of medical information, and acting on new information in a timely manner, can reduce the risk of death or harm in custody.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP *National Guideline* requires that where an officer has custody of a person and acquires information relating to the medical condition of the person (including through observation or voluntary disclosure), they must record the information to inform officers who later assume custody responsibilities (paragraph 18.5).

Online charging and manual (now also online) screening forms were introduced to ensure that information about a person's medical condition is readily accessible by police involved in supervising the person *(1995-96 Commonwealth Annual Report on the implementation of the RCIADIC*).

● *The Commonwealth and Australian Capital Territory governments have implemented Recommendation 131 through the AFP National Guidelines and information forms.*

In **New South Wales**, under the *NSW Police Force: Code of Practice for CRIME,* information about a prisoner's medication, medical examinations, and medical directions must be documented. Additionally, the Police Commissioner's Instruction 155.13.01 – Inspecting Prisoners and Cells requires that officers record all information relevant to this recommendation. When a prisoner is first taken into custody any request for medical treatment must be noted in the custody report. Any injuries sustained by a detained person must also be recorded in the computerised operational policing system (COPS), a system which can be accessed by all NSW police officers. CSNSW records all relevant information to assist with the appropriate management of inmates on the Offender Integration Management System.

● *In New South Wales, Recommendation 131 has been implemented through the NSW Police Force: Code of Practice for CRIME AND Police Commissioner's Instructions.*

In their 2005 implementation report, the **Victorian** Government stated they have fully implemented this recommendation through the publication of its police guidelines. The Victoria Police Manual – Guidelines – Safe Management of persons in Police Care or Custody provides guidance on

entering welfare checks and any risk assessments on the Attendance Module to ensure an accurate record of welfare checks, meals and refreshments provided, medical treatment provided, access to legal representation, and all interactions with the person in custody. All health information collected by the Police staff or Police Custody Officer is added to the prisoner's health recorded, which is maintained by the Custodial Health Service. All comments relating to observations are recorded within the Custody application and visible to all police members.

- *The Victorian Government has addressed Recommendation 131 through the Victoria Police Manual and relevant procedures and policies.*

In **Queensland,** the *Queensland Police Service Operational Procedures Manual* states that police officers must record prisoner information, including the health condition of the prisoner, in the QPRIME Custody Report.

- *In the Queensland, Recommendation 131 has been implemented through the Queensland Police Services Operational Procedures Manual.*

The **South Australian** Government stated in their 1993 implementation report that information included on the screening form and other relevant information is recorded and is available in accordance with Police General Orders. South Australia Police current practice requires a risk assessment to be completed and entered into a computerised detainee management system. This incorporates information relating to observations of the arresting officer and charging officer, questioning the detainee about their substance consumption both legal and illicit, injuries, physical and mental conditions, emotional status both past and current. At the completion of the risk assessment a care plan is completed. All data entered onto the Computerised detainee management system can be viewed by the Duty Officer who is of the rank of Inspector.

- *In South Australia, Recommendation 131 has been implemented through the information forms, General Orders, and the collection of information into the Computerised detainee management system.*

The **Western Australian** Police Manual states that if a prisoner receives medical attention then this must be recorded on the detainee running sheet. Currently, medical information is stored in custody management systems and risks are highlighted for the effective management of the person in custody. Dedicated medical forms are available to any person taking care of someone in custody during their time in custody and remain with the person until their release.

- *The Western Australian Government has implemented Recommendation 131 through the Western Australian Police Manual.*

The **Tasmania** Police Manual states that when a police officer has information on the medical condition of a prisoner they must record the information so that any other member charged with supervising that prisoner may be able to access it.

- *In Tasmania, Recommendation 131 has been incorporated into the Tasmania Police Manual and procedures have been established to implement this recommendation.*

The **Northern Territory** Government stated in their 1996-97 implementation report that where police officers are aware of a prisoner's medical condition, they should record this information where it may be accessed by any other police officer charged with supervision of that prisoner. The NTPF's *General Order – Custody* provides instructions to all staff to ensure that important information about a person in custody is recorded for access for all staff. Actions taken towards the implementation of Recommendation 130 are also relevant to the implementation of this recommendation.

- *In the Northern Territory, Recommendation 131 has been implemented as noted in the 1996-97 implementation report and provided for in the NTPF's General Order - Custody.*

Recommendation 132

That:

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

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

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

Background information

Procedures for effective recording and communication of health information relating to persons in custody can help ensure continuity of care and reduce the risk of death in custody.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP *National Guideline* requires that an outgoing watch-house Sergeant must brief the incoming sergeant on the status of each person in custody (paragraph 39). All information relating to persons in custody is to be recorded on the relevant PROMIS custody module. In its 1995-96 Annual Report, the Commonwealth noted that AFP instructions require officers in charge of a watch-house to be satisfied as to the welfare of prisoners in their charge. The AFP considered that an appropriate form for record keeping would be advantageous, and was willing to assist in its development. The use of the PROMIS custody module provides for written records.

The Commonwealth and Australian Capital Territory governments have implemented Recommendation 132 through guidelines requiring incoming officers to be briefed on the well-being of any persons in custody.

In **New South Wales**, the *NSW Police Force: Code of Practice for CRIME* addresses each part of this recommendation. This document states that when completing shifts, a custody manager/assistant must brief the relieving officer about any detained people and go with them to inspect all people in custody. Police officers must also record information on prisoner incidents in the system, known as COPs, which can be accessed by other officers.

The New South Wales Government has implemented Recommendation 132 through the NSW Police Force: Code of Practice for CRIME which addresses each part of this recommendation.

In their 2005 implementation report, the **Victorian Government** states they have fully implemented this recommendation through the publication of its police guidelines. As discussed in the actions taken towards Recommendation 131, the Victoria Police Manual – Guidelines – Safe Management of persons in Police Care or Custody provides guidance on entering welfare checks and any risk assessments. Procedures are in place and the Custody application is used for such notations. Under current policy, the outgoing Section Sergeant or Custody Supervisor is required to brief the incoming Custody Supervisor on the status and condition of prisoners in custody. A physical check of all prisoners is to take place with appropriate entries being made in the watchhouse keeper's charge book. It is also the duty of the outgoing/incoming Section Sergeant to physically check and note the condition of all prisoners in custody. The ISOBAR (Identify, Situation, Observations, Background, Agree to plan, and Read back) – identify, situation, observations, background, agree to plan, and read back - formula is being deployed to assist watchhouse staff with handover, helping to ensure that correct information is

shared with focus on the wellbeing of the prisoner. CHS staff assist with the education in the use of the ISOBAR tool at the Police Academy.

The Victorian Government has implemented Recommendation 132 through the Victoria Police Manual, and other procedural measures including the adoption of ISOBAR.

In **Queensland**, as per the *Queensland Police Services Operational Procedures Manual,* it is a requirement that an officer relinquishing custody of a prisoner must advise the person receiving the prisoner of any information relevant in providing appropriate care for the prisoner, including the medical condition of the prisoner. Officers must also record prisoner information in the QPRIME Custody Report.

The Queensland Government has implemented Recommendation 132 through guidelines requiring incoming officers to be briefed on the well-being of any persons in custody.

The **South Australian** Government stated in their 1993 implementation report that this recommendation has been addressed through use of a prisoner screening form and entries in the charge book and station journal. A prisoner custody disposition form also follows the prisoner. South Australia Police General Orders state the officer in charge of a station must ensure they inform the officer in charge of the oncoming shift of the condition of each prisoner. The computerised detainee management system requires the oncoming officer in charge to enter an electronic, date/time stamp, declaration that an inspection and handover has been completed. This system is regularly audited as part of the South Australia Police audit regime, and it can be viewed remotely by any Police Officer with access to South Australia Police computer systems.

The South Australian Government has implemented Recommendation 132 through use of a prisoner screening form and entries in the charge book and station journal.

According to the *Change the Record* report, in **Western Australia** the *Western Australian Police Manual* states that if a prisoner receives medical attention then this must be recorded on the detainee running sheet. However, no handover processes were found. The actions taken by Western Australia towards Recommendation 131 are also relevant here.

The Western Australian Government has partially implemented Recommendation 132. However, further action is required to fully implement parts (a) and (b) of the recommendation.

In **Tasmania,** the *Tasmania Police Manual* states that when a police officer has information on the medical condition of a prisoner they must record the information so that any other member charged with supervising that prisoner may be able to access it. However, there does not appear to be a formal handover process for conveying this information.

The Tasmanian Government does not appear to have taken relevant steps to address Recommendation 132.

The **Northern Territory** Government stated in their 1994-95 implementation report that this recommendation was implemented by amendment to *General Order – Prisoners – Code P12,* which requires that every person who is detained or arrested is to be inspected by the receiving officer. The receiving officer shall ensure a screening form is completed describing the present state of mind and health of the person detained or arrested. In addition, where a staff member who is looking after prisoners acquires information relating to the medical condition of a prisoner, such information should be recorded where it may be accessed by any other member charged with supervision of that prisoner. The requirements of handling procedures, including related to the health, behaviour and alerts status of all prisoners, are also outlined in the *General Order – Custody*. The Northern Territory Government notes that all handover information is required to be recorded in the WEBEOC Custody Board and/or in the Integrated Justice Information System.

The Northern Territory Government has implemented Recommendation 132 by amendment to General Order – Prisoners – Code P12.

Recommendation 133

That:

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

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

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

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

Background information

The RCIADIC Report found that appropriate training was required to assist police officers in identifying persons in custody who are at risk of death or injury, including through self-harm or illness.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP has implemented training for officers to identify persons who are in distress or at risk (*1995-96 Annual Report*). The AFP *National Guideline* mandates close supervision of persons in custody who give any concern about their physical or mental condition, are intoxicated, or appear angry withdrawn or depressed (paragraph 31). Watch-house sergeants have been instructed by AFP Health Services Division, in particular in resuscitation and in the recognition of systems of drug and alcohol abuse (*1996-97 Annual Report*). AFP training includes first aid and injury or illness identification for watch-house sergeants. An outline of the First Aid training program was approved by medical staff from Aboriginal Health Services during discussions in 1992 (*1995-96 Annual Report*).

Currently, AFP recruits must have and maintain a Senior First Aid Certificate. Additionally, recruits receive training in identifying and responding to mental health issues. New and existing members of the AFP are provided with cross cultural awareness training involving Aboriginal and Torres Strait Islander people in all aspects of its development, presentation, evaluation and modification (*1996-97 Annual Report*). Currently, AFP recruits receive a presentation from Malunggang Indigenous Officers Network covering Aboriginal and Torres Strait Islander culture and issues.

- *The Commonwealth and Australian Capital Territory governments have implemented Recommendation 133 through the AFP training regime and guidelines.*

In their 1995-96 implementation report, the **New South Wales** Government stated that they have addressed all parts of this recommendation through training modules included throughout the Police Recruitment Education Programs and all other relevant in-service courses and training packages of the NSW Police Service. Specifically, for part (c) of this recommendation, the NSW Government stated that these training programs were developed in consultation with Aboriginal Health Services and the Aboriginal Legal Services.

The NSW Police Force (NSWPF) offers training prior to employment and for new recruits. Prior to their commencement with NSWPF, applicants must possess a current first aid certificate. As part of their training under the Police Recruit Education Programme, Student Police Officers also receive conducted

by registered nurses employed by the NSWPF. The NSWPF also receive ongoing training. CSNSW provides accredited Correctional officer training. All correctional officers in NSW employ must obtain the Certificate III in Correctional Practice (Custodial) which includes modules on maintaining the health, safety and welfare of offenders, protecting the safety and welfare of Aboriginal offenders, respond to offenders influenced by drugs or alcohol etc.

The New South Wales Government has implemented Recommendation 133 through training modules included throughout the Police Recruitment Education Programs and all other relevant in-service courses and training packages of the NSW Police Service.

In their 1994 implementation report, the **Victorian** Government stated that the Office of Forensic Medicine provides police training at recruit and advanced levels on the topic of prisoner health which addresses part (a) and (d) of this recommendation. For part (b) and (c) of this recommendation the Victorian Government state in their 1994 implementation report that their current processes already meet these requirements.

The Victorian Government has implemented Recommendation 133 through their training programs.

The **Queensland** Government stated in their 1997 implementation report that part (a) of this recommendation has been addressed since completion of first aid training is a requirement for police recruits and follow up training has also been introduced as part of the Competency Acquisition Program. Part (b) and (c) of this recommendation has been addressed through the development of a Custody Awareness Lecture Package which provides training on mental and physical health requirements of people in custody, assessment, inspection and supervision responsibilities, and legal obligations. This package was developed in consultation with Queensland Health and Aboriginal and Islander Community Health Services. It was noted also that youth detention centre staff receive the training identified, but without the focus on Aboriginal and Torres Strait Islander needs. For part (d) of this recommendation, the Queensland Government notes that civilian watch-house officers receive dedicated training.

The Queensland Government has implemented Recommendation 133 through mandatory first aid training requirements, the development of a Custody Awareness Lecture Package, and the introduction of training for watch-house officers.

In their 1993 implementation report, the **South Australian** Government stated that part (a) to (c) of this recommendation had been addressed in existing training and education programs for both recruits and in-service staff. Training in Aboriginal and Torres Strait Islander issues is also included in training modules for recruits. For part (d) of this recommendation, special training has been provided to officers at the city watch-house and Holden Hill police stations. SAPOL currently ensures ongoing Senior First Aid Certificate training as outlined in General Order 8540 under Occupational Health, Safety and Welfare. Officers receive mandatory training in Cardio-Pulmonary Resuscitation (CPR), Expired Air Resuscitation (EAR), and bleeding control. SAPOL is also currently in the final stages of developing an Aboriginal Cultural Awareness Training package to be delivered to all SAPOL staff, which will fulfil the requirements of Recommendation 133.

The South Australian Government has implemented Recommendation 133 through their training programs.

In their 1995 implementation report, **Western Australia** stated that they have already addressed this recommendation as custodial care training procedures occur at pre-service and in-service levels of training. However, they also noted that in terms of part (b), training does not include the specific health status of Aboriginal and Torres Strait Islander people. In addition, for part (c), the Aboriginal Health Services and Aboriginal Legal Services did not contribute to the creation of the training programs. Also, for part (d) no specific training is provided for officers engaged in custody and custodial duties.

Currently for part (b) of the recommendation, at-risk indicators are covered as part of recruit and in-service training, which is also included in the Custodial Police Auxiliary Officer Program. This covers

the dangers associated with detaining unconscious or semi-rousable persons and specific actions to be taken. As a result of the 2016 Dhu Inquest, Notre Dam University has been contracted to conduct an Aboriginal Cultural Security audit of the Western Australia Police Force training curriculum, to highlight areas of strength and weakness within the curriculum pertaining to Aboriginal and Torres Strait Islander people and engagement with them.

The Western Australian Government has partially implemented Recommendation 133, as the requirements of parts (b), (c) and (d) do not appear to have been fully met.

The **Tasmanian** Government notes that this recommendation has been incorporated into training programs for recruits and for operational police since 1994, following the adoption of the Prisoner Admission Risk Assessment Form. However, it is unclear whether the training programs were developed in consultation with Aboriginal and Torres Strait Islander communities.

The Tasmanian Government has mostly implemented Recommendation 133 through their training programs for recruits and for operational police. However, it is unclear whether the training programs were developed in consultation with Aboriginal and Torres Strait Islander communities.

The **Northern Territory** Government states that all NPTF members are required to have a current First Aid qualification, and that all watch houses and police cells must contain audited first aid kits and medical equipment available for use. All NPTF staff who work in watch houses also undergo dedicated custody training. The *General Order – Custody* additionally provides instructions to staff on actions required for persons suffering from intoxication or other health related issues. However, it is unclear whether the training programs were developed in consultation with Aboriginal and Torres Strait Islander communities.

The Northern Territory Government has mostly implemented Recommendation 133 through their training programs. However, it is unclear whether the training programs were developed in consultation with Aboriginal and Torres Strait Islander communities.

Recommendation 134

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

Background information

People taken into custody can experience extreme distress and isolation. The RCIADIC Report noted the importance of treating detainees humanely and courteously to reduce the risk of exacerbating any vulnerabilities or suicidal tendencies.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP *National Guideline* requires that "any person in police custody must be treated with humanity, dignity and regard for their civil rights, and not be subjected to cruel, inhumane or degrading treatment" (paragraph 6). The guideline is enforceable under the AFP Professional Standards and the *Australian Federal Police Act 1979*, and breaches could result in the loss of rank or dismissal (*Annual Report 1995-96*). The AFP Code of Conduct places an expectation upon all officers to speak to and treat others in a courteous and respectful manner. Any breach of such would be investigated within the AFP Complaints Management System. Recommendation 134 is also implemented through the Commissioner's Order on Professional Standards.

The Commonwealth and Australian Capital Territory governments have implemented Recommendation 134 through the AFP National Guideline.

New South Wales have in place the *NSW Police Force Standards of Professional Conduct,* which states that police officers must treat the detainees courteously. This recommendation is also implemented through the NSWPF Statement of Values and various Police Commissioner's Instructions. The NSWPF Code of Conduct and Ethic states, that Police should, "treat everyone with respect, courtesy and fairness".

The NSWPF Code of Practice for CRIME states the custody manager must report a complaint about the treatment of someone in custody as soon as possible to a duty officer or other senior officer, not connected with the investigation. If it concerns a possible assault, or the unnecessary or unreasonable use of force, have them examined by a doctor promptly.

- *In New South Wales, Recommendation 134 has been implemented through the NSW Police Force Standards of Professional Conduct.*

Victoria has in place the *Victoria Police Manual,* which states that police are to behave in a courteous and responsive manner at all times.

- *The requirements in the Victoria Police Manual satisfy Recommendation 134.*

In **Queensland,** the *Queensland Public Service Code of Conduct* and the *Operational Procedures Manual* state the requirements for how police officers are to interact with the community. The requirements reflect what is included in this recommendation. This recommendation has also been incorporated into the *Public Service Act 2008* (Qld).

- *The Queensland Government has implemented Recommendation 134 through the Queensland Public Service Code of Conduct and the Operational Procedures Manual.*

South Australia have implemented this recommendation through the *Service Delivery Charter* which states that a police officer must be courteous and considerate. The provisions set out in this recommendation are covered by SAPOL's Code of Conduct, Leadership Charter and General Orders.

- *The South Australian Government has addressed the requirements of Recommendation 134 through the Service Delivery Charter which states that a police officer must be courteous and considerate.*

In **Western Australia,** under *Police Force Regulations 1979,* regulation 402 (b) states that police officers must act with courtesy to the public. The Western Australia Police Force Code of Conduct and Professional Standards include a range of remediation measures should a breach occur.

- *Recommendation 134 has been implemented in Western Australia through the Police Force Regulations 1979 and procedural policies in the event of a breach occurring.*

Tasmania's *Department of Police and Emergency Management Service Charter* states that police officers should strive to deal with matters in a professional manner displaying sensitivity and understanding.

- *The Tasmanian Government has addressed the requirements of Recommendation 134 through the Department of Police and Emergency Service Charter which states that a police officer must be sensitive and understanding.*

The **Northern Territory** *Customer Service Charter* states that police officers will treat every customer with courtesy and respect. The *General Order – Custody* also implements this recommendation, providing clear directives regarding the duty of care owed by police and the principals of custody which include a duty of care. The NPTF has a complaints management process set out in the *General Order – Complaints Against Police.*

- *In the Northern Territory, Recommendation 134 has been implemented through the Custody Service Charter and the General Order – Custody.*

Recommendation 135

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

Background information

Detainees who are unconscious or not easily roused may be suffering from serious medical conditions including alcohol intoxication, epilepsy, diabetes, drug overdose or head injury. In these situations, urgent medical attention is required and transporting the person to a watch-house may result in death or serious harm.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP National Guideline requires that reasonable steps should be taken to ensure a person in custody receives proper medical attention, including arranging prompt medical attention in situations where the person is unconscious or lapsing into and out of consciousness (paragraph 18.1). The AFP National Guideline provides that a person must be conveyed to hospital where medical treatment for an injury or illness cannot be conducted at a police station (paragraph 19). If a person in custody is seriously ill or not easily roused, they must be taken to hospital or other place of treatment by ambulance. The National Guideline also states that a person's fitness for custody is to be assessed prior to being taken to the watch-house and a person should be taken to hospital if they cannot be treated at a police station.

- *The Commonwealth and Australian Capital Territory governments have implemented Recommendation 135 through the AFP National Guideline.*

In **New South Wales** the *NSW Police Force: Code of Practice for CRIME* states that the custody manager must immediately call for medical assistance if someone in custody does not show signs of sensibility and awareness or is unconscious.

- *The New South Wales Government has implemented Recommendation 135 in the NSW Police Force: Code of Practice for CRIME.*

The **Victorian** Government stated in their 1994 implementation report that seeking medical attention immediately for a prisoner who is found in an impaired conscious states or if there is any doubt about their condition is a requirement under the *Victoria Police Operating Procedures Manual*. Police training, policy, and the prisoner checklist also focus on seeking medical treatment for prisoners in this condition.

- *The Victoria Police Operating Procedures Manual has fully implemented Recommendation 136.*

In **Queensland,** chapter 16 of the *Queensland Police Service Operational Procedures Manual* states that a receiving officer is not to accept custody of a person who is unconscious or apparently unconscious but is to assist that person in obtaining professional healthcare advice or assistance as soon as reasonably practicable. Similarly, an officer is not to arrest an unconscious or apparently unconscious person but must assist with seeking medical help for that person.

- *The Queensland Police Service Operational Procedures Manual has fully implemented Recommendation 136.*

The **South Australian** Government stated in their 1993 implementation report that police officers are directed to immediately call for an ambulance and when prisoners are medically examined, a Medical Examination of Prisoners form is completed.

- *In South Australia, Recommendation 136 has been incorporated into practices which provide that a police officer must immediately call for an ambulance.*

Western Australia's *Court Security and Custodial Services Regulations 1999* requires that procedures be established to provide first aid and emergency medical care to detainees in police lockups or court custodial centres. It also provides that it is the responsibility of the officer in charge of a lockup to arrange any medical attention to support the health, safety, and welfare of a prisoner. It is current policy that any detainee in need of treatment by a medical professional, or who is semi-unconscious or not easily roused, must not be admitted to the lock-up without first being taken to hospital and assessed and deemed fit for custody.

The Western Australian Government has incorporated Recommendation 135 into current processes, as supported by the Court Security and Custodial Services Regulations 1999.

According to the *Change the Record* report, the **Tasmania** Police Manual provides that police members should exercise special vigilance and precautions to ensure the safety and wellbeing of Aboriginal and Torres Strait Islander people in the event of detention in police custody (section 7.6.1). The Manual also requires police to ensure that immediate medical treatment is sought if there is doubt over the condition of a person held in custody (section 7.2.10).

The Tasmanian Government has partially implemented Recommendation 136. The Tasmania Police Manual which requires police to ensure that immediate medical treatment is sought if there is doubt over the condition of a person held in custody, however, it is not clear if this specifically prohibits transporting someone who is unconscious or not easily roused to the watch-house.

In the Northern Territory, the *Police General Order - Custody Part II (OP – C3) – 4 May 2017* sets out that where a person is so impaired by intoxication that they cannot walk or be roused, prior to conveyance to a Watch House, the apprehending members are to: (1) in the case of a person unable to walk, convey the intoxicated person directly to the hospital or health clinic for a health assessment; or (2) in the case of unconsciousness and unable to be roused, request attendance of an ambulance service. Only in the case of extreme emergency and an ambulance is unavailable in a timely manner are members able to convey the unconscious person to a hospital or health clinic.

The Northern Territory Government has implemented Recommendation 136 through the Police General Order.

Recommendation 136

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

Background information

Detainees who are unconscious or not easily roused may be suffering from serious medical conditions including alcohol intoxication, epilepsy, diabetes, drug overdose or head injury. In these situations, urgent medical attention is required and transporting the person to a watch-house may result in death or serious harm.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The procedures relating to a person who is unconscious or not easily roused are set out in the AFP *National Guideline* (see Recommendation 135).

The Commonwealth and the Australian Capital Territory Governments have implemented Recommendation 136 through the AFP National Guideline.

In **New South Wales,** the *NSW Police Force: Code of Practice for CRIME* states that the custody manager must immediately call for medical assistance if someone in custody does not show signs of sensibility and awareness or is unconscious. In addition, section 129 of the *Law Enforcement (Powers and responsibilities) Act 2002* (NSW) states that the custody manager for a detained person must arrange immediately for the person to receive medical attention if it appears to the custody manager that the person requires medical attention.

Actions taken to implement Recommendation 134 are also relevant to this recommendation.

The New South Wales Government has implemented Recommendation 136 in the NSW Police Force: Code of Practice for CRIME.

The **Victorian** Government stated in their 1994 implementation report that medical attention is to be sought immediately in this instance and only an ambulance may convey the prisoner to a place of medical treatment. According to the *Change the Record* report this requirement is also set out within section 8.4 of the *Victoria Police Manual: Safe management of person in police care or custody.*

The Victorian Government implemented Recommendation 136 in section 8.4 of the Victoria Police Manual.

In **Queensland,** section 16.13 of the *Queensland Police Service Operational Procedures Manual,* section 285 of the *Criminal Code 1989 (Qld); and the State Watch-house Coordinator's Statement of Intent* direct police to seek urgent medical attention for a person in custody who is unconscious or apparently unconscious. For Queensland Corrective Services, the *Code Blue Incident Management - Code Blue Medical Emergency Response Checklist* identifies that where medical attention is urgently required, the first response officer should immediately ring 000. First Aid should be administrated by trained officers in the interim where appropriate and once all safety measures have been implement to prevent contaminated by blood or other bodily fluids.

The Queensland Government has fully implemented Recommendation 136 through the procedures for the Queensland Police Service and Queensland Corrective Services' Code Blue Incident Management – Code Blue Medical Emergency Response Checklist

The **South Australian** Government stated in their 1993 implementation report that this is current practice for both the police, and family and community services. The South Australian Government notes that the provisions set out in Recommendation 136 are current police practice as set out in General Orders. Any detainee who shows signs of illness or injury, is immediately treated by the police medical officer or conveyed to a government funded hospital for assessment and treatment.

In South Australia, Recommendation 136 has been incorporated into practice. Any detainee who shows signs of illness or injury, is immediately treated by the police medical officer or conveyed to a government funded hospital for assessment and treatment.

Regulation 11 of the **Western Australia** *Court Security and Custodial Services Regulations 1999* (WA) states that procedures must be in place for the provision of first aid and emergency medical care to persons in custody. The *Western Australia Police Manual* also notes that prisoners who require medical care are not to be admitted to a lockup. The officer in charge is responsible for arranging medical attention for the health, safety and welfare of a person in custody. The determination is made on a case-by-case basis, giving due regard to the medical condition and security requirements of the person in custody.

The Western Australian Government has mostly implemented Recommendation 136, however it does not appear that medical attention must be given immediately.

Section 7.6.10 of the **Tasmania** Police Manual states that members shall ensure immediate medical treatment or care is sought if there is any doubt concerning the medical condition of a person in custody. The Tasmania Prison Service has detailed Standing Orders in place covering health services, including emergency operating procedures for serious medical issues occurring in watch-house cells.

The Tasmania Government has implemented Recommendation 136 through the Tasmania Police Manual and Standing Orders.

The **Northern Territory** notes that the *General Order – Custody* establishes the required actions from staff when dealing with persons who are unconscious or not easily roused. Training is also incorporated for all officers.

The Northern Territory Government has implemented Recommendation 136 through the General Order – Custody.

Recommendation 137

That:

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

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

c. Notwithstanding the provision of electronic surveillance equipment, the monitoring of such persons in the periods described above should at all times be made in person. Where a detainee is awake, the check should involve conversation with that person. Where the person is sleeping the officer checking should ensure that the person is breathing comfortably and is in a safe posture and otherwise appears not to be at risk. Where there is any reason for the inspecting officer to be concerned about the physical or mental condition of a detainee, that person should be woken and checked; and

d. Where any detainee has been identified as, or is suspected to be, a prisoner at risk then the prisoner or detainee should be subject to checking which is closer and more frequent than the standard.

Background information

The RCIADIC Report noted that 52% of deaths in police custody occurred in the first six hours, with one third occurring within two hours or less. It was found that regular human interaction was essential for the wellbeing of persons in custody, particularly those at risk of self-harm.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP *National Guideline* requires that watch-house staff must maintain close surveillance of persons in custody who raise concerns about their physical or mental condition, are intoxicated, or appear angry, withdrawn or depressed (paragraph 31). Heavily intoxicated persons should be placed in the 'coma position' and checked regularly. The AFP *National Guideline* notes that inspection of cell occupants must be undertaken in accordance with the *ACT Policing Watch-House Operations Manual* (paragraph 31). The AFP noted that governance and standard practices in relation to watch-house duties have these suggested timeframes in place. In the *1995-96 Annual Report*, the Commonwealth noted that this recommendation was addressed by the AFP *ACT Regional Instruction 22*.

In the Commonwealth and Australian Capital Territory, Recommendation 137 has been implemented. The AFP National Guideline requires close surveillance of persons in custody who have physical or mental health concerns and the AFP has confirmed the suggested timeframes are part of their standard practices.

In **New South Wales**, part (a) and (c) of this recommendation are covered by the *NSW Police Force: Code of Practice for CRIME* which states that where electronic surveillance is installed, it should not be relied upon as a sole means of inspecting people in custody and instead prisoners should be visited regularly with no more than one hour between visits. Part (d) of this recommendation is covered by the *New South Wales Police Guidelines* which state that checking of 'at risk' prisoners should be done every thirty minutes or more frequently if required. This recommendation has also been incorporated into Police Commissioner's Instructions.

The New South Wales Government has mostly implemented regular checks of detainees as specified in Recommendation 137. However, the requirement of the checking of prisoners every fifteen minutes in part (b) of this recommendation has not been met.

The **Victorian** Government stated in their 1994 implementation report that for parts (a), (c), and (d) of this recommendation, police officers are instructed to check all prisoners who are heavily intoxicated or suffering from health problems as frequently as possible and at least once every half hour. All other prisoners must be checked regularly and at change of shift. For part (b) of this recommendation the implementation report stated that the checking of prisoners every fifteen minutes in the first two hours is dependent on staffing levels. Recently, the *Change the Record* report found that the Victoria Police Manual states that detainees who are assessed to be needing constant supervision are to be physically checked every thirty minutes, or as advised by a medical practitioner, and constantly observed by Closed Circuit Television (CCTV).

Currently, the Victoria Police Manual – Guidelines – Safe Management of Persons in Police Care or Custody defines four distinct levels of observation. For detainees identified as having an immediate risk of self-harm or a serious medical condition, or other symptoms requiring immediate treatment, the Level 1 – High Risk observation is required. As part of this observation level:

- arrangements are required to be made to transfer detainee's out of police custody and to an appropriate facility;
- procedures are strictly adhered to in the supervision of prisoners, and by supervising sergeants and senior sergeants;
- all sleeping prisoners must be woken and a response received from them prior to leaving the cells; and
- an entry is then made in the custody application.

The Victorian Government has implemented regular checks of detainees as specified in Recommendation 137. However, the requirement of the checking of prisoners every fifteen minutes in part (b) of this recommendation has not been met. Thus, Recommendation 137 is mostly complete.

In **Queensland,** section 16.13.3 and section 16.9.5 of the *Operational Procedures Manual* address part (a) and (d) of this recommendation and partly address part (b). Section 16.13.3 states that the watch-house manager is to ensure that regular inspections are conducted at varying intervals. The intervals between prisoner inspections is to be no greater than one hour. Section 16.9.5 also sets out different inspection times for prisoners who may have a medical condition[24], or display certain risk factors, such as self-harm. Monitoring intervals of prisoners with a medical condition must be no longer than thirty minutes for the first four hours while at-risk prisoners are required to have constant supervision. Section 16.13.3 of the *Operational Procedures Manual* also covers part (c) of this recommendation as it states that prisoner inspections must be conducted personally, even if video monitoring is available. The 1997 Queensland implementation report also noted that for part (b) of this recommendation, it would not be practicable to increase staff numbers at all watch-houses in Queensland to maintain prisoner inspections at fifteen minute intervals during the first two hours of custody.

[24] These prisoners have a medical condition but have been assessed by a professional healthcare provider to be fit to remain in custody.

The Queensland Government has mostly implemented regular checks of detainees as specified in Recommendation 137. However, the requirement of the checking of prisoners every fifteen minutes in part (b) of this recommendation has not been met.

The **South Australian** Government stated in their 1993 implementation report that this recommendation has been addressed in Standing Orders. Any prisoner checks that are made are recorded in the Prisoners Property book and Register. The South Australian Government notes that Recommendation 137 has been incorporated into South Australia Police *General Orders - Prisoners*.

The South Australian Government notes that Recommendation 137 has been implemented through Standing Orders and the Police General Order – Prisoners.

In **Western Australia,** the *WA Police Manual* sets out the guidance on the method of checking prisoners. Intervals of cells checks are determined by risk and are conducted more frequently than suggested in the Recommendation; high-risk prisoners are monitored continuously for the first 30 minutes, then every 10 minutes thereafter. Normal-risk prisoners are monitored for the first 2 hours, with cell welfare checks conducted at intervals of 20 minutes. All cell checks are conducted in person, with further monitoring intervals undertaken remotely.

The Western Australian Government has incorporated Recommendation 137 into cell check and monitoring processes, as outlined in the WA Police Manual.

Tasmania fully implemented this recommendation through section 7.3.6 of the *Tasmania Police Manual.* The 1995 Tasmania implementation report also noted that this recommendation has been addressed in the *Tasmania Police Regulations*. Tasmania Prison Service also has detailed Standing Orders and monitoring requirements in place for prisoners or detainees identified as, or suspected to be, at risk.

The Tasmania Government notes that Recommendation 137 has been implemented through Standing Orders and the Tasmania Police Manual and Tasmania Police Regulations.

The **Northern Territory** Government stated in their 1994-95 implementation report that a significant proportion of NT police stations have two to four officers, therefore, the requirement of checking prisoners every fifteen minutes can only be applied in the longer term, if and when staffing levels increase. They also stated in their 1996-97 implementation report that they support this recommendation but did not specify the actions taken towards addressing this recommendation.

The *General Order – Custody* provides direction to staff on the requirements for cell checks, including that all cell checks be recorded in IJIS and/or the WEBEOC Custody Board. These provisions include that:

The Watch House Keeper will assign a person to be the Custody Observer when there are two (2) or more members assigned to Watch House duties. The Custody Observer is responsible for conducting cell checks within the appropriate time frames and will record their observations in IJIS and/or the WebEOC Custody Board.

- All cell checks are to be recorded on IJIS and/or the WebEOC Custody Board.
- The Watch House Keeper or member in charge is to ensure a Custody Health Assessment Form is completed at the time of reception of each person placed in custody at the Watch House. Such information must also be readily accessible by others charged with supervision of the Watch House.
- Any person in custody delivered to the Watch House with an injury or suffering an illness, or who receives an injury while in the Watch House, should be examined and treated as necessary and the examination and treatment recorded in IJIS and/or the WebEOC Custody Board and on the Custody Health Assessment form. If there is any doubt in relation to the seriousness of the injury, medical treatment should be sought pursuant to paragraphs 389 – 400 of this General Order. If an injury is received while in custody notification is required by CIIR as per paragraphs 451 - 454 of this General Order. The Watch Commander is to be notified.

Additionally, the PHC nurses note all of their clinical records of clients within the electronic health record.

The Northern Territory Government has mostly implemented Recommendation 137. However, the requirement of the checking of prisoners every fifteen minutes in part (b) of this recommendation has not been met.

Recommendation 138

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

Background information

The RCIADIC Report identified several cases of death in custody where observations were not recorded. Recording of observations and information regarding complaints or requests can help identify changes in medical condition, improve accountability, and better meet the care needs of persons in custody.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. In the *1995-96 Annual Report*, the Commonwealth Government noted that this recommendation was addressed by the AFP ACT Regional Instruction 22. The AFP noted that these records are currently maintained in the ACT on the relevant PROMIS cell management module.

The Commonwealth and Australian Capital Territory Governments have implemented Recommendation 138 through the use of PROMIS.

In **New South Wales**, the *NSW Police Force: Code of Practice for CRIME* states that the results of any visits to detained people should be recorded. A visit to a detained person includes any check on prisoners noted in Recommendation 137.

The NSW Government note that this recommendation is met within the *Law Enforcement (Powers and Responsibilities) Regulation 2002*, part 9 clause 131.

New South Wales has implemented Recommendation 138 through the NSW Police Force: Code of Practice for CRIME and the Law Enforcement (Powers and Responsibilities) Regulation 2002.

The **Victorian** Government first addressed this recommendation in their 1994 implementation report through a Register of Prisoner form and a Prisoner Checklist; however, this is no longer current. These measures have been superseded, currently in case of prisoner complaint full complaint procedures are initiated following conversation with the prisoner and details in more serious cases are compiled in an electronic Incident Fact Sheet. The Incident Fact Sheet is produced and published Force-wide for the information of Force Command and the Prisoner Management Unit.

Victoria has implemented Recommendation 138 through the procedures and policies introduced to deal with prisoner complaints.

In **Queensland,** section 16.13.3 of the *Operational Procedures Manual* states that the watch-house manager is to ensure a record is kept of all prisoner inspections through entries in the appropriate QPRIME Custody Report (Full) Detention Log.

Queensland has implemented Recommendation 138 through the Operational Procedures Manual and the entry of inspection records in the QPRIME Custody Report (Full) Detention Log.

The **South Australian** Government stated in their 1993 implementation report that this recommendation has been addressed in Standing Orders. Any prisoner checks that are made are recorded in the prisoners' property book and register. In addition, police instructions require all complaints and cell checks to be entered in a journal. Current practice in South Australia incorporates this recommendation through *General Orders – Custody*, which requires that police enter the required information in the computerised detainee management system.

The South Australian Government has addressed Recommendation 138 through Standing Orders, recording procedures, and General Orders – Custody.

The **Western Australia** Government have stated in their 1995 implementation report that the provisions of the *Police Department Lockup Management Manual* have introduced procedures and written forms as required. Currently in Western Australia, two medical forms guide the provision of medical treatment for a person in custody. The Medical Treatment Plan provides information to police to ensure they fulfil their duty to detainees with minor or manageable health concerns that do not require hospitalisation. The Custodial Management Application automatically produces a Medical Summary Report for medical staff, which may be forwarded to a hospital if required.

The Western Australian Government has implemented Recommendation 138, as noted in their 1995 implementation report.

Tasmania fully implemented this recommendation through sections 7.3.6 to 7.3.8 of the *Tasmania Police Manual.*

The Tasmanian Government has addressed Recommendation 138 through the Tasmania Police Manual.

The **Northern Territory** Government stated in their 1994-95 implementation report that *General Orders – Prisoner – Code P12* paragraphs 6, 39, and 40 address this recommendation. These paragraphs state that every person who is detained or arrested is to be inspected by the receiving officer who shall ensure a screening form is completed. This form will include information about the state of mind and health of the prisoner. In addition, if any illness or injury of a prisoner is noticed then this should be entered in the watch-house journal or station day journal. Finally, any reasons for why prisoner information cannot be recorded should also be noted in the watch-house journal or station day journal. Actions discussed as part of Recommendation 138 are also relevant to this recommendation.

Currently, this recommendation is addressed through the *NT Police General Order – Custody* which makes the following provisions:

- Appropriate observation according to circumstances must be maintained. CCTV monitors are not a substitute for physical observation and personal checks.
- The only check that truly satisfies that a person is displaying signs of life is a physical one. Therefore, cell checks are to be conducted in the following manner:
  - at least one member is to approach the front of the cell and make such observations as they can to satisfy themselves that they can see signs of life;
  - where a person in custody is awake they are to be engaged in conversation to check their state of mind and their general health; and
  - where a person in custody is sleeping, they should be checked to ensure they are breathing. If the inspecting member has any reason to be concerned about the wellbeing of any sleeping person in custody or they cannot observe signs of life, they must enter the cell to check and awaken the person if required.

The Northern Territory has implemented Recommendation 138 through General Orders – Prisoner – Code P12, and currently the General Order – Custody.

Recommendation 139

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

> *a. The emphasis in any consideration of proper systems for surveillance of those in custody should be on human interaction rather than on high technology. The psychological impact of the use of such equipment on a detainee must be borne in mind, as should its impact on that person's privacy. It is preferable that police cells be designed to maximise direct visual surveillance. Where such equipment has been installed it should be used only as a monitoring aid and not as a substitute for human interaction between the detainee and his/her custodians; and*
>
> *b. Police instructions specifically direct that, even where electronic monitoring cameras are installed in police cells, personal cell checks be maintained.*

Background information

The RCIADIC Report noted that 52% of deaths in police custody occurred in the first six hours, with one third occurring within two hours or less. It was found that regular human interaction was essential for the wellbeing of persons in custody, particularly those at risk of self-harm.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. In the *1995-96 Annual Report*, the Commonwealth noted that this recommendation was addressed by the AFP ACT Regional Instruction 22. The AFP *National Guideline* notes that inspection of cell occupants must be undertaken in accordance with the *ACT Policing Watch-House Operations Manual* (paragraph 31). The AFP noted that appropriate CCTV systems are in place in the ACT regional watch-house and that these systems have not replaced physical checks of persons in custody.

Recommendation 139 has been implemented by the Commonwealth and the Australian Capital Territory Governments, as reported in the 1995-96 Annual Report and as noted by the AFP.

In **New South Wales**, the *NSW Police Force: Code of Practice for CRIME* stated that electronic surveillance should not be relied upon as a sole means of inspecting people in custody and instead prisoners should be visited regularly with no more than one hour between visits. Under the Code the Custody Manager is required to:

- check the condition and review the risk assessment of each person at least every hour or more frequently if needed. Risk assessment of people in custody is an ongoing process - the higher the risk, the more frequent the inspection and assessment should be;
- wake, speak to and assess the sobriety of people intoxicated by drugs or alcohol at least every 30 minutes (or more frequently if your assessment indicates it is necessary) during the first two to three hours of detention. Where you cannot rouse a person or their level of intoxication or consciousness has not changed or is of concern, get urgent medical help; and
- do all assessments in person, not by video.

In New South Wales, this recommendation is also covered in the New South Wales Police Force (NSWPF) Police Commissioner's Instruction 155.01.08- Record and Review of Prisoner.

In New South Wales, Recommendation 139 has been implemented through the NSW Police Force: Code of Practice for CRIME.

The **Victoria** Police Manual addresses this recommendation. This Manual states that detainees who are assessed to be needing constant supervision are to be physically checked every thirty minutes, or as advised by a medical practitioner, and constantly observed by CCTV. The Victorian Government also noted in their 1994 implementation report that there is a balance between the psychological

impact of using CCTV and the importance of continuous monitoring of some prisoners. However, they also noted the importance of monitoring prisoner who might wish to self-harm.

In Victoria, Recommendation 139 has been implemented through the Victoria Police Manual.

In **Queensland,** section 16.13.3 of the *Operational Procedures Manual* states that prisoner inspections must be conducted personally, even if video monitoring is available. During these visits the officer must ask prisoners who are awake if they are well, ensure that any sleeping prisoners are breathing comfortably and appear well, and wake a sleeping prisoner when the inspecting officer is unsure or has a reasonable degree of suspicion about the condition of that prisoner. The Queensland Police Service has building standards which consider appropriate surveillance arrangements in the building design.

In Queensland, Recommendation 139 has been implemented through the Operational Procedures Manual.

The **South Australian** Government have stated in their 1993 implementation report that this recommendation has been addressed in the cell upgrade program and the requirement under General Orders that physical cell checks must be maintained. The South Australian Government commissioned a study of prisoner holding facilities on cell design, which identified benchmarks for cell design and the standards required for the safe custody of prisoners. A further CCTV upgrade was applied to 35 police facilities with holding cells in 2006-07.

In South Australia, Recommendation 139 has been addressed in the cell upgrade program and the requirement under General Orders that physical cell checks must be maintained.

The **Western Australia** Police Manual sets out the guidance on the method of checking prisoners. In-person cell checks are maintained, and CCTV is used in all police lock-ups for recording and storing images.

Recommendation 139 has been implemented in Western Australia through ongoing use of cell-checks and the adoption of CCTV in all police lock-ups.

Tasmania has fully implemented this recommendation through section 7.3.6 of the *Tasmania Police Manual.* The Manual could not be accessed for this report.

Tasmania has fully implemented this recommendation through section 7.3.6 of the Tasmania Police Manual.

The **Northern Territory** Government stated in their 1994-95 implementation report that television monitoring devices had been installed in some centres; however, there is still a policy emphasis on human interaction. The *General Order – Custody* recognises that there is no substitute for personal checks and physical observations.

In the Northern Territory, Recommendation 139 has been implemented through the General Order – Custody and ongoing personal cell check practices.

Recommendation 140

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

Background information

The RCIADIC Report expressed concern about some detainees being left alone overnight without supervision and without a means of communication in an emergency. Alarm and intercom systems can reduce the risk of death or injury as a result of detainees being left unsupervised.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. In the *1995-96 Annual Report*, the Commonwealth noted that this recommendation was addressed by the AFP ACT Regional Instruction 22. The AFP noted that all cells at the ACT regional watch-house and in the External Territories are equipped with these facilities.

The Commonwealth and the Australian Capital Territory Governments have implemented Recommendation 140 through equipping all watch house cells with these facilities.

The **New South Wales** Government stated in their 1995-96 implementation report that the police service updated their cells to have direct communications with custodians. In addition, the Department of Corrective Services also installed cell alarms/intercoms in all correctional centre cells. All cells still in service have been surveyed, and a voice communication cell-call system is included in the watch house building code. This is standard in CSNSW court cell locations.

The New South Wales Government has implemented Recommendation 140 through the upgrade of all cells to enable direct communications with custodians, including the equipping of all watch house cells with these facilities.

The **Victorian** Government stated in their 1994 implementation report that intercom systems will be installed in all new cells, but is dependent on budgets. A 2006 report of the Victorian Ombudsman again recommended that all prison cells be equipped with duress alarms and intercoms. The Victorian Government currently notes that cameras are in place, and duress alarm bells are present in all cells containing prisoners. This allows Custody Supervisors or Police Custody Officers to comfortably communicate with prisoners either verbally or by means of electronic systems.

Recommendation 140 has been implemented by the Victorian Government, with cameras and duress alarm bells installed in all cells.

The **Queensland** Government stated in their 1997 implementation report that approximately 67% of all prisoners in Corrective Services' secure custody have access to a cell call facility and extension of these services will continue subject to available resources. Queensland police also noted that all new watch-houses comply with the requirements of this recommendation. The Queensland Government notes that in response to this recommendation, all new centres since 1988 are equipped with a cell call facility.

Currently, Queensland Corrective Services has a number of call facilities available, including:

- all secure cell accommodation cells have intercoms;
- some residential cells have bedroom intercoms, however where these are not available prisoners have 24-hour access to an intercom in the common room of each residential block;
- all maximum security units and detention unit cells have cell intercoms; and
- padded cells have a one-way intercom (Officer to Prisoner).

Recommendation 140 has been implemented by the Queensland Government through the introduction of call facilities within all cells.

The **South Australian** Government stated in their 1993 implementation report that intercom systems are incorporated into all cell accommodation. The provision of an effective cell intercom system remains a basic component of all new prison design and construction.

As noted in their 1993 implementation report, the South Australian Government has implemented Recommendation 140 and intercom systems are incorporated into all cell accommodation.

Since the adoption of the **Western Australia** Police Force Custodial Design Guidelines in the 1990s, all new cells constructed in the state have been fitted with a cell alarm and an intercom system enabling detainees to communicate with police officers within the station. Intercom and alarm systems conforming with the State Cell Guidelines are also currently installed in all police lock-ups.

The Western Australian Government has implemented Recommendation 140 through the introduction of intercom and alarm systems in all police lock-ups.

The **Tasmanian** Government stated in their 1993 implementation report that the Tasmania Police reject this recommendation as people in custody may abuse its use. More recently, the Tasmanian Government has commented that all Tasmania Prison Service watch-house cells have intercoms.

The Tasmanian Government has implemented Recommendation 140 and notes that all Tasmania Prison Service watch-house cells have intercoms.

The **Northern Territory** Government stated in their 1996-97 implementation report that all new police complexes will have alarms fitted as a matter of course. The Northern Territory Police had also taken reasonable steps to ensure that any redesign of cells and holding facilities will comply with these recommendations. The Northern Territory Government comments that all NPTF watch houses and police cell facilities are fitted with intercoms and call buttons. The *General Outline – Custody* requires that these are checked for regularly functionality.

Recommendation 140 is implemented in the Northern Territory. The Northern Territory Government note that all NPTF watch houses and police cell facilities are fitted with intercoms and call buttons.

Recommendation 141

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

Background information

The RCIADIC Report expressed concern about some detainees being left alone overnight without supervision and without a means of communication in an emergency. Regular monitoring of detainees can help identify those at risk, allow appropriate levels of care to be provided, and reduce the risk of injury or death.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP noted that governance and standard practices ensure that a person will not be detained in a cell without the appropriate level of supervision being available. The ACT watch-house is always staffed. ACT Policing officers are not to place detainees in cells at ACT Police Stations unless they are directly supervised.

The Commonwealth and the Australian Capital Territory Governments have implemented Recommendation 141 through the AFP's governance and standard practices.

The **New South Wales** Government stated in their 1995-96 implementation report that this recommendation has been incorporated in Commissioner's Instructions 155.11.01 and compliance is monitored by Local Area Commanders and local supervisors.

The Code of Practice for CRIME states the Custody Manager/Assistant is required to ensure the person in custody (even if they are in a dock) is kept under constant face to face observation by yourself or another officer until either: the person is released or you have conducted your assessment of the detained person, identified the level of risk, nominated an inspection frequency and placed the person into the observation cell.

In New South Wales, Recommendation 141 has been implemented through Police Commissioner's Instructions 155.11.01 and monitored through Local Area Commanders and local supervisors.

In their 1994 implementation report, the **Victorian** Government stated that the duties of police watch-house staff are such that they must always be in a position to administer care to a prisoner should the need arise. In addition, people who are detained in police cells must be detained in police stations which are staffed 24 hours a day.

The Victorian Government has implemented Recommendation 141, as detention cells in police stations are staffed 24 hours a day.

For **Queensland,** this is set out in chapter 16 of the *Operational Procedures Manual* (see Recommendation 137). In addition, chapter 10 of this manual also stated that a duty of care may warrant the transfer of a person in custody to another watch-house because of inadequate facilities or an inability to provide proper supervision of the person in custody.

In Queensland, Recommendation 141 has been addressed through the Operations Procedures Manual.

In their 1994 implementation report, the **South Australian** Government stated that this recommendation was addressed following state funding to address the interim report recommendations. It was also noted that in emergency events in smaller facilities this requirement may not be met. This recommendation has been incorporated into South Australia Police *General Orders Prisoners*.

In South Australia, Recommendation 141 has been incorporated into SAPOL's General Orders – Prisoners.

The **Western Australian** Government stated in their 1995 implementation report that the Commissioner of Police issued instructions which prevent detainees being held in any lockup where 24-hour supervision could not be maintained. No person in Western Australia is detained without a police officer, custody officer, or police auxiliary officer on duty at the lock-up. All detainees held in locations where such care cannot be provided are transported to the nearest 24-hour facility to provide such care and observation.

The Western Australian Government has implemented Recommendation 141 through supervision requirements and procedure.

In their 1993 implementation report, the **Tasmanian** Government stated that they have addressed this recommendation in *Tasmania Police Standing Order 412.5* and general instructions that were issued, which require that no prisoner is to be detained without care and supervision. In Hobart and Launceston watch-houses, Correctional staff are in attendance at all times to provide appropriate care and supervision.

The Tasmanian Government has implemented Recommendation 141 through Tasmania Police Standing Order 412.5 and general instructions which require that no prisoner is to be detained without care and supervision.

In their 1996-97 implementation report, the **Northern Territory** Government stated that they support this recommendation. The *General Order – Custody* provides that at police stations where there are no permanent watch house staff, and members are required to leave the station with a person that cannot be bailed, transferred, or otherwise released from custody, members should seek advice from the Watch Commander, Divisional Officer or the on call Executive Officer before leaving a person in custody unattended.

In the Northern Territory, Recommendation 141 does not appear to guarantee that a detainee will not be left without supervision.

Recommendation 142

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

Background information

The RCIADIC Report found that padded cells could act as a "sensory deprivation chamber and can markedly increase distress, reactance and experienced isolation" (RCIADIC Report, paragraph 24.3.103).

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP *National Guideline* currently allow for the use of padded cells if a person behaves in a manner likely to cause injury; is violent; is uncontrollable; or has attempted self-harm (paragraph 30). The AFP noted that the regional watch-house is equipped with padded cells for the management of persons in custody who are at risk. Governance and standard practices ensure that the use of these cells is in appropriate circumstances, and the person is moved to a conventional cell when the circumstances allow. The ACT Government notes that the use of padded cells is for purely protective purposes to ensure the safety and wellbeing of individuals in custody, and will be subject to review by ACT Policing.

◑ *The Commonwealth and Australian Capital Territory Governments have partially implemented Recommendation 142. The AFP currently allows for the use of padded cells but not for punitive purposes.*

The **New South Wales** Government stated in their 1995-96 implementation report that there are no padded calls in any police station in NSW.

● *The New South Wales Government has implemented Recommendation 142, noting in their 1995-96 implementation report that there are no padded cells in any police station in New South Wales.*

The **Victorian** Government stated in their 1994 implementation report that padded cells are not used as a punitive measure. However, there is a role for padded cells when managing severely disturbed prisoners and they may be used to prevent self-harm. In its 2005 implementation report, Victoria Police advised that no padded cells remained in police watch houses. However, two padded cells remained at the Melbourne Custody Centre, a facility for individuals who have been arrested and are awaiting hearings at courts in Melbourne. These facilities are at the disposal of the Custodial Health Service and not the security providers. Padded cells are not used as punishment cells, but rather safe spaces under the direction of health staff only for at-risk individuals.

● *The Victorian Government has implemented Recommendation 142, as padded cells are not used in police watch houses.*

In **Queensland,** section 16.12.4 of the *Operational Procedures Manual* states that prisoners with suicidal tendencies or who are violent or aggressive may be placed in a violent detention cell, a padded cell. These cells are not to be used for punishment of prisoners.

◑ *The Queensland Government has partially implemented Recommendation 142. The Queensland Government currently allows for the use of padded cells but not for punitive purposes.*

The **South Australian** Government stated in their 1993 implementation report that padded cells are not to be used as a penalty for antisocial behaviour or conduct. This is set out in General Orders. The General Orders further state that the condition and behaviour of a prisoner in a padded cell must be monitored closely and the prisoner must be placed in a conventional cell as soon as they are no longer a danger to their self or others. Prisoners who are at risk are only to be confined to a padded cell in

extreme circumstances when, prior to a medical examination, they cannot be safely confined in any other way.

The South Australian Government has partially implemented Recommendation 142. The South Australian Government currently allows for the use of padded cells but not for punitive purposes.

The **Western Australian** Police Manual states that padded cells are not to be used as punishment and may only be used for temporary prisoner management to restrain violence or aggressive prisoner in the interest of their own and others' safety. The use of a padded cell is recorded in the Custody Management System, and subjected to review and monitoring by the Custodial Services Inspector.

The Western Australian Government has partially implemented Recommendation 142. The Western Australian Government currently allows for the use of padded cells, though not for punitive purposes.

The **Tasmanian** Government stated in their 1995 implementation report that padded cells are not used in any police watch-houses for any reason. Moreover, currently Tasmania Prison Service watch-house cells do not have padded cells.

The Tasmanian Government has implemented Recommendation 142, noting that padded cells are not used in police watch-houses.

The **Northern Territory** Government stated in their 1994-95 implementation report that there is only one padded cell in the NT and no further such cells will be constructed. The use of the padded cell has stringent controls for its use, and is only utilised in the event of a person attempting serious self-harm. Each time the padded cell is used, the event undergoes an independent review and the subsequent report is submitted to the NTPF Custody Steering Committee.

The Northern Territory Government has partially implemented Recommendation 142. The Northern Territory Government currently allows for the use of padded cells but not for punitive purposes.

Additional commentary

The AFP noted that if ACT Policing were to implement this recommendation in full (that is, to discontinue the use of padded cells) this would immediately increase the risk of injury and/or death to persons in custody who are behaving in a violent and/or uncontrollable manner, and/or who have indicated self-harm while in custody.

Recommendation 143

All persons taken into custody, including those persons detained for intoxication, should be provided with a proper meal at regular meal times. The practice operating in some jurisdictions of excluding persons detained for intoxication from being provided with meals should be reviewed as a matter of priority.

Background information

The RCIADIC Report identified that some jurisdictions had policies to withhold food from persons taken into custody who are intoxicated. It was found that withholding food could increase the risk of harm to a person due to the relationship between alcohol misuse, diabetes, hypoglycaemia and malnutrition.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. In the *1995-96 Annual Report*, the Commonwealth noted that this recommendation was addressed by the AFP Australian Capital Territory

Regional Instruction 22. The AFP noted that persons in custody are provided with regular meals, with any allergies, medical needs and religious restrictions taken into account.

The Commonwealth and Australian Capital Territory Governments have implemented Recommendation 143, as reported in the 1995-96 Annual Report and confirmed by the AFP.

In **New South Wales,** under section 207(2)(e) of the *Law Enforcement Powers and Responsibilities Act 2002* (NSW), an intoxicated person who is detained must be provided with necessary food, drink, bedding and blanket appropriate to the person's needs.

The NSWPF Code of Practice for CRIME (page 46) states the custody manager is to:

- provide persons in custody at least two light meals and one main meal in any 24-hour period;
- provide drinks at meal times and when they are requested (if reasonable);
- contact the Clinical Forensic Medicine Unit for advice on medical and dietary matters; and
- as far as possible, offer a varied diet and meet special dietary or religious needs.

This recommendation is also covered in the NSW Police Force Police Commissioner's Instructions 155.10.02 and 155.15.01.

The New South Wales Government has implemented Recommendation 143 through the Law Enforcement Powers and Responsibility Act 2002 (NSW).

In their 1994 implementation report, the **Victorian** Government stated that Victoria police policy is that meals are served to all prisoners, but discretion is used in the serving of meals to prisoners charged with drunkenness. This is because it may result in choking or other repercussions.

Currently, the Victoria Police Manual – Guidelines – Safe Management of Persons in Police Care or Custody guide the practices called for by this recommendation. Suspects lodged for drunkenness are released after a period of four hours or depending on their state of sobriety; once they are in a condition to be released, this occurs at the earliest opportunity. Prisoners lodged for drunkenness and other offences are entitled to meals provided they are serving longer-term sentences.

The Victorian Government has mostly implemented Recommendation 143. The Victoria Police policy is that meals are served to all prisoners, but discretion is used in the serving of meals to prisoners charged with drunkenness who are detained for a short term.

In **Queensland,** under section 16.21.13 of the *Queensland Police Service Operational Procedures Manual,* prisoners must be provided with meals three times a day. Additionally, this recommendation is addressed under 16.21.12 of the *Manual*.

The Queensland Government has implemented Recommendation 143 through the Queensland Police Service Operational Procedures Manual.

The **South Australian** Government stated in their 1994 implementation report that all persons admitted into corrections are provided with a meal, unless medical staff advise otherwise. If a meal is declined, the details are entered on the Prisoners Register. Currently, South Australia Police General Orders direct that prisoners are to be provided with breakfast, lunch, and dinner unless they decline the offer.

The South Australian Government has implemented Recommendation 143 and prisoners are provided with breakfast, lunch, and dinner unless they decline the offer.

In their 1995 implementation report, the **Western Australian** Government stated that a meal is not automatically provided at regular meal times to detainees if their state of intoxication indicates that there may be some hazard in their state of health and safety. The risk of choking of detainees who are intoxicated is greater than the benefits so in some cases they may be denied food. The implementation report also noted that this practice is unlikely to change, and this remains current practice. The officer in charge of a lock-up facility has the discretion to provide a meal prior to release.

The Western Australian Government has mostly implemented Recommendation 143 through automatically providing meals at meal times. However, discretion is used in the serving of meals to prisoners charged with drunkenness and intoxicated persons will not be provided with a meal on admission.

The **Tasmanian** Government stated in their 1993 implementation report that this recommendation had been implemented for all detainees in police cells and the prison system.

The Tasmanian Government has implemented Recommendation 143, as noted in their 1993 implementation report.

The **Northern Territory** Government stated in their 1994-95 implementation report that all meals are provided to all detainees at normal meal times provided they are sufficiently sober to consume the meals. This recommendation is also implemented through the *General Order – Custody* which requires that prisoners are to be meals be supplied compliant with the United Nations Minimum Standards for Prisoner Nutrition. The Northern Territory Government also notes that persons held in custody are only to be provided meals when their level of intoxication does not represent a safety risk.

The Northern Territory Government has mostly implemented Recommendation 143. Police policy is that meals are served to all prisoners, but discretion is used in the serving of meals to prisoners charged with drunkenness.

Recommendation 144

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

Background information

The RCIADIC Report found that many detainees taken into custody experience distress, isolation, and vulnerability. Placing Aboriginal and Torres Strait Islander detainees in cells with other Aboriginal and Torres Strait Islander persons may help reduce their sense of isolation.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. In the *1995-96 Annual Report*, the Commonwealth noted the recommendation would be complied with, once construction of new cells at Jervis Bay Territory is complete. The AFP Practical Guide on *Duty of Care, 'at-risk' and special needs detainees in the Watch-House* details that Aboriginal and Torres Strait Islander persons are to be offered cell placement with other Aboriginal and Torres Strait Islander detainees (if there are others in custody) or an individual cell. It is up to the detainee to decide whether they would be more comfortable placed in a cell with others or on their own (the other persons in the cell are also consulted). All Aboriginal and Torres Strait Islander persons are considered to be 'at-risk' and therefore additional measures are taken to monitor their period in custody.

The Commonwealth and Australian Capital Territory Governments have implemented Recommendation 144 through the AFP's policies and procedures.

In **New South Wales,** the *NSW Police Force: Code of Practice for CRIME* states police officers must attempt to place Aboriginal prisoners with another Aboriginal person.

In New South Wales, this is covered in the NSWPF's Police Commissioner's Instructions 155 - Screening prisoners. The NSWPF complies with *Law Enforcement (Powers and Responsibilities)*

Regulation 2016 Part 2, Clause 4 which states "If an Aboriginal person or Torres Strait Islander who is not a child is placed in a cell:

- wherever possible, that person should be accommodated with another Aboriginal person or Torres Strait Islander who is not a child, and
- the person should not be placed alone in the cell unless there is no reasonably practicable alternative."

The NSWPF Standard Operating Procedures for CCTV Digital Video Management System states that any surveillance system coverage areas of the Custodial areas will provide live viewing and recording of all persons processed or detained in these areas.

The Code of Practice for CRIME states police officers must check the condition and review the risk assessment of each person at least every hour or more frequently if needed. Risk assessment of people in custody is an ongoing process; the higher the risk, the more frequent the inspection and assessment should be. All assessments are to be conducted in person, not by video.

The New South Wales Government has implemented Recommendation 144 through the NSW Police Force: Code of Practice for CRIME.

The **Victorian** Government stated in their 1994 implementation report that this recommendation has been addressed in the *Victoria Police Operating Procedures Manual.* This report also stated that it is standard practice not to place prisoners in cells by themselves, unless for a specific reason. It is also general practice to place Aboriginal and Torres Strait Islander prisoners in cells with other Aboriginal and Torres Strait Islander prisoners if the circumstances permit. However, the 2005 implementation report stated that the Manual "does not discriminate for race, creed or colour". Prisoners who are "suicidal, ill or suffer mental problems" are not isolated or lodged alone, and strict criteria are applied in the monitoring of these persons and if it is practical to bail these offenders it is done at the earliest opportunity. However, despite these provisions, police face difficulties where prisoners are behaving in an anti-social manner or creating danger to other prisoners.

The Victorian Government has mostly implemented Recommendation 144 through the Victoria Police Operating Procedures Manual. However, it is unclear whether Aboriginal and Torres Strait Islander detainees are lodged with other Aboriginal and Torres Strait Islander detainees where possible.

In **Queensland,** chapter 16 of the *Operational Procedures Manual* states that Aboriginal and Torres Strait Islander prisoners are to be placed in a multi-prisoner cell, preferably with other Aboriginal and Torres Strait Islander prisoners unless there is considered to be a threat created by placing them together.

The Queensland Government has mostly implemented Recommendation 144 through the Operational Procedures Manual. However, it is not clear whether Aboriginal and Torres Strait Islander prisoners are identified as needing careful surveillance if placed in a cell alone.

South Australia have implemented this recommendation in full through their *General Order – Arrest and Custody management* document, which states that it is encouraged that Aboriginal and Torres Strait Islander prisoners share cells, unless tribal conflicts are likely. The South Australian Government notes that the provisions made by this recommendation have been incorporated into South Australia Police practice.

The South Australian Government has implemented Recommendation 144 through the General Order – Arrest and Custody Management.

Western Australia have addressed this recommendation in their *Western Australian Police Manual* which states that it is encouraged that Aboriginal and Torres Strait Islander prisoners share cells, unless tribal conflicts are likely. Current practice is that custodial placements for Aboriginal and Torres Strait Islander people in custody are made on a case-by-case basis after considering risk on a personal and cultural level.

● *The Western Australian Government has implemented Recommendation 144 in their Western Australian Police Manual.*

The **Tasmanian** Government have stated in their 1993 implementation report that Tasmanian police watch houses contain only one bed per cell.

○ *The Tasmanian Government has not implemented Recommendation 144. There does not appear to have been actions taken to address this recommendation as it relates to police cells or the surveillance provided when an Aboriginal and Torres Strait Islander prisoner is in a cell alone.*

In their 1994-95 implementation report, the **Northern Territory** Government stated that they addressed this recommendation through a minor amendment to *General Order – Prisoners – Code P12*. The *General Order – Custody* provides advice to staff on the importance of being aware of Aboriginal and Torres Strait Islander cultural requirements when selecting cell placements in the watch house. Where possible, Aboriginal persons should be placed in a multi-prisoner cell, preferably with another Aboriginal person, unless there is an identified threat from placing them together or the person objects. An Aboriginal person who is alone in a cell is to be regarded as a greater risk than normal.

● *The Northern Territory Government has implemented Recommendation 144 through an amendment to General Order – Prisoners – Code P12.*

Additional information

The Tasmanian Government noted that in relation to the Tasmania Prison Service, Aboriginal and Torres Strait Islander prisoners may request accommodation amongst their peers, including 'buddy cells' where available. This provides the opportunity to be accommodated in family, community or language groups, which will provide a supporting environment.

Recommendation 145

That:

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

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

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

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

Background information

The RCIADIC Report identified that visits from the community, family and friends could assist with improving the behaviour of Aboriginal and Torres Strait Islander detainees, and reduce incidents of suicide and self-harm.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP *National Guideline* states that a watch-house sergeant may permit arranged visits to persons in custody by their family members, legal advisors, or other appropriate persons, and that visiting times should not be unreasonably restrictive (paragraph 33). The *Crimes Act 1914* (Cth) stipulates that a legal aid organisation and an interview friend should be contacted on behalf of Aboriginal and Torres Strait Islander persons as part of the questioning process. The ACT Aboriginal Interview Friends Scheme was established to provide support and assistance through community volunteers to Aboriginal and Torres Strait Islander people when brought into police custody for interview. The scheme is managed by the Aboriginal Justice Centre. The AFP confirmed that members of ACT Policing understand their responsibilities for duty of care and that the presence of any visitor in the watch- house does not diminish their responsibilities for duty of care of detainees.

In Commonwealth and the Australian Capital Territory, Recommendation 145 has been implemented through the AFP National Guideline, legislated requirements, and the establishment of the Aboriginal Interview Friends Scheme in the ACT.

The **New South Wales** Government stated in their 1995-96 implementation report that formal cell visitor schemes are in place at a local level and vary between locations.

The NSWPF Code of Practice for CRIME states the Custody Manager of a Police Station should, "Make every effort to advise relatives, friends or Aboriginal Legal Aid of Aborigines or Torres Strait Islanders in custody, and encourage them to visit. Where practical arrange visits by relatives, friends, Aboriginal community liaison officers or representatives of community groups".

The New South Wales Government has partially implemented Recommendation 145, however no provision appears to have been made in response to parts (c) and (d) of this recommendation.

The **Victorian** Government stated in their 1994 implementation report that there was no specific "cell visitor scheme"; however, the visitation rights of all prisoners are set out in the police gaols regulations. Aboriginal Community Justice Panels have also been established which have the aim of ensuring the wellbeing of Aboriginal and Torres Strait Islander people. One component of ensuring the wellbeing of Aboriginal and Torres Strait Islander people is to encourage family and friends to visit the person in custody.

Additionally, the Aboriginal Community Justice Panel volunteer attends the police station and conducts a welfare check to ensure the person in custody is safe, that relevant medical information is shared, and that families are notified of the person's whereabouts. Aboriginal Community Justice Panel volunteers also work to improve the relationship between local police and Aboriginal and Torres Strait Islander communities through regular meetings and a variety of youth-focused social, sporting and recreational activities. The Victorian Aboriginal Legal Service is currently funded to employ a coordinator who provides secretariat support to the Statewide Executive, training and support to volunteers.

Victoria has partially implemented Recommendation 145. Although no cell visitor scheme has been established, several initiatives have aimed to encourage Aboriginal and Torres Strait Islander detainees to have family and friends visit. However, parts (c) and (d) have not been addressed.

In **Queensland,** section 420 of the *Police Powers and Responsibilities Act 2000* (Qld) states that a police officer must allow an Aboriginal and Torres Strait Islander person access to a support person and legal aid as part of the questioning process. In addition, Queensland has in place a cell visitors' scheme which assists with the observation of prisoners, facilitates communication between prisoners and watch-house staff, offers company, support and counselling to the prisons, prevents attempts at

self-harm, identifies symptoms suggesting the need for medical attention, and provides information about support services to prisoners. This is set out in section 16.22 of the Queensland *Operational Procedures Manual.*

Queensland has implemented Recommendation 145 through the Police Powers and Responsibilities Act 2000 (Qld) and the Queensland Operational Procedures Manual.

South Australia has in place an Aboriginal Visitors Scheme which is run by the Aboriginal Legal Rights Movement. This scheme aims to provide Aboriginal and Torres Strait Islander people with comfort, care, and support when they have been arrested. It also aims to assist police in their duty of care.

South Australia has implemented Recommendation 145 through the Aboriginal Visitors Scheme.

In **Western Australia,** this recommendation is partly covered by standard A41 of the *Inspection Standards for Aboriginal Prisoners* which states that an Aboriginal Visitors' Scheme should be established at every prison with Aboriginal prisoners. This scheme would link Aboriginal and Torrs Strait Islander prisoners with their community. This scheme has been developed and is currently being run by the WA Department of Justice[25]. The program provides support and counselling to Aboriginal and Torres Strait Islander people detained in police lock-ups, prisons and Banksia Hill Detention Centre. The arrangement means that Aboriginal and Torres Strait Islander people detained in Western Australian Police metropolitan and regional lock-ups, and the Perth Watch-house have access to the Aboriginal Visitors Scheme at all times of the day and night, either in person or via the phone. The Department of Justice provides a free-call number in its Operations Centre, which the Western Australia Police Force can call and request a call-back from a member of the Aboriginal Visitors Scheme.

The Western Australian Government has mostly implemented Recommendation 145 through the Aboriginal Visitors Scheme. However, it is unclear whether this is available in all locations across Western Australia.

In their 1993 implementation report, the **Tasmanian** Government stated that they do not consider these recommendations necessary since the current visiting procedures were deemed adequate with virtually no restrictions on visits to Aboriginal and Torres Strait Islander people in custody. The Tasmanian Government noted that cell visitor schemes do not currently operate within Tasmania Prison Service watch-house facilities.

The Tasmanian Government has not implemented Recommendation 145 and visitor schemes do not currently operate in Tasmanian custodial facilities.

The **Northern Territory** Government stated in their 1994-95 implementation report that they have in place an Aboriginal Visitor Scheme which was introduced as a result of the RCIADIC. They also have in place an informal arrangement at Ngukurr where the gates to the compound are left open at all times to allow residents of the community to visits and talk with prisoners. The *General Order – Prisoners – Code P12* provides for a cell visitor scheme and has been amended to also involve Aboriginal and Torres Strait Islander communities in the management of the scheme. The report also stated that this code was amended to address parts (c) and (d) of this recommendation. This recommendation is also incorporated in the *General Order – Custody Part IV* which outlines the operation of the cell visitor scheme.

The Northern Territory Government has implemented Recommendation 145 through the introduction of an Aboriginal Visitor Scheme, the Ngukurr arrangement, and the General Order – Prisoners – Code P12 and General Order – Custody Part IV.

[25] http://www.correctiveservices.wa.gov.au/rehabilitation-services/aboriginal-visitors-scheme.aspx

Recommendation 146

That police should take all reasonable steps to both encourage and facilitate the visits by family and friends of persons detained in police custody.

Background information

The RCIADIC Report identified that visits from the community, family and friends could assist with improving the behaviour of Aboriginal and Torres Strait Islander detainees, and reduced incidents of suicide and self-harm.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP *National Guideline* states that a watch-house sergeant may permit arranged visits to persons in custody by their family members, legal advisors, or other appropriate persons, and that visiting times should not be unreasonably restrictive. However, the Guideline does not go so far as to require police to encourage visits. In addition, the ACT implemented the Aboriginal Interview Friends Scheme Program which involves a number of community volunteers who provide support and assistance to Aboriginal and Torres Strait Islander people when brought into police custody for interview[26]. Currently, ACT Policing policy allows visitation of persons in police custody and these visits are facilitated in accordance with the safety and security requirements of the ACT watch-house. ACT Policing has also noted a commitment to undertaking to review the visitation policy for detained persons.

The Commonwealth and the Australian Capital Territory Governments have implemented Recommendation 146 through the AFP National Guideline. However, the Guideline does not appear to specify police encouragement, rather than just facilitation, of visitors.

New South Wales' *NSW Police Force: Code of Practice for CRIME* states that the custody manager must make every effort to advise relatives or friends of Aboriginal people in custody and encourage them to visit.

The NSWPF also has the Custody and Victim Support Program that identifies volunteers from the Aboriginal community who after undertaking appropriate training will support any Aboriginal persons being questioned, arrested or detained as well as support victims while their statements are being taken. NSWPF also ensures that the Aboriginal Legal Service NSW/ACT is contacted as soon as an Aboriginal is taken into custody.

The New South Wales Government has implemented Recommendation 146 under the NSW Police Force: Code of Practice for CRIME.

Victoria has set out in the *Victoria Police Manual* guidelines for visits by family and friends, which provide that detainees should be allowed to have friends or family visit them.

The Victorian Government has implemented Recommendation 146 under the Victoria Police Manual guidelines.

In **Queensland,** *Just Futures 2012-2015* sets the strategy for improving safety in Queensland's Aboriginal and Torres Strait Islander communities and to reduce the over-representation of Aboriginal and Torres Strait Islander people as victims and offenders in Queensland's youth detention and correctional centre. This strategy states that a key action to improve transitions from prison for Aboriginal and Torres Strait Islander people is to ensure all Aboriginal and Torres Strait Islander

[26] http://www.healthinfonet.ecu.edu.au/key-resources/programs-projects?pid=2076

offenders have the opportunity to maintain connections with their families through video link-ups and face-to-face visits where appropriate[27].

The Queensland Government has implemented Recommendation 146 through video link-ups and face-to-face visits provided under the Just Futures 2012-2015 strategy.

South Australia has partially addressed this recommendation in the *SAPOL General Order - Arrest and Custody Management* which states that a visitor from the Aboriginal Visitors Scheme should be requested as soon as an Aboriginal and Torres Strait Islander person is detained. Although there is not specific mention of encouraging family and friends to visits the prisoner. The South Australian Government note that this recommendation is currently met through SAPOL practice, as outlined in *General Order – Prisoners.*

The South Australian Government notes that Recommendation 146 has been incorporated into SAPOL practice, as outlined in General Order – Prisoners.

In **Western Australia,** the Department of Justice website states that visitors are welcome to all WA prisons. Family and friends are encouraged to maintain contact with prisoners throughout their sentence. Visits are an important link in preparing prisoners for their life in the community when they are released[28]. Visits are also encouraged through the Western Australian Aboriginal Visitors Scheme, discussed in the Western Australian response to Recommendation 145.

The Western Australian Government has implemented Recommendation 146, and visits from families and friends are encouraged.

In their 1993 implementation report, the **Tasmanian** Government stated that this recommendation is not considered necessary as people are not detained in police custody for any lengthy periods.

The Tasmanian Government has not implemented Recommendation 146, as the recommendation was deemed unnecessary in their 1993 implementation report.

The **Northern Territory** Government stated in their 1994-95 implementation report that *General Order – Prisoners – Code P12* has been amended to more fully reflect this requirement. However, because of the relatively large numbers of short-term prisoners, this is impractical at larger police stations. The Northern Territory Government notes that the NPTF has introduced measures aimed at promoting community and family engagement for Aboriginal and Torres Strait Islander persons in custody, including making reasonable efforts to contact persons nominated by the person in custody.

The Northern Territory Government has mostly implemented Recommendation 146. It is unclear to what extent this recommendation has been implemented in large police stations.

Recommendation 147

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

Background information

The notification, support or presence of family members can help improve the well-being of family and detainees, particularly those who are 'at risk', unwell, or otherwise vulnerable.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

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[27] https://www.cabinet.qld.gov.au/documents/2011/Sep/ATSI%20Justice%20Strategy/Attachments/Att%201%20Queensland%20Aboriginal%20and%20Torres%20Strait%20Islander%20Justice%20Strategy%202012-2015.PDF

[28] https://www.correctiveservices.wa.gov.au/prisons/visiting-prisons/default.aspx

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP *National Guideline* requires notification to a detainee's family, next of kin, nominated contact person or representative body if the detainee suffers a serious injury or dies (paragraph 21). However, the Guideline does not expressly require notification in relation to detainees who are 'at risk' or have been transferred to a hospital.

The Commonwealth and the Australian Capital Territory Governments have mostly implemented Recommendation 147 through the AFP National Guideline. However, it appears that the Guideline does not expressly require notification for detainees who are 'at risk' or have been transferred to a hospital.

In **New South Wales,** under the *NSW Police Force Code of Practice for CRIME*, relatives must be notified if a detainee has been taken to hospital or is at risk. The NSWPF is also required to take all reasonable steps to notify a friend or relative, to their doctor. This recommendation is also covered in the NSW Police Commissioner's Instructions 155.01 (Screening of Prisoners) and 155.08 (Release).

The New South Wales Government has implemented Recommendation 147 through the NSW Police Force Code of Practice for CRIME.

Section 2.3 of the ***Victoria*** *Police Manual* – Guidelines: *Safe Management of persons in police care or custody* – states that if a prisoner is taken to hospital then a police officer must ask a detainee if they want their friends or relatives notified. The 2005 Victorian Implementation Report also notes that the Victorian Aboriginal Legal Service and the Aboriginal community justice panel are notified when a prisoner who is at risk is brought into custody.

The notification of Victoria ALS and the ACJP who will facilitate the notification to family and friends of Aboriginal and Torres Strait Islander people detained in custody is required under the *Victoria Police Manual – Guidelines – Safe Management of Persons in Police Care or Custody*. In order to protect prisoners and the police, prisoner warning flags are submitted on all prisoners who are at-risk or a risk while in police custody.

The Victorian Government has partially implemented Recommendation 147 by requiring that police must ask a person if they want their friends or relatives notified. However, police are not mandated to notify friends or relatives of detainees who have been transferred to hospital.

In **Queensland,** chapter 16 of the *Operational Procedures Manual* states that the next of kin is to be notified where a prisoner has been transferred from a watch-house for medical attention.

The Queensland Government has partially implemented Recommendation 147. It appears that only the next of kin is notified, and that notification only occurs when a prisoner has been transferred not for detainees who are 'at risk'.

The **South Australian** Government note that all practical efforts are made to notify relatives. While practical difficulties are experienced with the definition of 'at risk', the principle of the recommendation is followed.

The South Australian Government has mostly implemented Recommendation 147, however notes practical difficulties in defining 'at risk'.

Western Australia has mostly addressed this recommendation in the *Western Australian Police Manual.* This manual states that the next of kin or person nominated by the prisoner must be notified if a prisoner is seriously ill, injured, or attempts suicide. Police Lockup Management Procedures also make it mandatory for officers to liaise with the Police Operations Centre or the Internal Affairs Unit to seek approval to inform the next of kin or any other person previously nominated by the detainee.

The Western Australian Government has mostly implemented Recommendation 147, however it does not appear that notification is required to be immediate.

The **Tasmanian** Government stated in their 1993 implementation report that this recommendation had been addressed in gazette notice 13/9.

The Tasmanian Government has implemented Recommendation 147 through the gazette notice 13/9, as noted in their 1993 implementation report.

In their 1994-95 implementation report, the **Northern Territory** Government stated that there are significant practical limitations for police notifying relatives in all cases. To fulfil this obligation, police may need to go to extraordinary measured to locate relatives, which would be detrimental to other operational procedures. An amendment to *General Order – Prisoners – Code P12* was made to address this recommendation where practical. The *General Order – Custody* provides directions to staff on actions required for the care of persons in custody to be considered 'at risk', including a requirement to inform family and community members of any transfer to a medical facility. Under this policy, there is also a requirement that persons showing emotional or physical distress be examined.

The Northern Territory Government has mostly implemented Recommendation 147 through General Order – Prisoners – Code P12. However, practical limitations are noted.

Recommendation 148

That while there can be little doubt that some police cell accommodation is entirely substandard and must be improved over time, expenditure on positive initiatives to reduce the number of Aboriginal people in custody discussed elsewhere in this report constitutes a more pressing priority as far as resources are concerned. Where cells of a higher standard are available at no great distance, these may be able to be used. More immediate attention must be given to programs diverting people from custody, to the provision of alternative accommodation to police cells for intoxicated persons, to bail procedures and to proceeding by way of summons or caution rather than by way of arrest. All these initiatives will reduce the call on outmoded cells. The highest priority is to reduce the numbers for whom cell accommodation is required. Where, however, it is determined that new cell accommodation must be provided in areas of high Aboriginal population, the views of the local Aboriginal community and organisations should be taken into account in the design of such accommodation. The design or re-design of any police cell should emphasise and facilitate personal interaction between custodial officers and detainees and between detainees and visitors.

Background information

The RCIADIC Report determined that some police cell accommodation is unsuitable for extended detention and lacks facilities including toilets, exercise areas and proper lighting.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. Australian Capital Territory policing has a strong focus on diversion, and where possible and appropriate, all persons will be diverted from custody through referral to diversion programs, or the issuing of warnings or cautions. If diversion is not an option and a person is arrested they are transferred to the ACT watch-house. There is only one watch-house facility in the ACT. Facilities at the ACT watch-house are sufficient as to allow for interaction between detainees and staff as well as allow interaction between detainees and visitors. Cells 5 and 6 at the ACT watch-house allow for detainees to have visitors, the process for which is governed by the AFP Practical Guide on Watch House Detainee Administration. ACT watch-house staff will always offer Aboriginal and Torres Strait Islanders the option of being housed with other detainees if it is safe and appropriate to do so.

The Commonwealth and the Australian Capital Territory Governments have implemented Recommendation 148 through the AFP's focus on diversion and the facilities at the ACT Watch House.

In their 1995-96 implementation report, the **New South Wales** Government stated that they had addressed this recommendation through four main actions. Firstly, all cells still in use have been, or are in the process of being, substantially upgraded to ensure maximum observation of detainees and the elimination of all identified hanging points. Secondly, they implemented strategies such as the use of summonses, Court Attendance Notices and cautions to divert offenders. They also began to divert intoxicated persons to responsible adults and only detain the person if the conduct of the person such that no other option was appropriate. Arrest as a last resort is a guiding principle for the NSWPF, and it is common practice for rural police not to arrest when the threat of conflict is at its highest and to instead concentrate on defusing and settling the situation. Thirdly, they sought views from the local Aboriginal community on the design of police cells. Lastly, all cells were redesigned to facilitate interaction between detainees, the police and cell visitors. Recent updates to these actions are reported in the New South Wales Corrective Services' *Aboriginal Offender Strategic Plan (2010-2012)* [29], which sets key priorities for increasing diversion of Aboriginal offenders from custody. Two of these priorities included engaging with Aboriginal communities when developing alternatives to custody and also using the skills of Aboriginal staff to develop diversion programs.

In New South Wales, Recommendation 148 has been implemented as the 1995-96 implementation report notes.

Victoria's 1994 implementation report stated that the design of cells for the Victoria Police Building Program emphasises and facilitates personal interaction between custodial officers and detainees and visitors. Throughout this program there was consultation with the Aborigines Advancement League Inc., Victorian Aboriginal Legal Services Cooperative, Prisoners Reform Group and the Australian Association of Prisoner Support Organisations. However, the 2005 Victorian implementation report stated that new police stations and cells in the state were "designed for security of both prisoners and police", and that "the view of the local Aboriginal community should not influence and compromise this security".

A 2014 state-wide review conducted of all police cells resulted in some being decommissioned and the remaining categorised into either police cells (suitable for longer term detention) or holding rooms (suitable for overnight detention only). Police cells are inspected annually by the Prisoner Management Unit to ensure their suitability and compliance with suicide and self-harm prevention and human rights. Additionally, enhanced supervision is in place with custody issues and all cells that house prisoners come with CCTV monitors; two watch-house keepers are allocated to stations with prisoners. The Victorian Government notes that there are currently no police cells that are substandard.

The Victorian Government has mostly implemented this recommendation through the Victoria Police Building Program, which consulted with Aboriginal and Torres Strait Islander groups in designing cells and has improved existing cells. However, it appears that recent police station redesigns have placed less priority on consultation with Aboriginal and Torres Strait Islander communities.

The **Queensland** Government stated in their 1997 implementation reported that, in appropriate circumstances, Aboriginal and Torres Strait Islander prisoners are granted bail and transferred to existing Diversionary Centres. They also stated that consultation with local groups does not take place. This recommendation is now addressed in section 16.6 of the Queensland Police Services *Operating Procedures Manual* and sections 376 to 381 of the *Police Powers and Responsibilities Act 2000* (Qld).

The Queensland Government has implemented Recommendation 148 through Queensland Police Services' Procedures Manual and the Police Powers and Responsibilities Act 2000 (Qld).

In their 1994 implementation report, the **South Australian** Government stated that diverting people from custody should be a priority. Cell design was discussed with local Aboriginal and Torres Strait

[29] http://www.correctiveservices.justice.nsw.gov.au/Documents/aboriginal/Aboriginal_Strategy_111114_Accessible.pdf

Islander representatives. For more information about the actions relevant to this recommendation please see recommendations 80, 85, and 89. A number of Community Policing initiatives are directed towards reducing the interface between Aboriginal and Torres Strait Islander people and police cells (i.e. Police Drug Diversion, Adult Cautioning Program, Public Intoxication Act provisions re: sobering up centres).

In South Australia, Recommendation 148 has been implemented through the implementation of diversionary programs and ongoing consultation with Aboriginal and Torres Strait Islander communities.

The **Western Australian** Government stated in their 1995 implementation report that consultation with Aboriginal and Torres Strait Islander organisations whenever new police lock-up facilities are to be constructed. The police services have also developed the *Custodial Design Guidelines* in response to this recommendation.

The Perth Watch-house was designed in consultation with Aboriginal and Torres Strait Islander people to reflect cultural needs. The Western Australian Government has also contributed funding towards sobering-up centres to provide safe, supervised overnight care to intoxicated people and referral to other services where necessary to address underlying issues, such as homelessness or severe alcohol dependence.

The Western Australian Government has implemented Recommendation 148 through revised lock-up design processes, and the provision of funding for sobering-up centres.

Tasmania's 1993 implementation report stated that *Tasmania Police Standing Order 144* partly addresses this recommendation with regards to the diversion from custody of Aboriginal and Torres Strait Islander people. The Tasmanian Government also stated in this report that consultation is ongoing with regards to detoxification centres. Tasmania Police implemented a program of improving cell conditions and restricting their use to Hobart, Launceston and Burnie centres. This included the decommissioning of outmoded cells in regional stations and major centres.

In Tasmania, Recommendation 148 has been implemented through the upgrading of cells and ongoing consultation with Aboriginal and Torres Strait Islander communities.

In their 1994-95 implementation report, the **Northern Territory** Government stated that they have put in place measures such as alternative accommodation, summons and bail, as well as proactive strategies in communities to reduce the incidence of crime and violence, which in turn reduces the number of Aboriginal and Torres Strait Islander people taken into custody. In addition, new cell designs are in place in new stations. The NPTF Custody Steering Committee has also commissioned the development of an NTPF Custody Cell design guide which would provide a consistent and compliant-with-best-practice cell complex design for use in all new builds and renovation activities.

In the Northern Territory, Recommendation 148 has been implemented as noted in the 1994-95 implementation report. Additionally, the cell design guide has been updated to incorporate the intent of this recommendation.

Recommendation 149

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

Background information

The RCIADIC Report determined that flexible custody arrangements (including allowing detainees to sit with family and friends), as well as increased freedom of movement could improve the wellbeing of Aboriginal and Torres Strait Islander detainees.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

In the *1995-96 Annual Report*, the **Commonwealth** noted that in the **Australian Capital Territory,** the AFP has in place flexible custody arrangements, and will have an enhanced capacity to implement this recommendation following the construction of new Jervis Bay Territory cells. The design of the watch House allows detainees to have access to areas where they can move around more freely, and are not confined directly to their cell. The AFP Practical Guide on *Duty of Care, 'at-risk' and special needs detainees in the Watch-House* requires that Aboriginal and Torres Strait Islander persons are to be offered cell placement with other Aboriginal and Torres Strait Islander detainees (if there are others in custody) or an individual cell. The practical guide further details that Aboriginal and Torres Strait Islander detainees should also be given opportunity for wider range of movement within the exercise yard area of the cell block.

The Commonwealth and the Australian Capital Territory Governments have implemented Recommendation 149 through the AFP's flexible custody arrangements in place.

The **New South Wales** Government stated in their 1995-96 implementation report that the police service has incorporated this recommendation into Commissioner's Instruction 155.01.07, which governs freedom of movement in watch houses, and that this recommendation is aimed at those services which tend to hold persons in custody for long periods of time. This is monitored by Local Area Commanders and the Aboriginal Co-ordination Unit. The Department of Juvenile Justice also takes into account the needs of Aboriginal detainees and will allow them to attend funerals of significant others and family. It is the NSWPF's current practice to aim to release all prisoners on bail, and to transfer those who are refused bail to CSNSW. All Patrol Commanders, particularly in rural areas, have the authority to provide prisoners with whatever physical freedom they deem appropriate in the circumstances.

The New South Wales Government has implemented Recommendation 149 through the Police Commissioner's Instruction 155.01.07 and ongoing practices.

The **Victorian** Government stated in their 1994 implementation report that it is not appropriate for the police to allow prisoners to leave the environs of the cell block or the confines of the watch-house. This would breach police policy regarding security. This position was confirmed in Victoria's 2005 implementation report. However, the Victorian Government has advised that current practice is that cells are built with external fresh air exercise yards, which allow freedom of movement.

The Victorian Government has implemented Recommendation 149 through the introduction of fresh air exercise yards in police cells.

In their 1997 implementation report, the **Queensland** Government stated that their new watch-houses comply with current human rights standards. In remote Aboriginal and Torres Strait Islander communities, the police service has developed a separate standard for new watch-houses in consultation with the Aboriginal and Torres Strait Islander community councils and the Aboriginal Justice Advisory Committee.

The Queensland Government has partially implemented Recommendation 149, however no reference is made to freedom of movement or to flexible custody arrangements.

The 1994 **South Australian** implementation report stated that the principle of their recommendation is supported and covered in General Orders. The outcome is dependent upon the reason for custody and design of custodial accommodation.

The South Australian Government has mostly implemented Recommendation 149 through the General Orders. However, it is noted that practical implementation is dependent on the reason for custody and design of custodial accommodation.

The **Western Australia** Government stated in their 1995 implementation report that this recommendation had been implemented in certain areas where police service Aboriginal and Torres Strait Islander communities. However, they also note the potential problems with this recommendation, such as placing the custodian at risk of prosecution in the event of an incident and that it could cause disquiet amongst other detainees that were not granted such freedoms due to racial differences. It is further noted by the Western Australian Government that the movement and use of custodial spaces is based on the safety of detainees, officers and staff, and safe movements within facilities.

The Western Australian Government has implemented Recommendation 149, and provides exercise spaces where appropriate.

The **Tasmanian** Government noted in their 1993 implementation report that they rejected this recommendation since it was deemed inappropriate because "Tasmanian Aboriginal and Torres Strait Islander people did not live in a traditional Aboriginal and Torres Strait Islander lifestyle".

The Tasmanian Government has not implemented Recommendation 149, as it was deemed inappropriate for Aboriginal and Torres Strait Islander people.

In their 1994-95 implementation report, the **Northern Territory** Government stated that NT policy is that in remote stations freedom of movement within the confines of the police station perimeters and cell areas is generally allowed. In urban areas, for general public security, prisoners are not normally allowed the freedom as in remote stations. Overall, the policy is for prisoners to spend as little time as possible in police custody.

The Northern Territory has partially implemented Recommendation 149 through providing for freedom of movement within the confines of the police station and cell areas. however, prisoners are not allowed the freedom in urban areas.

Recommendation 150

That the health care available to persons in correctional institutions should be of an equivalent standard to that available to the general public. Services provided to inmates of correctional institutions should include medical, dental, mental health, drug and alcohol services provided either within the correctional institution or made available by ready access to community facilities and services. Health services provided within correctional institutions should be adequately resourced and be staffed by appropriately qualified and competent personnel. Such services should be both accessible and appropriate to Aboriginal prisoners. Correctional institutions should provide 24 hour a day access to medical practitioners and nursing staff who are either available on the premises, or on call.

Background information

The RCIADIC noted the need to provide healthcare equivalent to that provided to the general public. They also found that not providing 24-hour a day healthcare may result in a prisoner not being assessed upon reception and corrections staff with inadequate knowledge being responsible for prisoners who are at risk.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **New South Wales** Government stated in their 1995-96 implementation report that all correctional centres have access to 24-hour nursing, psychiatry and medical officer on-call rosters. NSW Corrections health service's policy is that for any medical emergency a prisoner must be taken to the nearest public hospital. Aboriginal prisoners in Long Bay and some metropolitan centres also receive general practitioner services provided by a medical officer employed by the Aboriginal Medical Services. Currently in New South Wales, the Justice Health & Forensic Mental Health Network (JH&FMHN) provide health care in all correctional centres to the equivalent standard to that available to the general public. All clinical staff are highly trained, qualified and competent, and JH&FMHN

services are both assessable and appropriate to Aboriginal patients. For all correctional centres, there is 24 hours access available to on call medical services.

The New South Wales Government has implemented Recommendation 150 as noted in their 1995-96 implementation report and through the ongoing function of the JH&FHMN.

In their 1994 and 2005 implementation reports, the **Victorian** Government stated that health care for persons in Victorian prisons is of a standard equivalent to that available to members of the general public, while also taking into account the special health care needs of prisoners. On reception, all Aboriginal and Torres Strait Islander prisoners receive an extensive health check which includes a psychiatric check and diagnostic tests. Any emergency services required by prisoners is supplied through local hospitals with certain prisons having additional services; for example, Fairlea Female Prison has 14-hour nursing cover per day. Dental services are also available throughout Victorian prisons.

The Victorian Government has implemented Recommendation 150, as noted in their 1994 and 2005 implementation reports.

In the 1997 implementation report, the **Queensland** Government stated that every secure centre has a 24-hour nursing service and an on-call service for visiting medical officers. Queensland Health is responsible for the delivery of health services in publicly operated prisons and for mental and oral health for all correctional centres. Privately operated prisons are responsible for delivering their own health services, funded by Queensland Corrective Services.

The Queensland Government has mostly implemented Recommendation 150, through the provision of a 24-hour nursing service and on-call medical officers. However, it is unclear the level of access that prisoners have to broader allied health services.

The **South Australian** Government stated in their 1994 implementation report that the Prison Medical Service is committed to the principle that as far as possible, health care available to people in correctional institutions should be of an equivalent standard to that available to the general public. The implementation report also stated that the health services for South Australian prisoners are of a high standard and include 24-hour infirmaries at the Adelaide Remand Centre and Yatala Labour Prison. South Australia Prison Health Services provides all health services to prisoners within South Australia. A 2017 pilot of Aboriginal Health Practitioners provides clinical in-reach services to Aboriginal and Torres Strait Islander prisoners within Port Augusta Prison, Mobilong and the Adelaide Women's Prison. The South Australian Government is currently designing a model of care that attends to the broad needs of the Aboriginal and Torres Strait Islander adult prison within the nine prisons across South Australia. Youth Justice uses a service hub approach, where access to health care includes seeing a doctor, dentist, nurse or mental health worker. A young person being remanded to custody is to be medically assessed by a nurse as soon as practicable. Locum services are available and provided as required.

The South Australian Government has implemented Recommendation 150, implementation report.

In **Western Australia,** the *Code of Inspection Standards for Adult Custodial Services* states that all prisoners should have access to a 24-hour, on-call, or stand-by primary health service. In addition, the type of health care available to all prisoners should reflect the health needs of the prison population. Custodial health services are independently accredited as meeting the Royal Australian College of General Practitioner Standards for health care in prisons, and meet the requirement to provide care equivalent to that in the community.

The Western Australian Government has implemented Recommendation 150, with health services provided in prisons being of an equivalent standard to that available in the community.

The **Tasmanian** Government stated in their 1993 implementation report that with the exception of mental health services, the standard of health services in adult correctional institutions is at least equivalent to that available in the general community. Currently, the Tasmania Prison Service provides access to medical services 24-hours a day. This includes mental health. From early 2006,

inpatient mental health services for offenders is provided within a Secure Mental Health Unit, situated near the Risdon Prison.

The Tasmanian Government has implemented Recommendation 150 through the provision of access to medical staff and services 24-hours a day.

In their 1996-97 implementation report, the **Northern Territory** Government stated that Mental Health Services provide specialist mental health care to prisoners on referral and prisoners are admitted for inpatient health treatment when necessary. There is also 24-hour access to medical/nursing staff and the provision of a range of public health services by an on call (after hours) service. Northern Territory Correctional Services is a signatory to the Standard Guidelines for Corrections in Australia and supports the prisoner health care principles.

The Northern Territory Government has implemented Recommendation 150 through the provision of access to medical staff and on-call health services, as well as ratifying the Standard Guidelines for Corrections in Australia.

In the **Australian Capital Territory,** section 21 of the *Corrections Management Act 2007* (ACT) requires a doctor to be appointed for each correctional centre. The doctor is required to see prisoners once a week. Section 53 of the *Corrections Management Act 2007* (ACT) states that the director-general of a correctional centre must ensure that detainees have a standard of health care equivalent to that available to other people in the ACT. The director-general must also ensure that arrangements are made to provide appropriate health services for detainees.

The Australian Capital Territory Government has implemented Recommendation 150 through the Corrections Management Act 2007 (ACT).

Recommendation 151

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

Background information

The RCIADIC Report found that access to healthcare and health assessments is required by the United Nations Standard Minimum Rules for Treatment of Prisoners and is critical to the well-being and safety of detainees and prisoners. Failing to provide adequate healthcare and health assessments can place increased responsibility on corrections staff who have limited training and knowledge in medicine.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. In the *1995-96 Annual Report*, the Commonwealth Government stated that the AFP will maintain at all police station a list of psychiatrists having knowledge and experience of Aboriginal and Torres Strait Islander people. It is also noted that police stations will keep lists of AHSs. However, the current status of these undertakings is not clear. The AFP *National Guideline* states that where there is uncertainty about a person in custody's medical (including psychiatric) condition, medical attention should be sought (paragraph 7.2). Particular care should be given to persons defined as 'at risk', including Aboriginal and Torres Strait Islander people.

ACT Policing uses mental health practitioners attached to the on-call Crisis Assessment Team within ACT Health. All patients have clinical handover and discussion within 24-hours with a Justice Health System Medical Officer, and/or a Forensic Mental Health Psychiatrist as required. Where an Aboriginal and Torres Strait Islander person requires psychiatrist treatment, JHS will contact the Aboriginal

Health Services to receive a treatment summary. JHS also works collaboratively with ACT Corrective Services and Winnunga to introduce the Winunga Model of Care into the Prison.

Clinical Forensic Medical Services are available to ACT Policing at all times, with a nurse often on duty at the Watch House. Assessments can be made by Clinical Forensic Medical Services staff and timely referrals to the Crisis Assessment Team can be made if required. Forensic Mental Health Services at the Alexander Maconochie Centre refer Aboriginal and Torres Strait Islander detainees to an Aboriginal Liaison Mental Health Officer for follow-up. In addition, ACT Corrective Services has coordinated with Winnunga Nimmityjah Aboriginal Health Service to provide a weekly health and wellbeing service for detainees at the Alexander Maconochie Centre.

See Recommendation 127 for further information on the medical responsibilities set out in the National Guideline. The *Corrections Management Act 2007* (ACT) addresses this recommendation for the ACT Corrective Services and the care of prisoner's in custodial facilities. Further, ACT Policing note that they will undertake to review the National Guidelines with a view to mandating that police stations maintain a current list of ACCHOs available.

The Commonwealth and the Australian Capital Territory Governments have mostly implemented Recommendation 151 through the AFP National Guideline and the AFP's commitment to maintain lists of relevant psychiatrists and ACCHOs at police stations. However, it is not if there is a current list of ACCHOs available at police stations.

The 1995-96 **New South Wales** implementation report stated that the Department of Corrective Services employed two Aboriginal psychologists. There is also a full time Co-ordinator of Indigenous Psychological Services employed by the Department. The Corrections Health Services also arranges for an accredited Aboriginal psychiatrist to provide sessional services from the Central Sydney Area Health Services. A psychiatrist with knowledge and experience in the provision of services to Aboriginal and Torres Strait people has been appointed to provide part-time sessions on a fortnightly basis for Aboriginal referrals. Currently in New South Wales, medical referrals are the responsibility of the JH&FHMN which provides specialist mental health services for people detained in custody. The New South Wales Government notes that JH&FMHN employs qualified and experienced psychiatrists, including sub-specialist forensic psychiatrists, child and adolescent psychiatrists and psychiatrists with dual forensic and child training.

All JH&FMHN employees including psychiatrists, are required to complete cultural awareness training. As at 31 December 2017, 94% of JH&FMHN staff had completed the online training component, and 85% had completed the face-to-face training.

The New South Wales Government has implemented Recommendation 151 through the employment and training of psychiatrists as required.

In their 1994 implementation report, the **Victorian** Government stated that links had been established between the Office of Forensic Health Services and the Victorian Aboriginal Mental Health Network. The Victorian Aboriginal Mental Health Network provides a consultation service on a regular basis to Victoria Police and Correctional Services staff. A consultant psychiatrist specialising in Aboriginal and Torres Strait Islander mental health has also been appointed by Forensic Psychiatry Services. At the time of the implementation report, the Forensic Health Service was in the process of developing a strategy for providing medical staff with more knowledge and experience with Aboriginal and Torres Strait Islander issues. AJA 3 also supports delivery of cultural awareness training to prison health staff, service managers and Justice Health staff. Aboriginal Mental Health Assessment Training is currently being delivered to forensic mental health, and primary mental health, staff to ensure culturally appropriate assessments and treatment.

In its 2005 implementation report, Corrections Victoria observed that difficulties remained in accessing psychiatric professionals with specialist knowledge and experience in working with Aboriginal and Torres Strait Islander people. However, psychiatric professionals regularly liaise with Indigenous Services Officers and Aboriginal Wellbeing Offices to ensure cultural issues are being raised and addressed in the treatment of Aboriginal and Torres Strait Islander prisoners. All Victoria Police prisoners have access to health care at all times via the Custodial Health Advice Line, and

receive an initial suicide and self-harm assessment on top of a formal mental health assessment as required.

The Victorian Government has implemented Recommendation 151 through revising the provision of psychiatry services.

The **Queensland** Government stated in their 1997 implementation report that the-then Department of Families, Youth and Community Care has a Service Agreement with an Aboriginal and Torres Strait Islander Community Health Service to supply mental health workers to service the needs of the Aboriginal and Torres Strait Islander residents of two correctional centres. Currently, Queensland Health is responsible for the delivery of health services in publicly operated prisons and for mental and oral health for all correctional centres. Privately operated prisons are responsible for delivering their own health services. All psychiatrists working with the Prison Mental Health Service have access to the Queensland Health cultural capability training and access to Indigenous Mental Health Workers who can provide consultation liaison assistance for cultural assessments and treatment and care pathways.

The Queensland Government has mostly implemented Recommendation 151. However, it is unclear to what extent Aboriginal and Torres Strait Islander prisoners are able to access psychiatrists with specialist knowledge in dealing with Aboriginal and Torres Strait Islander people.

In their 1994 implementation report, the **South Australian** Government stated that there are a limited number of psychiatrists and medical officers with knowledge and experience of Aboriginal and Torres Strait Islander mental health issues. Health services, including dedicated cultural positions are made available onsite at the Adelaide Youth Training Centre. See also recommendation 150.

The South Australian Government has partially implemented Recommendation 151, noting that there are a limited number of psychiatrists and medical officers with knowledge and experience of Aboriginal and Torres Strait Islander mental health issues.

The **Western Australia** Government stated in their 1995 implementation report that the Ministry of Justice is collaborating with the Health Department on a project in the Kimberley to develop an appropriate model for the delivery of psychiatric services using the Kimberley Aboriginal Medical Services. A psychiatrist had also commenced a two-year term to facilitate the project.

The Western Australian Government notes that, currently, psychiatrist services in the Department of Justice are provided to people in custody by appropriately qualified medical professionals who are required to complete mandatory training in cultural awareness and culturally secure care.

As noted by the Western Australian Government, Recommendation 151 has been addressed through current requirements for psychiatrist services in the Department of Justice.

In their 1993 implementation report, the **Tasmanian** Government stated that there are no psychiatrists with specialist knowledge on Aboriginal and Torres Strait Islander mental health issues operating in Tasmania. The report noted that the current Clinical Director of the Forensic Service had experience working within Aboriginal and Torres Strait Islander communities in the NT. The forensic psychologist at the time had also attended two conferences on Aboriginal and Torres Strait Islander mental health and completed a university course on Aboriginal and Torres Strait Islander studies. Currently, the Tasmania Prison Service employs psychologists and high needs support counsellors in its Therapeutic Services Unit, as well as an Indigenous Officer.

The Tasmanian Government has partially implemented Recommendation 151, through the employment of psychologists and high needs support counsellors, as well as an Indigenous Officer. It is unclear whether these psychologists and counsellors have specialist experience with Aboriginal and Torres Strait Islander people.

The **Northern Territory** Government stated in their 1994-95 implementation report that the Department of Correctional Services deems that all "at risk" prisoners and those with mental health problems be assessed by the visiting medical officer and if necessary referred to Forensic Mental Health Services. In Darwin the Forensic Mental Health Team provide specialist mental health care to prisoners. Most members of this team have experience working with Aboriginal and Torres Strait

Islander prisoners. In Alice Springs, services are provided by the general mental health team who also have experience working with Aboriginal and Torres Strait Islander people. Northern Territory Correctional Services in conjunction with the Department of Health has developed a Memorandum of Understanding to ensure that there is a clear clinical pathway to support the provision of these health services. Courts in the Northern Territory regularly request Community Corrections to source psychiatric assessments and psychological assessments from specialists who can undertake and deliver these specialist services.

The Northern Territory Government have mostly implemented Recommendation 151. It is not a requirement that the visiting medical officer has experience with Aboriginal and Torres Strait Islander people.

Recommendation 152

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

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

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

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

d. The development of appropriate facilities for the behaviourally disturbed;

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

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

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

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

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

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

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

v. apparently angry, aggressive or disturbed persons;

vi. persons suffering from mental illness;

vii. other serious medical conditions;

viii. persons on medication; and

vii. such other persons or situations as agreed.

Background information

The RCIADIC found that information exchange between Custodial Authorities plays an important role in reducing deaths in custody. The RCIADIC recommended collaboration between Custodial Authorities and Aboriginal Health Services and Aboriginal Legal Services in producing procedures around the sharing of information to ensure Aboriginal and Torres Strait Islander needs are met.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **New South Wales** Government stated in their 1995-96 implementation report that the Department of Corrective Service has established guidelines for the exchange of information between custodial staff and employees of the-then Corrections Health Service. The Department and Corrections Health Service have also established a procedure, which allows for a "Risk Intervention Team" at each correctional centre. This team assists those prisoners who may be considered to be at risk of self-harm or suicidal. The Corrections Health Service is also in charge of ensuring that the availability and standard of health services is equivalent for Aboriginal prisoners and other prisoners, as well as ensuring equitable access. The Corrections Health Services employs two Aboriginal Health Workers; however, they recognise this is insufficient to meet the needs of all Aboriginal prisoners. To increase the number of Aboriginal medical staff the Aboriginal Health Services have been consulted and have been involved in developing the Aboriginal Health Services Plan. The NSW Government also stated that they have implemented the following items:

- 24 hour on-call nurse staff;
- developed screening and assessment tools for identifying at risk prisoners;
- an Aboriginal Health Policy which sets out the health needs of Aboriginal people;
- developed a Medical Alert Form which can be used by staff to provide information on inmates who may be at risk.

The NSW Department of Juvenile Justice stated in the 1995-96 NSW implementation report that they regularly invite Aboriginal Medical Services to visit their centres. Any information about inmates can be passed to and from other agencies given they have the inmates' permission. They also offer particular services to inmates in different centres including counselling pre- and post- Human Immunodeficiency Virus(HIV) testing, an Aboriginal Health Program, dental services, and a specialist behavioural unit for Aboriginal people.

Currently in New South Wales, standards and policies for the health care of prisoners is the responsibility of JH&FMHN. The Risk Intervention Team provides an avenue to address inmates at risk and facilitate information exchange between relevant parties. Network drug and alcohol services have close working relationships with Aboriginal Medical Services across NSW as part of post release care planning for these patients. This recommendation is also dealt with in the New South Wales Government's response to Recommendations 150 and 151.

The New South Wales Government has implemented each element of Recommendation 152.

In their 1994 implementation report, the **Victorian** Government stated that the Forensic Health Service always abides by best practice principles and standards. The Forensic Health Service also consults with Aboriginal Health Services to maintain a relationship. Victorian Government statements specific to parts of this recommendation are as follows:

- The standard of service provided to Aboriginal and Torres Strait Islander prisoners is at least equivalent to those provided to other prisoners.

- An Aboriginal Alcohol and Drug Worker was employed to work 10 hours a week to develop programs for Aboriginal and Torres Strait Islander prisoners in the Pentridge complex.
- Aboriginal Health Services partake in the provision of health services to Aboriginal and Torres Strait Islander prisoners.
- Behavioural facilities are in place in some centres. In these centres there is also a police of "double bunking" Aboriginal and Torres Strait Islander prisoners.
- Prison medical staff and the Victorian Aboriginal Health Service Cooperative Ltd. have a good relationship and share relevant medical information.
- Guidelines have been established that discuss the exchange of medical information.

The Correctional Services Division and the Forensic Health Service have in place a reception process for new prisoners. This process includes a medical assessment and screening and a psychiatric assessment for all Aboriginal and Torres Strait Islander prisoners.

The Victorian Government also stated in their 1994 implementation report that the Specialist Support Service, Juvenile Justice Branch of the Department of Health and Community Services had been established to develop, implement and evaluate psychiatric and psychological services for young offenders. The Specialist Support Service provides specialised mental health services to young offenders. They have in place psychologists, psychiatric nurses, and drug and alcohol counsellors who provide services to young offenders. The AJA 3 focused on poor mental health as a driver of Aboriginal and Torres Strait Islander contact with the justice system, and supported collaborative work between government agencies at strategic points in the justice system.

The Victorian Government has implemented Recommendation 152 through the introduction of strategies targeted at each component of this recommendation.

In their 1997 implementation report, the **Queensland** Government stated that to address parts (a) and (c) of this recommendation, they have in place 24-hour nursing services and 24-hour on-call service by medical officers. For part (b) of this recommendation, Corrective Services offer a number of drug and alcohol programs in their correctional centres. For part (d) of this recommendation, the Queensland Government acknowledged the requirement for appropriate facilities for the behaviourally disturbed and have commenced a project assessing the feasibility of these facilities. For part (e) of this recommendation, the Queensland Government stated that new prisoners undergo a comprehensive medical assessment. Part (f) of the recommendation has been addressed since each correctional centre operates procedures to ensure the exchange of information between medical, administrative, and custodial staff. Finally, for part (g), the implementation report stated that this is complete and is contained in Commission Rule. Subsections of this part are also contain in medical protocols and other procedures that may already be in place. Additionally, the Queensland Government provide that persons identified at reception as having a mental illness or suspected mental illness can be referred to Prison Mental Health Services. A Memorandum of Understanding exists between Queensland Health and Queensland Corrective Services to support information sharing about persons in custody.

As part of the Queensland Parole System Review, the Queensland Government has provided additional funding of $15 million over 5 years to Queensland Health to increase the resourcing and provision of mental health services for prisoners, including an expansion of rehabilitation and re-entry services. Queensland Corrective Services is also undertaking a review of the current rehabilitation services offered to enable the development and delivery of a greater variety of rehabilitation programs to address the specific and complex needs of women and Aboriginal and Torres Strait Islander prisoners and offenders and to increase the availability of this program. The Queensland Government notes that in implementing these strategies, a review of the provision of services would have been required to be undertaken at each step.

The Queensland Government has implemented Recommendation 152 through the introduction of strategies targeted at each component of this recommendation.

The **South Australian** Government stated in their 1994 implementation report that in relation to part (a), (c), (e), and (f) of this recommendation, a review of the prisoner medical services has been recommended. A Terms of Reference for the review had been drafted. For part (b) of this

recommendation, an Aboriginal and Torres Strait Islander counsellor had been employed with the Prison Drug Unit. For part (d) of this recommendation, a recent report had recommended the establishment of an early intervention unit to address issues of behaviourally disturbed prisoners. No action had yet been taken to develop this unit. For part (g) of this recommendation, the implementation report stated that this had been addressed by the action under Recommendations 150 and 151.

The South Australian Government has implemented Recommendation 152 through the introduction of strategies targeted at each component of this recommendation.

In their 1995 implementation report, the **Western Australia** Government stated that the Ministry of Justice had undertaken an audit of health services utilisation and that a needs analysis review would be commenced in 1996. The Juvenile Justice Division stated that they complied with most of the issues identified in the recommendation. They had in place drug and alcohol programs, observation cells for the management of detainees at risk of self-harm, guidelines for the exchange of information, and screening of new inmates.

Currently, the Western Australian Department of Justice convenes a Clinical Governance Advisory Committee to oversee policy development, initiatives, and reporting; and works closely with the Mental Health Commission on the need for appropriate facilities to support people with mental illness in custodial facilities. In addition, Aboriginal and Torres Strait Islander patients admitted to the State Forensic Mental Health In-Patient Unit (Frankland Centre) are also assessed by the Specialised State Aboriginal Mental Health Service.

Western Australia has policies that provide clear instruction and guidance on issues related to continuity of care and processes to be followed in response to requests for information from various sources. A discharge summary is provided to the patient's general practitioner or Aboriginal health service on release. The Western Australian Government is pursuing prison healthcare models that involve local Aboriginal and Torres Strait Islander health services in regional areas, and has committed to the establishment of two (one male and one female) Alcohol and Other Drug Rehabilitation Prisons.

The Western Australian Government has mostly implemented Recommendation 152. Further action is required to be taken in respect to parts (d) and (g) of the recommendation.

The **Tasmanian** Government stated in their 1993 implementation report that Corrective Services and the Department of Community and Health Services work closely together when Aboriginal and Torres Strait Islander prisoners are involved. The report also stated that because there is a low number of Aboriginal and Torres Strait Islander prisoners experiencing mental health problems, sensitisation of existing processes to Aboriginal and Torres Strait Islander issues is regarded as preferable rather than treating it as a separate service stream. Currently, Tasmania Prison Service has protocols in place with the DHHS outlining arrangements for information exchange between agencies that will ensure a continuum of care for prisoners and detainees. The Tasmania Prison Service also has detailed Standing Orders in place outlining actions required by staff in relation to prisoners or detainees at risk, suffering from other medical conditions or requiring medication.

The Tasmanian Government has partially implemented Recommendation 152 through the introduction of strategies targeted at each component of this recommendation.

In their 1996-97 implementation report, the **Northern Territory** Government stated that all reviews consider the issues raised in this recommendation. In addition, Mental Health Service formally consult with Corrective Services and were in the process of implementing the National Mental Health Standards. Two new Aboriginal and Torres Strait Islander mental health worker position had been established in Darwin. The Implementation Plan for the Northern Territory Aboriginal Mental Health Policy was scheduled to be completed in June 1998. This aimed to facilitate refinement and development of culturally appropriate services. The Northern Territory Government notes that currently all health employees receive cross-cultural training as part of their mandatory training, and there exists priority special measures to ensure the active employment of Aboriginal and Torres Strait Islander people. The Northern Territory Correctional Services has also established a Moratorium of

Understanding with the Department of Health, as discussed in Recommendation 150. Additionally, an Indigenous Reference Group is currently being established to evaluate current prisoner rehabilitation and treatment programs.

The Northern Territory Government has implemented Recommendation 152 through the introduction of strategies targeted at each component of this recommendation.

The **Australian Capital Territory** Government stated in their 1997 implementation report that medical services for Aboriginal and Torres Strait Islander people are provided in collaboration with the Aboriginal Health Service. Information is protected in line with privacy legislation and any relevant medical information is only sought after permission from the prisoner is granted. Any exchange of information between medical staff and custodial officers is when confidentiality allows. Medical information is kept by medical staff and cannot be accessed by custodial or administrative staff.

Further actions taken by the ACT Government towards the implementation of Recommendation 152 include:

- Recommendations from the Independent Inquiry in the Treatment in Custody of Steven Freeman are undergoing implementation to improve the holistic nature of care offered to detainees.
- ACT Health has produced a Cultural Responsiveness Framework and Practice Standards for Aboriginal and Torres Strait Islander Liaison Officers within Mental Health, Justice Health, and Alcohol and Drug Services.
- Aboriginal Liaison Officers attend correctional facilities and work with the clinical teams to ensure culturally-sensitive care.
- Offender Services and the Corrections Programs Unit facilitate a range of mainstream rehabilitation programs to address identified risks and needs related to offending, including specific programs for Aboriginal and Torres Strait Islander people such as counselling, education, and intervention programs.
- Justice Health Services contacts relevant agencies following a detainees' admission to the Alexander Maconochie Centre, to ensure continuity of care and the incorporation of relevant clinical information into the detainee's care plan.
- Discharge summaries are developed for all detainees to support appropriate clinical handover and Throughcare.
- ACT Health works with ACT Corrective Services on the development of new facilities, including on how to manage the behavioural needs of individual detainees including case management through the separation and segregation where detainees are at risk of self-harm or harm to others.
- ACT Health and ACT Corrective Services implemented an Information Sharing Protocol to ensure the exchange of relevant information as part of the tripartite work between ACT Health, ACT Corrective Services, and Winnunga.
- Written or verbal clinical handover occurs between members of the treating team to ensure safe transfer of detainees between facilities.
- The establishment of detailed guidelines governing the exchange of information between prison medical staff, corrections officers and corrections administrators with respect to the health and safety of prisoners.
- Targeted information sharing occurs between the ACT Health Directorate and ACT Corrective Services, including risk assessment findings, medication charts, and other relevant information.
- The introduction of comprehensive screening by health staff, and the completion of a health notification form. Any mental health concerns identified during the screening assessment result in a referral for a comprehensive mental health assessment with the Mental Health Service.

The Australian Capital Territory Government has implemented Recommendation 152 through the introduction of strategies targeted at each component of this recommendation.

Recommendation 153

That:

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

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

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

Background information

The RCIADIC noted the need to keep Prisoner Medical Services completely independent of the Department of Corrections. This was because the RCIADIC found that this helped maintain a confidential relationship between prisoners and prisoner medical staff.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

In their 1995-96 implementation report, the **New South Wales** Government stated that for part (a) of this recommendation there had been reviews undertaken into the Corrections Health Service and reviews are undertaken when a serious incident in custody has occurred. In the juvenile justice system, a review was conducted in 1990. More recently, JH&FHMN have been subject to reviews of all Severity Assessment Code 1 and 2 incidents and reports compiled for Serious Incidents and Root Cause Analysis. For part (b) of this recommendation there is a Privacy Committee which approved the protocol for the transfer of clinical information under duty of care without breach of confidentiality or privacy. No other details on this protocol were provided. In the juvenile justice system the implementation report stated that nurses are aware of their confidentially requirements; however, the implementation report also noted that an Ombudsman's inquiry into juvenile detention centres reported that there was a need to develop formal procedures and policies in relation to the confidentially of client information. Currently, all staff who work in NSW Health, including JH&FMHN, such as employees, contractors and other health service providers who in the course of their work, have access to personal health information are bound by the Health Records and Privacy Act 2002 (HRIPA) and NSW Health Privacy Manual for Health Information. Under the *Crimes (Administration of Sentences) Regulations 2014*, health records at each correctional centre must be kept in the custody of a prescribed JH&FHMN officer and their content not divulged to any person external to JH&FHMN. For part (c) of this recommendation, the NSW Government stated that the Chief Executive Officer of the Correction Health Services is a medical practitioner and does not come from a custodial administrative background. In the juvenile justice system, a position of Director of Nursing/Health Services in the Department of Juvenile Justice was created and became directly responsible for the nursing staff in juvenile justice. Prior to the creation of this position there was minimal external accountability. All clinicians report to a NSW Health (JH&FMHN) staff member and not to a correctional officer/administrator.

The New South Wales Government has introduced measures to implement Recommendation 153, including: the conduct of reviews; the ongoing function of the Privacy Committee; and staffing selection criteria; among other initiatives.

The **Victorian** Government stated in their 2005 implementation report that, for part (a) of the recommendation, two reviews had considered the Victorian prisoner health service delivery system. At that time, the Corrections Health Board was completing a business case to implement the recommendations. AJA 3 includes several initiatives with the aim of strengthening the capability of the prison health system to deliver culturally-safe and appropriate services. For part (b) of the recommendation, the report stated that most standards that apply to the confidentiality of medical records for the public are upheld in prison. Lastly, for part (c) of this recommendation, there is a clear and defined separation between health service provision and correctional services.

The Victorian Government has met the requirements of each part of Recommendation 153.

In their 1997 implementation report, the **Queensland** Government stated that for part (a) of this recommendation, medical services in both youth justice and adult correctional centres are subject to continual review. For part (b) of this recommendation the confidentiality requirement for medical

records in youth justice are set out in section 26 of the *Juvenile Justice Regulations 1993* (Qld). While for adult correctional centres this has been discussed in Recommendation 152. For part (c) of this recommendation, nursing staff in youth justice do not report to professional medical officers, and in adult correctional centres, control of health services is held by the Corrective Services Consultant, Health and Medical Services. Queensland Health is responsible for oral health and prison mental health services. Health and medical services in private prisons are delivered in accordance with standards set by Queensland Health.

The Queensland Government has implemented Recommendation 153 through ongoing procedures.

The **South Australian** Government stated in their 1994 implementation report that for part (a) of this recommendation they were in the process of reviewing the prisoner medical services with a focus on services provided to Aboriginal and Torres Strait Islander prisoners. For part (b) of the recommendation, prison medical services staff are required under the *Health Commission Act 1976* (SA) to maintain confidentiality. In addition, the prison medical services is administered by Modbury Hospital and thus comes under the scrutiny of the Board of Directors of the hospital and their confidentiality requirements. For part (c) of this recommendation, this was already the case in South Australia. The South Australian Government additionally noted that letters of arrangement are in place between various health providers in relation to compliance with Adelaide Youth Training Centre procedures and the Ombudsman South Australia Information Sharing Guidelines for promoting safety and wellbeing. A Youth Interagency Partnership Agreement is also in place in relation to forensic patients held at the Adelaide Youth Training Centre and South Australia Health has protocols in place to ensure confidential patient medical information is maintained.

The South Australian Government has mostly implemented Recommendation 153. However, it is unclear to what extent a process of continual review has been implemented to address part (a).

In their 1995 implementation report, the **Western Australia** Government stated that prisoner health staff report to the Director Justice Health Services, a medical practitioner who in turn reports to the Director General, this addresses part (c) of the recommendation. For part (a) and part (b) of the recommendation, the Justice Health Council, which is made up of representatives from the Ministry of Justice and Health Department, is responsible for general oversight of health services delivered to prisoners and is charged with addressing these parts of the recommendation.

Western Australia has implemented an inter-agency custodial health project, which is currently reviewing the governance of Prison Health Services, to improve efficiencies and health outcomes for people in custody. Under the current administrative model, Prison Health Services employees report through line management to the Director, Health Services. The Health Services Executive includes the Director of Medical Services, who is a medical doctor.

The Western Australian Government has mostly implemented Recommendation 153. However, it is unclear to what extent a process of continual review has been implemented to address part (a).

The **Tasmanian** Government stated in their 1993 implementation report that the Prison Medical Officer and allied health professional staff in the mental health area are employed by the Department of Community and Health Services. Nursing staff at the prison are employed by the Department of Justice. The Department of Justice regularly reviews the medical services available with the prison system. Currently, health services for prisoners in Tasmania are delivered by the DHHS and correctional administrators are not responsible for medical staff.

The Tasmanian Government has mostly implemented Recommendation 153. However, it is unclear to what extent a confidentiality arrangements have been made to address part (b).

The **Northern Territory** Government stated in their 1994-95 implementation report that Correctional Health Standards are being developed. NTCS contributes to a range of national projects including the National Prisoner Health Information Committee, and all personal information of prisoners is managed consistently with Information Privacy Principles from the *Information Act* (NT). The Northern Territory

Government also conducts regular reviews of the medical services supplied to prisoners to ensure ongoing improvements. The Department of Health is the Primary Health Care Provider responsible for the health services delivered in correctional centres.

The Northern Territory Government has incorporated the principles of Recommendation 153 into ongoing practices.

In response to part (a) of the recommendation, **Australian Capital Territory** Health Directorate has undertaken the Alexander Maconochie Centre Inmate Health Survey and initiated a comprehensive review into the Drug Services and Policies at the Centre during 2010, in order to set a baseline from which monitoring can be undertaken and recommendations made. In 2012, the ACT Health Directorate completed a full review for a four-year accreditation with the Australian College on Healthcare Standards in regard to healthcare standards maintained in custodial settings. Ongoing periodic biennial reviews are undertaken by the ACT Health Directorate. Regarding part (b), the 1997 implementation report noted that any relevant information on prisoners is sought from other agencies after consent has been provided. Custodial and administrative staff are unable to access a prisoner's medical information.

The ACT Government has noted that the *Health Records Privacy and Access Act 1997* (ACT) are adhered to, and that detailed guidelines governing the exchange of information between prison medical staff, corrections officers and corrections administrators with respect to the health and safety of prisoners have been developed in line with the recommendation. Regarding part (c) of the Recommendation, the *Corrections Management Act 2007* (ACT) s 21 stipulates that the Director-General of ACT Health is responsible for the appointment of the doctor for the prison and accordingly for the health service. This model ensures the separation of custodial and health responsibilities. The doctor appointed is responsible for providing health services to detainees, and protecting the health of detainees (including preventing the spread of disease at correctional centres).

The Australian Capital Territory Government has implemented Recommendation 153.

Recommendation 154

That:

> *a. All staff of Prison Medical Services should receive training to ensure that they have an understanding and appreciation of those issues which relate to Aboriginal health, including Aboriginal history, culture and life-style so as to assist them in their dealings with Aboriginal people;*
>
> *b. Prison Medical Services consult with Aboriginal Health Services as to the information and training which would be appropriate for staff of Prison Medical Services in their dealings with Aboriginal people; and*
>
> *c. Those agencies responsible for the delivery of health services in correctional institutions should endeavour to employ Aboriginal persons in those services.*

Background information

The RCIADIC identified that mortality and morbidity in the Aboriginal and Torres Strait Islander population differs from that of the non-Aboriginal and Torres Strait Islander population, and that prison medical services would benefit from understanding this difference. In addition, prison medical services are underused by Aboriginal and Torres Strait Islander prisoners, one method to increase uptake is to provide Aboriginal and Torres Strait Islander health staff.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **New South Wales** Government stated in their 1995-96 implementation report that part (a) of this recommendation was difficult to address since many of their staff are located in a variety of locations, making the provision of cultural training difficult. Instead, the JH&FMHN have issued an

Aboriginal Health Policy which provides information for staff. The Department of Juvenile Justice were in the process of developing cultural training for staff. Currently, all JH&FHMN staff are mandated to undertake the Respecting the Difference training which aims to increase cultural competency and promotes greater understanding of the processes and protocols for delivering health services to Aboriginal people. All JH&FMHN employees are required to complete cultural awareness training, including those in adult correctional centres. The training was developed in consultation with, and delivered by, an external Aboriginal facilitator. All Juvenile Justice Youth Officers receive a full day cultural awareness training prior to commence work in centres.

CSNSW employs a full-time Aboriginal Cultural Awareness Trainer in the Aboriginal Strategy and Policy Unit, and conducts one-day sessions for all new and existing staff. The Unit has developed an Aboriginal Elders visiting initiative to provide cultural support to Aboriginal inmates in all CSNSW correctional centres and a means for inmates to maintain contact with the Aboriginal community. CSNSW also employ Aboriginal Mentors at Kempsey, Wellington, and South Coast correctional centres at Balund.

The New South Wales Government has implemented Recommendation 154 through a range of initiatives to increase cultural awareness and the employment of Aboriginal staff within the justice system.

In their 1994 implementation report, the **Victorian** Government stated that part (a) of this recommendation had been addressed as prison medical staff employed by the Department of Health and Community Services are provided training on the medical needs of Aboriginal and Torres Strait Islander people. Staff in Youth Training Centres must also attend cultural awareness training. More recently, section 2.2(7) of the *Correctional Management Standards for Men's Prisons in Victoria* stated that training must be provided to staff of Corrections Victoria with the aim of developing their understanding of the needs of Aboriginal and Torres Strait Islander people.

The 2005 Victorian implementation report stated that the private providers of medical and psychiatric services at prisons did not have specific cultural awareness training around Aboriginal and Torres Strait Islander detainee issues. However, the AJA 3stated that the Department of Justice would support delivery of cultural awareness training to prison health staff. For part (b) of this recommendation, the training mentioned in regards to part (a) of this recommendation and the AJA 3 was developed and designed by members of the Aboriginal and Torres Strait Islander community. For part (c) of the recommendation, the employment of more Aboriginal Health Workers was being investigated.

Currently, the Victorian Government notes that some Aboriginal Health Staff have been employed in prison health and forensic health services, and a Koori Scholarship program has been implemented to assist more Aboriginal and Torres Strait Islander individuals to work in the prison health sector.

The Victorian Government has implemented Recommendation 154.

The **Queensland** Government stated in their 1997 implementation report, in relation to part (a), cultural awareness was available to all juvenile justice staff. For adult correctional services, there was a recent session on Aboriginal and Torres Strait Islander health issues. This was seen by some staff and will also be shown to nursing supervisors. The Indigenous Mental Health Intervention Project is a culturally capable mental health service which has been implemented within two women's and men's prisons in Queensland to deliver social and emotional well-being programs in custody. For part (b), the report noted that there had been consultation conducted with the Aboriginal and Islander Community Health Services in relation to youth justice services. Finally, for part (c) of this recommendation, the implementation report noted that there had been difficulty recruiting Aboriginal and Torres Strait Islander nurses to Corrective Services.

The Queensland Government has mostly implemented Recommendation 154, with part (c) yet to be completed.

In their 1994 implementation report, the **South Australian** Government stated that there is a cross cultural awareness course offered to prison medical staff. The SA Government have also developed

the Aboriginal Services Unit which provides cultural awareness training to staff. The South Australian Government has also addressed this recommendation in their response to Recommendation 152.

The South Australian Government has partially implemented Recommendation 154 through introducing measures in response to part (a). However, it is unclear which actions have been taken to address parts (b) and (c) of this recommendation.

In the 1995 **Western Australia** implementation report, the WA Government stated that in relation to part (a), a training program had been developed and was in the process of being implemented. This was also repeated in a recent document *Code of Inspection Standards for Adult Custodial Services* which stated that cultural training must be provided to medical staff. It is a requirement that all custodial medical employees complete mandatory cultural awareness education when commencing employment with the Department of Justice.

For part (b), the WA Government stated that they had undertaken consultation with Aboriginal Medical Services. For part (c), the Government had recently appointed two Aboriginal Registered General Nurses. The Department of Justice continues to recruit Aboriginal Health Workers and Registered Nurses through the *Equal Opportunity Act 1984* (WA) s 50(d).

The Western Australian Government has implemented Recommendation 154.

In their 1993 implementation report, the **Tasmanian** Government stated that the prisoner medical services collaborate with the Aboriginal Health Service in meeting the needs of Aboriginal and Torres Strait Islander prisoners. There is also a cultural awareness program for prison medical and nursing staff. The Tasmanian Prison Service requires all recruits to complete a Cultural Awareness and Aboriginal Issues in Corrections session, and for all staff to complete an e-learning package called Interactive Ochre.

The Tasmanian Government has mostly implemented Recommendation 154. However, it does not appear that actions have been taken to address part (c).

The **Northern Territory** Government stated in their 1999-97 implementation report that in relation to part (a), all staff receive cross cultural training. For part (c), the employment of Aboriginal Health Workers is encouraged in Darwin and Alice Springs correctional centres. The actions taken towards the implementation of Recommendation 152 are also relevant to this recommendation.

The Northern Territory Government has mostly implemented Recommendation 154. However, it is unclear whether specific actions have been taken to address part (b).

In their 1997 implementation report, the **Australian Capital Territory** Government stated that in relation to part (a) of this recommendation, all youth justice staff receive training that specifically looks at working with people from diverse backgrounds. For part (b) of this recommendation, the Aboriginal Health Services provides additional health services to prisoners and provides advice to Corrective Services medical staff. Finally, for part (c), the ACT Government stated that recruiting medical personnel into health services, other than the part-time nurse position at the Belconnen Remand Centre, is not in the jurisdiction of ACT Corrective Services. Justice Health staff have participated in ACT Health Directorate general awareness education sessions related to Aboriginal and Torres Strait Islander people and Cultural awareness training is available to all Health Directorate staff.

The Aboriginal and Torres Strait Islander Policy Unit of the ACT Health Directorate acts as a conduit between individual teams and the wider Aboriginal and Torres Strait Islander community. Health Directorate policy includes an Aboriginal and Torres Strait Islander impact statement and they have also recently released their "Cultural Responsiveness Framework and Practice Standards for Aboriginal and Torres Strait Islander Liaison Officers within Mental Health, Justice Health and Alcohol & Drug Services (MHJHADS)" publication, which aims to establish and embed a Cultural Responsiveness Framework within MHJHADS and clarify the roles of Aboriginal and Torres Strait Islander Liaison Officers working in MHJHADS and establish a required standard of practice for these officers.

Justice Health employs two Aboriginal and Torres Strait Islander liaison officers who attend Alexander Maconochie Centre (AMC) on a weekly basis to engage Aboriginal and Torres Strait Islander detainees who have been referred to the Dhulwa Mental Health Unit or are being considered by ACT Justice Health professionals for referral. The ALOs have close working relationships with Winnunga Nimmityjah Aboriginal Health & Community Service and Gugan Gulwan Youth Aboriginal Corporation which supports the interface between mainstream and Aboriginal and Torres Strait Islander health services.

The Australian Capital Territory Government has partially implemented Recommendation 154 through the introduction of training and the function of Aboriginal Health Services. However, it does not appear that part (a) has been implemented in relation to staff employed in adult correctional institutions or part (c) has been implemented.

Recommendation 155

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

Background information

The RCIADIC identified that mortality and morbidity in the Aboriginal and Torres Strait Islander population differs from that of the non-Aboriginal and Torres Strait Islander population and that prison medical services would benefit from understanding this difference.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **New South Wales** Government stated in their 1995-96 implementation report that the Department of Corrective Services provides training specific to officer's tasks wherever possible. There is also suicide awareness and prevention training in the Pre-Service Training Course and the Senior Correctional Officer Course. The Department of Juvenile Justice provides training to all nursing staff in Aboriginal health issues. Aboriginal Cultural Awareness Training for CSNSW staff includes common risk factors that officers should be aware of for Aboriginal inmates. CSNSW, in conjunction with Victims Services, has also introduced Trauma Informed Practice Training for staff in selected correctional centres with a view to rolling it our state-wide. This training is aimed at supporting staff to better manage and help offenders who have experienced sexual and/or physical violence.

The New South Wales Government has implemented Recommendation 155 through CSNSW training, which includes cultural awareness, suicide awareness and prevention, and nursing components.

In their 1994 implementation report, the **Victorian** Government stated that the correctional services division recruit training courses provide information to prison staff which is designed to increase their awareness of Aboriginal and Torres Strait Islander issues. There is another health course run by correctional services called "Management of Aboriginal Offenders". In addition, there is suicide prevention courses provided to staff. The Department of Health and Community Services also provides cross cultural training to all youth officers. This training does not go into detail about Aboriginal and Torres Strait Islander health issues, but does provide an overview. In their 2005 implementation report, Corrections Victoria stated it was ensuring that its existing training encompassed information regarding the general health status of Aboriginal people designed to alert staff to the risk of Aboriginal people suffering from those illnesses.

Corrections Victoria has taken steps to incorporate Aboriginal and Torres Strait Islander cultural awareness into corrections staff training. As such, Recommendation 155 is complete.

The **Queensland** Government stated in their 1997 implementation report that they had updated the suicide prevention training package to include more information on duty of care and duty in preservation of life. All officers receive first aid training which includes information on suicide and self-harm. Training on counselling distressed prisoners, Aboriginal and Torres Strait Islander mental health, and identifying risk has also been included in further training. Additionally, all custodial recruits undertake cultural custodial awareness training which was developed in consultation with Aboriginal and Torres Strait Islander staff members of the Queensland Corrective Services.

Queensland Corrective Services psychologists are required to undergo cultural support training biannually. All prisoners on reception are screened for risks and needs, including substance abuse and withdrawal, mental health, cognitive or physical disabilities and are referred to Queensland Health for further assessment and treatment where required.

The Queensland Government has implemented Recommendation 155 through updated training modules.

In their 1994 implementation report, the **South Australian** Government stated that there is a trainee correctional officer program that provides training on how to identify prisoners who may be suicidal or partake in self-harm or be victims of abuse from other prisoners. There is also in-service training for officers in identifying prisoners who may be experiencing distress. The Department also sponsors a TAFE course in the Justice Studies Certificate called Correctional Administration which has been amended to include more coverage of issues that were highlighted in the RCIADIC. The Department of Correctional Services currently provides a comprehensive schedule for Trainee Correctional Officers, that includes Cultural Awareness training, Suicide Prevention training, and other health-related components.

The South Australian Government has implemented Recommendation 155 through the provision of training to address the principles raised in this recommendation.

The **Western Australia** Government stated in their 1995 implementation report that the actions taken to address this recommendation are the same as those taken to addressed Recommendation 154. Currently, cultural awareness training is delivered to all prison officers as part of entry-level training and ongoing professional development. All prison officers receive mandatory training in the use of the At Risk Management System and Gatekeeper suicide-prevention system, to assist those in distress. Each prison also has a cohort of peer support prisoners lead by prison support officers, who provide support to the needs of the person in custody.

The Western Australian Government has implemented Recommendation 155 through the provision of training to address the principles raised in this recommendation.

In their 1993 implementation report, the **Tasmanian** Government stated that this recommendation is addressed in the cultural awareness program provided to all prison officers. See also the Tasmanian response to Recommendation 154.

The Tasmanian Government has implemented Recommendation 155 through the cultural awareness program provided to all prison officers.

The **Northern Territory** Government stated in their 1994-95 implementation report that cultural training is provided throughout the Prison Officer Recruit training. Promotional training, custodial refresher training, mental health, communicable disease, suicide prevention, rescue and resuscitation, and cross-cultural courses were set to increase in 1996. The Northern Territory Government notes that cultural training remains mandatory, and has been continually updated in line with best practices. Nurses also attend a mandatory ACAP cultural awareness program as part of induction and orientation to the health service. Other initiatives during 2016-17 included a range of online courses and individual accredited professional development activities.

The Northern Territory Government has implemented Recommendation 155 through cultural training and a range of other training requirements to address this recommendation.

In their 1997 implementation report, the **Australian Capital Territory** Government stated that there is a training program provided to new recruits at the Belconnen Remand Centre, which addresses this recommendation. All youth justice staff also receive cultural training. With regards to any mental health issues faced by Aboriginal and Torres Strait Islander prisoners, prison officers know of the referral process for the Forensic Unit and this process will be formalised.

Currently, all Correctional Officer recruits attend a one-day Aboriginal and Torres Strait Islander Cultural Awareness Training course as a compulsory component of their training program. The training program also incorporates a one-day session on suicide and self-harm awareness, including: defining 'at risk' and duty of care; understanding risk; identifying risk; managing risk; and post-suicide event. Correctional Officers are also required to complete a unit of competency in the skills required to monitor Aboriginal and Torres Strait Islander offenders in a secure facility and respond to identified risks. Additionally, all Correctional Officers are required to hold a current First Aid Certificate which is refreshed annually.

The Australian Capital Territory Government has implemented Recommendation 155 through the provision of cultural training, mental health training, and other initiatives.

Recommendation 156

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

Background information

The RCIADIC noted that a medical assessment of a prisoner upon entry to a prison allows for any medical issues to be identified and appropriate medical services to be supplied.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

In **New South Wales**, Recommendation 156 is addressed through the Corrective Services NSW Custodial Operations Policy and Procedure. Timeframes are stipulated in Justice Health procedures, and all people entering custody in NSW Correctional Centres receive Reception Screening Assessments within 24-hours. Young Aboriginal people have an initial assessment conducted by a trained nurse within two days of entering custody. Follow up assessment by a specialist health professional is then conducted, as required.

Adults and young people in custody are prioritised for treatment according to their health needs. Section 11.2 of the Custodial Operations Policy and Procedure states that an inmate, if eligible, must be allocated a Case Management Officer within 24-hours of arrival. Screening information must be included in the inmate's case management file.

The New South Wales Government has implemented Recommendation 156 through the Corrective Services New South Wales Operations Procedure Manuals.

The **Victorian** *Standards for the Management of Women Prisoners in Victoria* and *Standards for Men's Prisons in Victoria* require that the prison general manager must ensure that upon initial reception into prison custody, a prisoner must undergo a comprehensive health, medical, and psychiatric screening

assessment by a medical practitioner as soon as possible after initial reception, and no later than 24 hours after reception.

Victoria has implemented Recommendation 156 through setting out procedures for screening upon reception of prisoners.

Queensland has a requirement that all prisoners must be seen by a registered nurse upon reception to prison. Persons identified at reception as having a mental illness or suspected mental illness can be referred to Prison Mental Health Services. The *Prison Mental Health Services Triage Prioritisation Guide* includes consideration of Aboriginal and Torres Strait Islander status. An Immediate Risks Needs Assessment (IRNA) is administered to prisoners admitted into Queensland Corrective Services custody. The IRNA is completed on a prisoner's admission and arrival after transferring from community supervision to a custodial facility. The purpose of the IRNA is to identify any immediate risks or needs that require immediate attention upon a prisoner's admission to the Queensland custodial system or arrival after transfer from community supervision to a custodial facility. The IRNA is administered by a psychologist or counsellor.

The Queensland Government has mostly implemented Recommendation 156 through procedures for screening upon reception of prisoners. However, procedures do not seem to cover where initial screening is not possible.

In **South Australia,** section 23 of the *Correctional Services Act 1982* (SA), states that as soon as practicable after the initial admission to a prisoner, the prisoner must be assessed. This assessment includes an assessment of the needs of the prisoner in respect to education or training or medical or psychiatric treatment. This generally occurs within the 72-hour time frame. The South Australian Government has also addressed this recommendation in their response to Recommendation 150.

South Australia has mostly implemented Recommendation 156 through the Corrective Services Act 1982 (SA). However, this does not seem to explicitly establish a timeframe.

Western Australia has addressed this recommendation in their *Code of Inspection Standards for Adult Custodial Services* which states that all prisoners should undergo a health examination by a qualified health professional within 72 hours after being received into prison. All new admissions to custody and prison, including young people, are required to be medically assessed for risks to physical and mental health and wellbeing within 24 hours of reception. Upon initial reception into prison, each patient is to be screened using the At Risk Management System – Reception and Intake Assessment by the receiving prison officer and nurse. Patients identified as needing review by a medical officer and/or mental health team are triaged and appointments made, depending on clinical presentation and acuity.

The Western Australian Government has implemented Recommendation 156 through their Code of Inspection Standards for Adult Custodial Services, and medical screening processes.

In their 1993 implementation report, the **Tasmanian** Government stated that all prisoners are screened by medical staff as soon as practicable. In youth justice, all prisoners undergo a medical and psychiatric assessment within 24 hours of admission. Currently in Tasmania, all new prisoners undergo a thorough health assessment upon reception into custody and referrals to relevant health professionals are made as required.

Tasmania has mostly implemented Recommendation 156 through the introduction of screening procedures. However, this does not seem to explicitly establish a timeframe for adults.

The **Northern Territory** Government stated in their 1994-995 implementation report that all prisoners are seen by qualified health personnel within 24 hours of reception. Currently, nurses on duty within watch houses will undertake a medical assessment of the prisoner and consult with a medical officer via telephone if required. All youth prisoners entering detention receive a health check and referral to a medical officer if required within 24 hours.

The Northern Territory has implemented Recommendation 156, as noted in the 1994-95 implementation report.

In the **Australian Capital Territory,** section 68 of the *Corrections Management Act 2007* (ACT) states that an assessment of a prisoner's physical and mental health needs and risks must be made within 24 hours after the detainee's admission. The health induction is a joint health assessment by primary health nurses and forensic mental health clinicians. A standardised process for health induction assessment has been developed for the screening of:

- general health, including any injury or pain issues;
- mental health, including suicide and self-harm assessment; and
- drug and alcohol screening.

Following the health screen at induction, both the primary health nurse and the forensic mental health clinician contact the medical officer to provide the outcomes of their assessment. The detainee is then referred as appropriate to GP or mental health follow-up.

The Australian Capital Territory has implemented Recommendation 156 through the Corrections Management Act 2007 (ACT).

Recommendation 157

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

Background information

The RCIADIC noted that in addition to screening a prisoner upon entry to a prison, obtaining the medical history of the patient would improve the provision of medical services to prisoners. Similarly, medical information collected by Prisoner Medical Services should be made accessible to other prison services if the prisoner is transferred to enable the consistent provision of medical treatment.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **New South Wales** Government stated in their 1992-93 implementation report that medical records accompanied a person from institution to institution, and that doctors had access to those records subject to confidentiality agreements. In 1993, this was incorporated into a procedures manual developed by the Correction Health Services Board for the manual transfer of medical records. The NSW Government also introduced a Prisoner Admission and Management Form to collect health information about detainees, particularly any known physical or psychological condition of the person that may increase their risk of death in custody. The transfer of information occurs between police and the Department of Corrective Services. Currently, the Reception Screening Assessment conducted on entry into a CSNSW Centre includes completion of a comprehensive medical history and a request of information inquiry from clinical service providers in the community. The NSW Government note that CSNSW is committed to expanding access to video conference and other digital delivery channels to enhance contact between inmates and their families.

The New South Wales Government has implemented Recommendation 157, noting in their 1992-93 implementation report that medical records accompanied a person from institution to institution, and that doctors had access to those records subject to confidentiality agreements.

In **Victoria**, all prisoners on admittance to custody have their medical history completed and recorded in a medical history file. That file is transferred with the prisoner between prisons, and is retrieved if a person returns to prison. More recently, the online transfer of information has also been developed. If a prisoner receives external care, medical documents from the prisoner's medical record are made

available to the treating facility. Health staff also contact external care providers (with the prisoner's consent) if a prisoner has had treatment for ongoing medical conditions outside of the prison system.

- *Victoria has implemented Recommendation 157 by retaining records of prisoners' medical history and co-ordinating healthcare inside and outside of prisons.*

Queensland's Government commented in 1993 that medical histories of Aboriginal and Torres Strait Islander people being admitted from prison were obtained where known and available and all prison medical files go with the inmate on transfer to another correctional facility. These provisions were formalised in guidelines, such as the *Healthy Prisons Handbook*. This guideline also allows prisons to access medical records in line with confidentiality and privacy restrictions. In Queensland, Prison Medical Services uses a state-wide clinical database which ensures access to both community and custody mental health assessment and treatment history. However, there are limitations to the access of the database within custody due to ICT infrastructure.

- *The Queensland Government has implemented Recommendation 157, in procedures and the Healthy Prisons Handbook.*

In **South Australia's** 1994 implementation report, the Government noted that Recommendation 157 had already been incorporated in practice. A comprehensive standard procedure on health-related issues in detention facilities was developed, covering drug and alcohol abuse, prescribed medication, special medical circumstances, and handling at risk and aggressive behaviours.

- *The South Australian Government has implemented Recommendation 157, noting in their 1994 implementation report that this was current practice at the time of the RCIADIC.*

In their 1994 implementation report, the **Western Australia** Government noted that medical information would accompany prisoners if and when they are transferred between prisons. Online transfer of medical information was also implemented for both adult and juvenile custody. Currently, the *Court Security and Custodial Services Act 1999* (WA) provides for prisons to access prisoners' medical records in line with confidentiality and privacy laws.

Additionally, the Health Services policy of the Western Australian Department of Justice requires all new admissions to custody and prison to be assessed by nursing staff within 24-hours of admission. As part of this process, the patient is requested to complete a consent form allowing Health Services to contact their community healthcare provider to ascertain what their current treatment is in the community and their medical history. Health Services policy also requires that all patients transferred to external healthcare facilities for inpatient care be accompanied by a transfer letter, outlining their current health problems (general or mental health), history, current medication regime and any other pertinent information. On discharge from hospital, Health Services requires a discharge letter from that facility to ensure continuity of care.

- *The Western Australian Government has implemented Recommendation 156, ensuring appropriate transfer of medical information to allow for continuity of care.*

Tasmania provides access to medical records for the Corrective Services Division. See also the Tasmanian Government's response to Recommendation 156.

- *The Tasmanian Government has implemented Recommendation 157, noting that access to medical records is provided for the Corrective Services Division.*

The **Northern Territory** Government commented in their 1993-94 implementation report that some records were available with prisoners' consent, and that information sharing occurred between various agencies on a 'need-to-know' basis. The Northern Territory Government notes that prisoner health records are separate from any other correctional centre management files relating to prisoners and are managed in accordance with the Department of Health Clinical Records Disposal Schedules. Prisoner health records can be accessed electronically across prisons, and prisoners transferred to a correctional centre outside of the Northern Territory are accompanied by a discharge summary.

The Northern Territory Government has partially implemented Recommendation 157. It only appears that some records are able to be accessed online, and shared on a 'need-to-know' basis.

The **Australian Capital Territory** *Watch-house Operations Manual* provides access to medical records by prisons, provided the disclosure of medical information is in accordance with confidentiality and privacy laws (paragraph 2.9). The ACT Corrective Services has also entered into an AFP Memorandum of understanding regarding the transfer of information about the health or risk status of detainees to ensure their continuing safe care. If a detainee has transferred from a prison interstate, the health records are requested; if the detainee comes from the community and has a health issue, the detainee's GP will be contacted for a treatment and medication history.

The Australian Capital Territory Government has implemented Recommendation 157 through the Watch-house Operations Manual.

Recommendation 158

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

Background information

The RCIADIC Report found that resuscitation was not attempted in many cases after discovering a scene of apparent death. It is believed that immediate attempts to resuscitate may reduce the number of deaths in custody.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. In the *1995-96 Annual Report*, the Commonwealth indicated that the AFP complies with this recommendation since ACT procedures require officers to commence first aid, including resuscitation, when needed. The AFP *National Guideline* does not appear to expressly require officers to attempt resuscitation or seek medical assistance upon discovering an apparent death in custody. The Guideline states that "all deaths in custody must be treated as a crime scene and investigated accordingly" (paragraph 22). The AFP noted that preservation of life is the priority for members attending to any incident involving the welfare of an individual.

The Commonwealth and the Australian Capital Territory Governments have implemented Recommendation 158 through the AFP's National Guideline and standard practices.

In **New South Wales**, the *Death in Custody Procedures* and the *Custody Deaths Investigation Manual* include the priority that, on finding a person apparently dead, resuscitation should be attempted and medical assistance should be sought. This practice is also enforced in Juvenile Justice by the *Self-Harm, Attempted Suicide and Suicide Procedure.* CSNSW has also incorporated this recommendation into procedures, set out in the *Custodial Operations Policy*, *Procedures 13.2 Medical Emergencies*, and *13.8 Crime Scene Preservation*.

The New South Wales Government has implemented Recommendation 158 through internal procedures.

The **Victorian** Government, through written instruction from the General Manager of Prisons Operations, provided in 1994 that when a prisoner is found apparently dead, the first course of action is to attempt resuscitation and/or to seek medical attention. Corrections Victoria confirmed this in the Victorian Government's 2005 implementation report, noting that "the preservation of life outweighs anything else at the scene of a crime/incident". This principle is incorporated into training for staff.

The Victorian Government has implemented Recommendation 158 through internal procedures and training.

In **Queensland**, should an inmate of a correctional facility be considered to be apparently dead, it is a requirement of the Queensland Corrective Services Commission that resuscitation treatment be administered until transferred to a medical centre or hospital. These provisions were also incorporated to the 1992 *Custody Manual*, and the juvenile *Detention Centre Manual*.

The Queensland Government has implemented Recommendation 158 through internal procedures.

The **South Australian** Government noted in their 1994 implementation report that Recommendation 158 had been incorporated into Correctional Services procedures, including *Task Outline 040522,* which deals with the maintenance and preservation of evidence. Under the *Standard Operating Procedure* relevant to Prisoner Death or Critical Injury, an officer must administer First Aid and attempt to resuscitate a prisoner. Delegated personnel covered by the Adelaide Youth Training Centre emergency order are also required to respond to a medical emergency through the application of first-aid until support arrives.

The South Australian Government has implemented Recommendation 158 through internal procedures.

The **Western Australia** Government implemented resuscitation and medical attention as a priority course of action in the event that a prisoner is found apparently dead. This is provided for in the *Police Department Lockup Management Manual* which places an obligation on police officers to protect life and property. It is currently standard practice for officers to attempt resuscitation and seek medical assistance.

The Western Australian Government has implemented Recommendation 158 through procedures and policy, including the Police Department Lockup Management Manual.

The **Tasmanian** Government has incorporated the priorities of resuscitation and medical attention in the event of a death or life-threatening injury in custody. This is provided in the *Tasmania Police Manual* which sets out detailed guidelines in the event of death or critical injury, including a step-by-step description of initial actions to be taken.

The Tasmanian Government has implemented Recommendation 158 through internal procedures outlined in the Tasmania Police Manual.

The **Northern Territory** Government incorporated the practice of attempting resuscitation and seeking medical assistance in their *General Orders – Prisoners – Code P12* in 1993. This was further reinforced by the *Correctional Services Superintendent's Instructions* under Emergency Procedures. The Northern Territory Government notes that NTPC policies, including Directive 2.8.2 Death of a Prisoner, contain instructions to all staff members regarding the priority to provide medical assistance and "make every effort to save life" regardless of scene preservation requirements.

The Northern Territory Government has implemented Recommendation 158 through internal procedures.

Recommendation 159

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

Background information

The RCIADIC Report noted that in some prisons and police watch-houses the location of resuscitation equipment was not well known among staff, and in some instances the equipment was inadequate.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP noted that all appropriate first aid and resuscitation equipment (including a defibrillator) is in place in the regional watch house. All watch house members are first aid qualified and nurses are regularly on shift to assist members in managing the health and welfare of persons in custody. The *Corrections Management Act 2007* (ACT) addresses this recommendation for the Department of Corrective Services and the care of prisoners in custodial facilities.

All ACT Corrective Services custodial officers are trained in CPR as part of First Aid training. ACT Corrective Services also has resuscitation packs (including defibrillators) available in all three main accommodation areas of the AMC. Justice Health staff undertake mandatory annual CPR training, which includes recognition of the deteriorating patient and the use of resuscitation equipment for basic life support.

- *The Commonwealth and the Australian Capital Territory Governments have implemented Recommendation 159 through the provision of resuscitation equipment in the ACT Policing regional watch house.*

In **New South Wales**, all corrective service institutions have a clinic where resuscitation equipment is stored and officers have been trained in the use of this equipment. Police also receive training in resuscitation techniques, and resuscitation masks are on hand at all police stations. The majority of Correctional Centres have access to a defibrillator which may be located with JH&FHMN clinic. JH&FMHN staff are equipped with emergency backpacks that include resuscitation equipment.

- *The New South Wales Government has implemented Recommendation 159 through the provision of resuscitation equipment and training for officers in its use.*

The **Victorian** Government stated in their 2005 implementation report that all Corrections Victoria prisons have resuscitation equipment situated in strategic locations within the prison environment. However, Corrections Victoria staff were not generally trained in using this equipment, though the report noted that this training would be undertaken "soon". With respect to police cells, police have access to resuscitation equipment and are trained to use it. The Victorian Government notes that currently a defibrillator is located within all police complexes and staff are trained in its use and methods of application.

- *The Victorian Government has implemented Recommendation 159 by providing resuscitation equipment and training in prisons and in police cells.*

Under the 1992 **Queensland** *Police Service Custody Manual*, training was developed to incorporate resuscitation training in line with Recommendation 159. First aid training was also provided in the *Competency Acquisition Program* for police up to, but excluding, commissioned ranks. The Queensland Government noted that resuscitation equipment is provided in all Queensland Corrective Services facilities.

- *The Queensland Government has implemented has implemented Recommendation 159 through the provision of resuscitation equipment and training for officers in its use.*

The **South Australian** Government noted that all Correctional Serves prisons have resuscitation equipment of the safest and most effective type readily available in the event of emergency and staff are trained in the use of such equipment. Defibrillators, first aid kits and trauma bags are readily available for Adelaide Youth Training Centre staff to use during an emergency and staff are trained in their application.

The South Australian Government has mostly implemented this recommendation by providing resuscitation equipment in custodial facilities, but it is unclear whether all staff are trained in using this equipment.

In **Western Australia**, it is a prerequisite for police recruits to have obtained a *Provide First Aid* Certificate. Under the *Western Australia Police Manual*, police members are required to undertake first aid and resuscitation training on induction, and every two years for members who use firearms or force options. Additionally, it is the responsibility of Officers in Charge of a lockup to ensure that adequate first aid and resuscitation equipment is provided, and that staff are adequately trained in its use. Appropriate resuscitation is placed at strategic locations, and personal resuscitation aids are carried by employees in prisons at the Banksia Hill Detention Centre. Resuscitation equipment is available at all Western Australia Police Force facilities.

The Western Australian Government has implemented Recommendation 159, by providing resuscitation equipment in custodial facilities and the relevant training for all custodial officers.

The 1993 **Tasmanian** implementation report recorded that prison officers and police watch-house keepers have been trained in the use of resuscitation equipment, which is available in prisons and all watch-houses. Currently, resuscitation equipment is available at all Tasmania Prison Service facilities and in 2017, six new defibrillators were introduced to the Risdon Prison Complex.

The Tasmanian Government has implemented this recommendation by providing resuscitation equipment in custodial facilities, and training in the use of this equipment.

Northern Territory Police watch-houses are equipped with resuscitation equipment and members who are specifically trained to perform watch-house duties and trained to use such equipment. Annual audits by the Professional Standards Unit are conducted regarding the availability of the resuscitation equipment. It is also a requirement under NTCS Directive 2.8.8 Emergency Medical Procedures that officers must maintain Senior First Aid certificates and be able to administer Cardiac-Pulmonary Resuscitation in an emergency.

The Northern Territory Government has implemented this recommendation by providing resuscitation equipment in custodial facilities, and training in the use of this equipment.

Recommendation 160

That:

> *a. All police and prison officers should receive basic training at recruit level in resuscitative measures, including mouth to mouth and cardiac massage, and should be trained to know when it is appropriate to attempt resuscitation; and*
>
> *b. Annual refresher courses in first aid be provided to all prison officers, and to those police officers who routinely have the care of persons in custody.*

Background information

Police and prison officers are often the first available to respond to incidents of illness or injury in custody. Adequate first aid and resuscitation training for police and prison officers can help reduce the risk of death in custody.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

For all jurisdictions, see also Recommendation 159 for actions taken towards the implementation of Recommendation 160.

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. In the Commonwealth's *1996-97 Annual Report*, it was noted that watch-house sergeants have been instructed by AFP Health Services Division in

resuscitation, first aid, and injury or illness identification. It was also noted that current new member training courses will include a segment on first aid, and in future all people applying to join the AFP would be required to have a First Aid Certificate. The AFP recruitment website[30] specifies that a senior first aid certificate, including CPR training, is required for all entry level policing and protective service officer roles. The AFP noted that all ACT Policing operational members are qualified to deliver first aid. Refreshers occur as required for the member to maintain the qualification. Additionally, all ACT Corrective Services officers are required to hold a current First Aid Certificate and are trained in the use of Automated External Defibrillators.

The Commonwealth and the Australian Capital Territory Governments have implemented Recommendation 160 through mandated first aid and resuscitation training for all AFP watch-house sergeants and new recruits.

The **New South Wales** Government requires all police recruits to have a current St John's First Air certificate, and the Police Resuscitation Training Unit conducts annual refresher courses in resuscitation in all local area commands. Guidelines for Police First Aid requirements are set out in Commissioner's Instructions 155.11 (Care and Supervision of Prisoners) and 155.16 (Medical). The CSNSW Brush Farm Academy provides accredited refresher training so all custodial staff can maintain currency of their First Aid Certificate.

Recommendation 160 has been implemented in New South Wales through mandated first aid and annual resuscitation training.

The **Victorian** Government requires recruit prison officers to be trained in resuscitation techniques, including annual refresher training. All Prison Medical Support Officers are trained to Level 3 First Aid. Police recruits are trained in cardiopulmonary resuscitation.

The Victorian Government has fully implemented Recommendation 160.

In **Queensland**, all prison officers and staff are provided first aid and resuscitation training in their pre-service training. Refresher courses are provided by the nursing staff in the various centres.

Recommendation 160 has been implemented in Queensland through the provision of first aid and resuscitation training in their pre-service training. Refresher courses are provided by the nursing staff in the various centres.

The **South Australian** Government commented in their 1994 implementation report that all staff must be trained in first aid and retain a current certificate, including knowledge of the application of cardiac massage and mouth-to-mouth resuscitation. Training courses were further refined in line with the principles in this recommendation, in collaboration with the Red Cross. It is currently a requirement that Correctional Officers have a current First Aid Certificate, and Adelaide Youth Training Centre staff are trained in first aid.

Recommendation 160 has been implemented in South Australia, with all staff required to hold a current first aid certificate. Training courses were also refined in line with this recommendation.

For **Western Australia**, this is covered in the response to Recommendation 160. All police and prison officers are required to maintain proficiency in first aid and resuscitation training, as well as other critical skill qualifications.

Recommendation 160 has been implemented in Western Australia, through first aid and resuscitation requirements.

The **Tasmanian** Government provided in their 1993 implementation report that all prison watch-house keepers receive annual refresher courses in first aid, and operational police receive ongoing first aid training where practicable. All frontline officers receive training every three years and watch-house keepers annually.

[30] https://www.afp.gov.au/careers/vacancies/how-apply/minimum-requirements

Recommendation 160 has been mostly implemented in Tasmania. However, all frontline officers receive training every three years instead of annually.

The **Northern Territory** Police require the attainment of Provide First Aid and Provide Advanced Resuscitation certificates at recruit level. All new recruits, prison officers, and youth workers are required to have undertaken certified courses.

Recommendation 160 has been partially implemented in the Northern Territory, it is not clear how regularly training is provided to address this recommendation.

Recommendation 161

That police and prison officers should be instructed to immediately seek medical attention if any doubt arises as to a detainee's condition.

Background information

The RCIADIC Report found that in some cases delays in providing medical care have contributed to the severity of cases involving injury or illness in custody. It was determined that custodial staff should be well trained in medical emergency procedures to ensure that medical attention is provided promptly.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP *National Guideline* provides that officers must immediately arrange for an ambulance and/or take appropriate action to provide medical assistance, if there are any signs that a person requires urgent medical attention (paragraph 18.3).

All ACT Corrective Services custodial officers are trained in relevant incidence response procedures and are instructed to seek immediate medical attention in the event of there being any doubt in respect to a detainee's health status. Should the matter be urgent or if there is any doubt as to the detainee's status a Code Pink (Medical Emergency Policy) is called for immediate medical attention provided by the Ambulance Service, outside of the Hume Health Centre operating hours.

The Commonwealth and the Australian Capital Territory Governments have implemented Recommendation 161 through the AFP National Guideline.

The **New South Wales** Government enacted the *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) which provides a right to immediate medical attention where the custody manager believes that such attention is necessary. The *NSW Police Force Code of Practice for CRIME* also requires immediate medical attention to be arranged if necessary, and for police officers to seek medical advice if they have any doubt regarding a detainee's health.

Additionally, the NSWPF's Police Commissioner's Instructions 155.11 and 155.16 state all frontline CSNSW officers and Juvenile Justice staff are required to seek medical attention if any doubt arises as to a person's condition.

The New South Wales Government has implemented Recommendation 161 through the Law Enforcement (Powers and Responsibilities) Act 2002 (NSW) and the NSW Police Force Code of Practice for CRIME.

In **Victoria**, the *Victoria Police Manual* (2015) requires immediate medical attention to be arranged where necessary, and for police officers to seek medical advice should they have doubt over a detainee's health. Victorian *Correctional Management Standards* also require staff to be trained on the requisite action to take in suicide and self-harm prevention and response.

Recommendation 161 is implemented in Victoria through the Victoria Police Manual (2015) and the Victorian Correctional Management Standards.

The **Queensland** Government provides in the *Queensland Police Service Operational Procedures Manual* that police officers must immediately seek medical advice if they have doubt over a detainee's health. Under section 16.13.1 of these guidelines, the responsible officer is required to immediately assess and re-assess the level of supervision and healthcare requirements for a prisoner if in doubt over a detainee's condition. Additionally, these guidelines require staff to be trained on actions to take in regard to emergency and suicide prevention. This is a fundamental principle of duty of care for correctional services officers and is included in the *Code Blue Medical Emergency Response Checklist*.

The Queensland Government has implemented Recommendation 161 through the Queensland Police Service Operational Procedures Manual.

The 1993 **South Australian** implementation report noted that Recommendation 161 had been incorporated into Correctional Services procedures and by Police Standing Orders. Presently in accordance with Standard Operation Procedures, Correctional Services staff are trained to seek medical attention for a prisoner if they have any doubt as to the prisoner's condition. Relevant Adelaide Youth Training Centre emergency and operational orders outline these requirements.

The South Australian Government has implemented Recommendation 161 through Correctional Services procedures and Police Standing Orders.

The **Western Australia** *Court Security and Custodial Services Regulations 1999* provides that detainees receive immediate medical attention where necessary. The *Western Australia Police Manual* also requires that those in charge of lock-ups arrange medical attention for detainees as is required. The Western Australian Government notes that Recommendation 161 has been incorporated to standard practice for all police and prison officers in their duty of care.

The Western Australian Government has implemented Recommendation 161 through the Court Security and Custodial Services Regulations 1999, the Western Australia Police Manual, and current practices.

The **Tasmanian** Government noted in their 1993 implementation report that the Department of Justice has introduced procedures to ensure that immediate medical care can be provided for prisoners. Additionally, if a watch-house keeper is under any doubt as to a prisoner's medical condition, it is a requirement that medical care is sought.

The Tasmanian Government has implemented Recommendation 161, as noted in their 1993 implementation report.

The **Northern Territory** Government addressed Recommendation 161 through *General Orders – Prisoners – Code P12*. In 1993, this order was extended to also apply to suicides and attempted suicides. This recommendation is also incorporated into the *General Order – Custody Part II*, which places a priority on the safety and welfare of the individual person in custody. The Northern Territory Government note that this recommendation has been implemented through the *NTCS Incident Reporting and Recording Policy*, and the *At Risk Policy*.

The Northern Territory Government has implemented Recommendation 161 through General Orders – Prisoners – Code P12.

Recommendation 162

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

Background information

The RCIADIC Report observed that clear guidelines on the use of firearms are necessary to achieve a balance between protecting the public and protecting the rights and welfare of detainees.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP *Commissioner's Order on operational safety (C03)* states that AFP employees may only carry or use munitions and equipment that they are qualified to use in accordance with AFP training (paragraph 16). All members who use firearms are trained in a range of methods (including retention) and refresher training is conducted annually. AFP officers are also required to undertake operational safety assessments on the use of firearms, batons, handcuffs, conducted energy weapons and chemical agents (paragraph 24). This includes firearms handling assessments and scenario based assessments that emphasise the use of communication, negotiation and conflict de-escalation.

- *In the Commonwealth and the Australian Capital Territory, Recommendation 162 has been implemented through the AFP Commissioner's Order on operational safety (C03).*

In **New South Wales**, for correctional services, regulation 295 under the *NSW: Crimes (Administration of Sentences) Regulations 2014* applies. This regulation states that a correctional officer can only carry or use a firearm if they have undergone approved training on the use of that firearm. Police training includes accreditation and annual reaccreditation relating to the use of issued sidearms. For CSNSW, all custodial officers undertake weapons training in primary training which includes being proficient with legislation and policies surrounding the use of firearms.

- *The New South Wales Government has implemented Recommendation 162 through the NSW Crimes (Administration of Sentences) Regulations 2014 and the introduction of training.*

Victoria has the *Victoria Police Manual* which sets out guidelines regarding firearms training for police. For correctional officer the *Correctional Management Standards for Men's Prisons in Victoria* and the *Standards for the Management of Women Prisoners in Victoria* state that training must be provided to firearm users. The 2005 implementation reports nots that, since the RCIADIC, Victoria Police have introduced oleoresin spray, conflict resolution training and operational safety tactics to avoid use of firearms except in necessary situations.

- *Victoria has implemented Recommendation 162 through firearms requirements in the Victoria Police Manual.*

In **Queensland,** the *Operational Procedures Manual* chapter 14 sets out the guidelines around firearms training for police. Section 14.5 states that a service fireman should not be issued to an officer unless the officer has been trained and qualified in the use of the particular type of firearm. The *Corrective Services Act 2006* (Qld) section 144 states that the chief executive must ensure that a corrective services officer authorised to use lethal forces has been trained to use lethal force and other forms of force in a way that causes the least possible risk of injury to anyone other than the person against whom lethal force is directed.

- *The Queensland Government has implemented Recommendation 162 through the Operational Procedures Manual and the Correctional Services Act 2006 (Qld).*

The **South Australian** Government provided in their 1994 implementation report that the Department of Correctional Services was committed to phasing out the use of firearms in normal operations within prison. The Department reduced the number of firearms in prisons and provided for staff training in defence without using weapons. Additionally, the Police *General Orders* cover this recommendation. Currently, all Correctional Services Officers who use firearms are trained in methods of weapons retention that minimise the risk of accidental discharge. Officers are required to reach and maintain a qualification and be authorised by the Chief Executive to use and carry firearms.

- *The South Australian Government has implemented Recommendation 162 through the Police General Orders and the introduction of mandatory training requirements.*

Western Australia has an Operational Safety and Tactics Training Unit which is responsible for all critical use of force skills and operational safety training for police. WA also has the *Western Australian Police Manual* which sets out guidelines for firearms training. For correctional officers the *Adult Custodial Rule 15* is applicable, as is *Prisons Regulations 1982.* Both state that a firearm must only be used by a person who has completed a relevant training program.

All police officers and members of the Department of Justice Special Operations Group are required to maintain their proficiency in the appropriate use of firearms and tactical training. The use of firearms as a tactical option must be in accordance with jurisdictional law, policy and training guidelines. Any use of force must be necessary according to the circumstances, and members are accountable for their actions using such force.

The Western Australian Government has implemented Recommendation 162 through the introduction of training requirements relevant to firearms.

Tasmania provided in their 1993 implementation report that Recommendation 162 was fully implemented in Corrective Services. The Tasmanian Police adopted the standard national guidelines for the use of lethal force and the deployment of police in high risk situations.

The Tasmanian Government has implemented Recommendation 162 as noted in their 1993 implementation report, and through the adoption of the standard national guidelines for the use of lethal force and the deployment of police in high risk situations.

In the **Northern Territory**, the *Northern Territory Criminal Code* establishes the law in relation to the use of force, including the use of firearms. The *Police General Orders – Firearms* also explains the law and gives other guidelines in regard to the use of firearms by members. The Northern Territory's 1993-94 implementation report noted that access to firearms is not permitted in Correctional Services unless the officer has been trained in their use. Recommendation 162 was incorporated into the *Criminal Code and Prisons (Correctional Services) Act 2005* and Director's Rule 7/1994. However, these instruments have been repealed and replaced by the *Correctional Services Act 2014* (NT) and Commissioner Directives. The *General Order – Operational Safety and Use of Force* provides guidance to police members on the use of force and directs the qualification and requalification requirements associated.

The Northern Territory Government has implemented Recommendation 162 through the Correctional Services Act 2014 (NT) and the General Order - Operational Safety and Use of Force, alongside other legislative instruments.

Recommendation 163

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

Background information

The RCIADIC Report indicated that inadequate training in restraint techniques and the use of restraint equipment contributed to a number of custodial deaths.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP *Commissioner's Order on Operational Safety (C03)* states that AFP employees may only use handcuffs and other approved restraints in accordance with AFP training and when they believe that their use is necessary to restrain a person in lawful custody (paragraph 11). Any use of force must be reasonable, justifiable and is always applied

as a last resort. Reasonable force is defined as 'the minimum force necessary and reasonable in the circumstances of a particular incident'. Restraint equipment must only be used when it is appropriate, including consideration of the extent to which the person in custody is violent; has attempted escape; needs to be escorted; is at risk of self-injury; likely to lose, conceal or destroy evidence; or threatens to expel bodily fluid or has done so. All Police and Protective Services Officers receive annual officer safety training and assessment, which includes the use of restraints and restraint techniques, including their application.

The Commonwealth and Australian Capital Territory Governments have implemented Recommendation 163 through the AFP Commissioner's Order on operational safety (C03).

The 1992-93 **New South Wales** implementation report noted that Prison Officer Recruits receive training in restraint techniques during their primary training. Additionally, instructions on use of restraint techniques are provided to student police during recruit training. This includes training in the use of handcuffs, restraining belt, riot equipment, batons, and physical controls skills. These training requirements were provided for in Police Commissioner's instructions 2.05 *Discouraging use of Physical Restraint Methods* annual training. These training requirements remain current, with police officers and custodial officers required to undergo annual training in restraint techniques during compulsory Officer Survival training.

Recommendation 163 has been implemented in New South Wales through the Police Commissioner's instructions 2.05 Discouraging use of Physical Restraint Methods annual training.

In **Victoria**, training in restraint techniques is incorporated into Correctional Services Division recruit courses and periodic training is provided. All police recruits are trained in restraint techniques on an annual basis. The Victorian Government also introduced the *Corrections Regulations 2009* and the correctional management guidelines. In its 2005 implementation report, Victoria Police confirmed that restraints are only used as a last resort, depending on the extent of violence police are faced with.

Recommendation 163 is implemented in Victoria through training procedures and Corrections Regulations 2009.

The **Queensland** Police Service provides restraint technique training in both pre-service and in-service training. The training is consistent with the principle that physical restraint methods be invoked only as a last resort. More recently, Queensland has incorporated the intent of this recommendation into the *Queensland Police Service Operational Procedures Manual* and the *Queensland Corrective Services Custodial Operations Standard Operating Procedure* which outlines the use of force. These guidelines also specify that prison officers are to be trained to use approved techniques. For Corrective Services, Queensland Corrective Services' control and restraint re-accreditation training was changed from three yearly to every 12 months commencing July 2017. Youth detention centre staff are provided with extensive training which has specific emphasis on staff using verbal and non-physical de-escalation techniques, this includes trauma informed practice.

Recommendation 163 has been implemented in Queensland through the introduction of pre-service and in-service training, as well as through procedural guidelines.

In **South Australia**, trainee correctional officers receive training in restraint holds during the induction training course and active members of institutional emergency response groups receive regular training in application of physical and mechanical restraint methods. Adelaide Youth Training Centre staff are trained in restraint techniques designed by Maybo (a conflict management and physical intervention training provider) techniques, including SAFERcare™ for conflict management, SAFER PI™ for handcuffing and SAFER PI™ for assault reduction, disengagement and holding (use of reasonable force). An operational order is in place, outlining the use of reasonable force, including staff roles and responsibilities.

Recommendation 163 has been partially implemented in South Australia through the introduction of training modules. However, this does not appear to include measures to positively discourage the use of restraint techniques.

Western Australia incorporated Recommendation 163 into the *Court Security and Custodial Services Regulations 1999* which provides that restraint devices can only be used by authorised persons who have successfully undergone training. Currently, training in the use of restraints is facilitated by the Operational Safety and Tactics Training Unit within the WA Police Force. Actions taken towards Recommendation 162 are also relevant to this recommendation.

The Western Australian Government has partially implemented Recommendation 163, as it does not appear that the use of force or restraints is required to be used only as a last resort.

The **Tasmanian** Government noted in their 1993 implementation report that prison officers are trained in restraint techniques at induction, including in the use of the long baton. However, regular ongoing training had not yet been implemented. Currently in the Tasmania Prison Service, control and restraint training is provided to all correctional staff. A Director's Standing Order in relation to the use of force states that force should be only used as a last resort and for the minimum period where other means have proved unsuccessful and where not to act would threaten safety, security or the good order of the prison.

The Tasmanian Government has mostly implemented Recommendation 163 through the introduction of training and a Director's Standing Order in relation to the use of force. However, it is unclear how frequently this training is provided.

In the **Northern Territory**, restraint techniques are taught at police recruit level and training is facilitated by Defensive Tactics Instructors. All training stresses the avoidance of confrontation and encourages conflict resolution to avoid the use of restraint methods. Intensive training is also provided to prison officers and youth workers in the use of restraining techniques. The guidelines for training requirements are outlined in NTCS Directives 2.2.3 Use of Restraints and 2.2.4 Use of Force. All training and directives emphasise verbal communication as the first priority to disfusing any incident.

Recommendation 163 has been implemented in the Northern Territory through the introduction of training and development of procedural guidelines including NTCS Directives 2.2.3 Use of Restraints and 2.2.4 Use of Force.

Recommendation 164

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

Background information

The RCIADIC Report commented that charging detainees in relation to self-harm showed a lack of empathy towards the detainee and could increase the distress felt by that person.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. All charges made by ACT Policing members are evidence-based and subjected to examination in light of obvious defences (including those relating to the mental state of the accused). Only in the absence of obvious defences, or where obvious defences do exist but there is evidence to negate them, will charges proffered by ACT Policing members be pursued.

The Commonwealth and the Australian Capital Territory Governments have implemented Recommendation 164 through the AFP's standard approach for determining when to pursue charges.

The **New South Wales** Government provides that police officers should give careful consideration, prior to a charge being laid, as to whether it is appropriate. Currently under the *Crimes (Administration of Sentences) Act 1999* (NSW) and Regulations, an act of self-harm is not prescribed as offence in custody and therefore cannot be charged. In addition, this is also set out in the *Police Commissioner's Instruction 155.04 - Charging*.

Recommendation 164 has been implemented in New South Wales through the Crimes (Administration of Sentences) Act 1999 (NSW) and Regulations, and Police Commissioner's Instruction 155.04 - Charging.

In **Victoria**, there is no longer a specific offence of self-harm/mutilation in the *Corrections Regulations 1988*. It is not police practice to charge detainees with offences after they have been involved in self-harm.

Recommendation 164 is implemented in Victoria under the Corrections Regulations 1988.

The **Queensland** Police Service *Operational Procedures Manual* states that officers must exercise discretion when deciding to charge persons in custody with minor criminal or regulatory offences arising from incidents where self-harm or suicide was solely the intended outcome of the unlawful conduct. This is further supported by provisions in the Queensland Police Services *Custody Manual*. Under the *Corrective Services Act 2006*, self-harm is not an offence.

Recommendation 164 has been implemented in Queensland through the Queensland Police Service Operational Procedure Manual and the Corrective Services Act 2006 (Qld).

The **South Australian** Government stated in their 1993 implementation report that Recommendation 164 had been implemented, and that inflicting self-harm is not an offence, in South Australia. Correctional Services also established a working group in the mid-1990s to explore the issue of suicides and incidents of self-inflicted injury.

Recommendation 164 has been implemented in South Australia, as noted in the South Australian Government's 1993 implementation report.

Western Australia's 1994 implementation report commented that Recommendation 164 had been incorporated into police practice, and that there is no legislation that precludes a person from committing acts of self-harm.

As noted in their 1994 implementation report, the Western Australian Government has implemented Recommendation 164.

The 1993 **Tasmanian** implementation report states that prisoners are not charged with self-harm in Tasmania. This is covered by Tasmania Prison Service suicide and self-harm guidelines.

Recommendation 164 has been implemented in Tasmania, through Tasmania Prison Service suicide and self-harm guidelines.

The **Northern Territory** had implemented the intent of Recommendation 164 at the time of the RCIADIC. Self-harm prisoners and detainees in Northern Territory prisons are not, as a matter of course, charged with any offence. Under the *General Order – Custody Part II*, the NTPF conducts regular audits of all watch houses to ensure ongoing compliance to the best practices of design and safety.

Recommendation 164 has been implemented in the Northern Territory through existing provisions which stated that self-harm prisoners and detainees in Northern Territory prisons are not charged with any offence as a matter of course.

Recommendation 165

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

Background information

The RCIADIC Report commented that prison and police station environments may contain equipment and facilities that, if misused, could present a hazard to detainees, cause harm or result in death.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. The AFP *National Guideline* requires that AFP employees conduct daily checks of cells and facilities to ensure they are in good working order, and search and clean them after use (paragraph 40). ACT Policing take into consideration the potential harm that could be caused in Watch House cells and all efforts are made to ensure persons do not have access to anything which may cause them harm. Where a detainee is identified as being at risk, the use of the padded cell can be engaged to ensure their safety. In the *1995-96 Annual Report*, the Commonwealth noted that the new Jervis Bay Territory Police Station complex met the requirements of this recommendation, and that the situation will be monitored to ensure the station and cells remain safe. The *Corrections Management Act 2007* (ACT) addresses this recommendation for the Department of Corrective Services and the care of prisoner's in custodial facilities.

Additionally, the ACT Corrective Services have a policy outlining the storage and control of chemicals and cleaning materials in line with the principles of this recommendation. The ACT Government provided funding across the 2012-13 and 2013-14 financial years to undertake ongoing structural improvements to the Corrective Services Unit to increase detainee and staff safety. The design of the Alexander Maconochie Centre also takes into account the principles of this recommendation.

The Commonwealth and the Australian Capital Territory Governments have implemented Recommendation 165 through facility check procedures mandated by the AFP National Guideline, and the delivery of improved facilities at the Jervis Bay Territory Police Station.

In **New South Wales**, current practice is for each cell to be searched before and after use for anything that may be used to inflict harm or to cause damage. Prompt reports are required to be made if cells are considered insecure or hazardous. These provisions are contained in the NSW *Police Code of Practice for CRIME* (2012) which establishes protocols for inspecting people in custody and cells. Additionally, all moveable items which present a potential danger, have been removed from cells and all hanging points have been either removed or screened since the time of the RCIADIC.

Recommendation 165 is implemented in New South Wales through the NSW Police Code of Practice for CRIME (2012) and the introduction of screening procedures.

The **Victorian** Police Manual requires that custody staff should visually inspect and search detention facilities before a prisoner is placed or allowed in them, after the prisoner is released, and periodically throughout the shift. The manual also states that the staff member must check that the area is clean and free of objects that could be used to cause injury, and that no hanging points are available. The Victorian Government allocated $50m for upgrades to cells after four deaths at a private prison attributable to hanging points in cells and shower facilities. The Building Design Review Project Team prepared the *Building Design Review Project Guidelines 2000* and the *Cell and Fire Safety Guidelines*

Revision 2004. Upgrades were completed in a number of prisons to ensure compliance with these guidelines.

Recommendation 165 is implemented in Victoria, based on the requirements of the Victorian Police Manual and the initiatives taken by the Building Design Review Project Team.

The ***Queensland*** *Police Service Operational Procedure Manual* requires prisoners to be supervised when in areas that have hanging points, such as exercise yards and shower facilities. The Manual doesn't include a provision for inspecting facilities, but instead focuses on items illegally brought to the facility which may cause harm. For Corrective Services, all correctional facilities built in Queensland since 1996 have been designed to minimise the risk of self-harm by a change of structure and removal of hanging points. As at June 2017, 91.9% of secure cells have suicide reduction measures in place.

Currently, fire-fighting appliances are secured from prisoners' access, every high security correctional centre has a hazardous chemical register and clear guidelines over their storage and control, and Queensland Corrective Services does not use any corrosive chemicals in these centres. Queensland Corrective Services has a policy position to not bring any new cells online with hanging points.

Recommendation 165 is partially implemented in Queensland through the Queensland Police Service Operational Procedure Manual and the design of correctional facilities. However, it does not appear that there have been provisions introduced for the screening or removal of hazardous items or hanging points.

The **South Australian** Government commented in their 1993 implementation report that all new prison designs would incorporate the intent of Recommendation 165. The South Australian Government also noted the tension that exists between providing a humane atmosphere and that which will resist the most determined suicide-intent prisoner. With respect to potential ligature (hanging) points, Correctional Services continues to modify infrastructure to remove or modify potential points based on an assessment of risk. An Adelaide Youth Training Centre operational order outlines that Fabric and Integrity Checks are the responsibility of all operational staff.

Recommendation 165 is partially implemented in South Australia, with the 1993 implementation report noting that new prisons would incorporate the intent of this recommendation. It does not appear that hazardous items or hanging points were screened or removed from existing prisons.

The **Western Australia** *Police Manual* requires officers to check the condition of a cell before placing a prisoner in it, and to check it whenever the prisoner is removed, but does not make reference to equipment that may be used to cause injury.

The Western Australian Government has advised that it complies with the Australian standards for prison infrastructure regarding the containment and storage of essential equipment, and there are regular Occupational Safety and Health inspections conducted in prisons with corresponding reports and implementation of report recommendations. The Western Australia Police Force monitor the application of the Custodial Design Guidelines and, where appropriate, will amend them as required.

The Western Australian Government has implemented Recommendation 165 through compliance with the Australian standards for prison infrastructure, and the conduct of regular checks in prisons.

In **Tasmania's** 1993 implementation report, the Government noted that all reasonable steps are taken to remove dangerous items from prisoners and that a program had been implemented to improve cell conditions as resources become available. Since 2001, Tasmania has introduced new men's maximum and medium security accommodation and upgraded the Mary Hutchinson Women's Prison. New infrastructure and refurbishment projects also seek to introduce safer cell designs and remove the risks covered in this recommendation.

The Tasmanian Government has implemented Recommendation 165 as noted in their 1993 implementation report, and through the incorporation of these principles into new infrastructure and refurbishment projects.

In the **Northern Territory**, all police cells are checked and obvious injury points removed, including the screening of high level hanging points. In the 1993 implementation report, the Northern Territory Government noted that the NT Police Force had spent over $300,000 modifying cells to remove hanging points, upgrade electrical connections, and install fire alarms. A comprehensive review of all correctional institutions was also conducted at the time to ensure that prisoners did not have access to dangerous equipment. The *General Order – Custody* also implements this recommendation through providing information on the requirement to record and share relevant information between Agencies when custody of a person is transferred. The correctional facility's operating procedures prevents unauthorised or unsupervised use of any emergency equipment.

Recommendation 165 is implemented in the Northern Territory, based on the screening or removal of hanging and injury points. The General Order – Custody also implements the principles of this recommendation.

Recommendation 166

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

Background information

The RCIADIC Report found that the exchange of information (such as medical history) between various custodial authorities, including police and corrective services, can reduce the risk of death in custody.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

For actions taken towards the implementation of Recommendation 166, see also Recommendation 157.

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. In the Commonwealth's *1995-96 Annual Report*, it was noted that in 1994 the AFP has introduced a prisoner transfer form, which indicates whether a detainee has displayed signs of being "at risk". It was further noted that the AFP uses *In Custody Files,* which provide relevant information (including medical conditions, mental conditions, violent tendencies or other concerns) when a person in custody is transferred into the custody of another agency. The procedures were formalised through an MOU between the AFP, ACT Corrective Services, ACT Juvenile Justice Service and the New South Wales Department of Corrective Services in 1995-96 and is still in place (*1995-96 Annual Report*). As of 28 April 2017, the ACT Corrective Services has a Memorandum of Understanding with ACT Policing regarding the exchange of information relating to the care of prisoners.

Recommendation 166 has been implemented by the Commonwealth and the Australian Capital Territory Governments through AFP's use of prisoner transfer forms, In Custody Files, and an MOU between policing and correctional agencies.

The **New South Wales** Government noted in their 1992-93 implementation report that the Police/Corrective Services Inter-Departmental Committee had produced a report on preventing all deaths in custody, and a draft Prisoner Admission/Prisoner Custody Risk/Transfer Form. Current practices are in place to ensure information is provided from the NSWPF to CSNSW and Juvenile Justice, including providing a copy of the NSWPF Custody Management Record when a detainee is transferred into corrective custody.

The New South Wales Government has implemented Recommendation 166 through facilitating transfer of information between police and custodial authorities.

The **Victorian** Government noted in their 1993 implementation report that existing arrangements between the Office of Forensic Medicine (Police) and the Forensic Health Services ensure an

information flow and high standard of medical delivery. Additionally, a new Prisoner Information form was introduced containing basic pertinent information attached to a prisoner's warrant. In their 2005 implementation report, Corrections Victoria advised electronic transfers of information meant there had been no recent issues identified relating to this recommendation.

The Victorian Government has implemented Recommendation 166 through facilitating electronic transfer of information between police and custodial authorities.

In **Queensland's** 1993 implementation report, the Government noted that the transfer of information about each prisoner from the Queensland Police Service to the Queensland Corrective Services Commission occurs both on informal and formal bases. In 2016 there was an independent review of the youth detention centres in Queensland, which made 83 recommendations. The Queensland Government accepted all recommendations and work is underway to implement the recommendations. Within youth detention ongoing consultation and engagement with staff and external experts occurs to create a culture of review and continual improvement.

The Queensland Government has implemented Recommendation 166 through facilitating formal and informal transfer of information between police and custodial authorities.

The **South Australian** Government commented in their 1993 implementation report that information is exchanged on a number of levels, facilitated by a Correctional Services Liaison Officer appointed by the Police Department. Additionally, a Prisoner Information Sheet was introduced: see Recommendation 130. The Department for Community and Social Inclusion has a Memorandum of Administrative Arrangement in place with South Australia Police and the Department of Correctional Services, for sharing information to reduce risk to all young people, with consideration for privacy / confidentiality. Youth Justice records what is requested, why it is requested, and what is provided to meet the requirements of the Ombudsman South Australia Information Sharing Guidelines for promoting safety and wellbeing.

The South Australian Government has implemented Recommendation 166 through facilitating transfer of information between police and custodial authorities.

In **Western Australia**, the Government noted in their 1994 implementation report that it is established practice to provide all relevant information when a detainee is transferred to Corrective Services, Health Department agencies, or other Police lockup facilities by using the Form P10B.

Currently, medical and personal information is stored in the Custody Management Application and risks are highlighted to effectively manage the person in custody. The Western Australia Police Force records and updates all medical information on the Application and uses this in assessing risks. Upon transfer to another agency, current reports are printed out and provided to the third party contracted transport officer. All risks and history while in custody are transferred, and the contractor is required to sign an Authority to take Charge document whereby the contractor confirms that the person in custody's medical and risk history has been provided.

The Western Australian Government has implemented Recommendation 166 through facilitating the transfer of information between police and custodial authorities.

The **Tasmanian** Government noted in their 1993 implementation report that procedures had been established between Tasmania Police and the Corrective Services Division to ensure that relevant information on prisoners is exchanged. Currently, a Memorandum of Understanding exists between the Tasmania Prison Service and Tasmania Police.

The Tasmanian Government has implemented Recommendation 166 through facilitating transfer of information between police and custodial authorities as outlined in a Memorandum of Understanding.

In the **Northern Territory's** 1993-94 implementation report, it was noted that informal exchanges of information between Police and Correctional Services relating to the care of prisoners is routinely carried out. Additionally, Correctional Services and the NT Police have access to a common computer system (IJIS), which includes details of any injury or disease a prisoner may have. Formal protocols

were also established between the NT Police, the Department of Correctional Services and the Department of Health, and a Memorandum of Understanding drawn up for the sharing of information.

The Northern Territory Government has implemented Recommendation 166 through facilitating transfer of information between police and custodial authorities.

Recommendation 167

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

Background information

The RCIADIC investigation highlighted issues relating to the identification and care of those at risk of death in custody. These issues were similar to those experienced by adult prisoners, including the need for: supervision; proper care-worker training; a safe physical environment; adequate support systems for detainees; and access to proper care.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **New South Wales** Government noted in their 1992-93 implementation report that Juvenile Justice had incorporated Recommendation 167 into procedures and practices applied to juvenile detention. Several oversight mechanisms are in place to review operation of juvenile detention centres. The Inspector of Custodial Services is currently conducting a review of use of force and use of segregation and confinement in NSW Juvenile Justice Centres.

The New South Wales Government noted in their 1992-93 implementation report that Recommendation 167 had been implemented and that there exist several oversight mechanisms are in place to review operation of juvenile detention centres.

The **Victorian** Government, in 1993, updated the *Practice and Procedure Manual for Juvenile Justice Centres* in line with Recommendation 167. Standards of care provided in Juvenile Justice Centres reflect at least the minimum standards prescribed for persons in police or prison custody. The Victorian Government's 2005 implementation report observed that Child Protection and Juvenile Justice continually reviewed policy to ensure it complied with the RCIADIC recommendations and 'best practice' frameworks for Aboriginal and Torres Strait Islander young people.

The Victorian Government has implemented Recommendation 167 through the updated Practice and Procedure Manual for Juvenile Justice Centres.

The **Queensland** Government noted in their 1993 implementation report that the Department of Family Services and Aboriginal and Islander Affairs had considered all recommendations that relate to police and prison custody and applied them to the juvenile justice system. As best practice in youth justice the aim is to place the young person in the detention centre closest to their place of residence. The following policies apply to transferring a young person to/from youth detention centres:

- a young person must be transferred to an adult correctional facility if they are 17 and have six or more months remaining to serve;
- a young person may be transferred to a mental health facility or another Australian youth justice jurisdiction if it is in the young person's best interests;
- a young person may be transferred between youth detention centres for safety and/or operational reasons.
- the young person must be afforded all possible contact with their legal representatives prior to the transfer.
- Consultation about the transfer will occur with the young person, their parents or care providers, the Youth Justice Service caseworker and other relevant stakeholders. This includes liaison with the Hospital and Health Service or interstate health authority for any continuing health treatment that the young person requires.

- Discretionary transfers must be informed by an assessment of risk and suitability.
- All case management documentation must be updated prior to enacting any transfer.
- Interstate transfers will only proceed when the sending and receiving State and Territory have agreed to the arrangements.
- For transfers between youth detention centres:
  - a young person is to be returned to a youth detention centre if or when the factors that led to their transfer are resolved
  - an estimated return date should be established prior to enacting the transfer
  - the young person will be provided with an opportunity to participate and have their views taken into account in planning processes to the fullest extent possible, having regard to age and ability to understand
  - young people who have are court date within the following two weeks are not eligible to be transferred to another centre

The Queensland Government has implemented Recommendation 167 through the introduction, and ongoing review, of policies to further the standard of care provided to young people in juvenile custody.

In their 1994 implementation report, the **South Australian** Government noted that the RCIADIC's principles had been used as the basis for enhancing practices and procedures over several years, and incorporated into a revised Standard Procedures. The Youth Justice Administration Act 2016 (SA) embeds the current Youth Justice service model and promotes contemporary practice by reflecting that assessment, case planning and rehabilitation programs are key to reducing re-offending. The Act also recognises the important contribution of families and communities in supporting young people and the over-representation of Aboriginal and Torres Strait Islander young people in the justice system. To further support culturally appropriate practice, the legislation introduces the Aboriginal and Torres Strait Islander Youth Justice Principle. The legislative requirements are reflected in policies, guidelines, procedures and Adelaide Youth Training Centre Orders and where possible, compliance requirements have been built into forms and templates.

The South Australian Government has incorporated the principles of Recommendation 167 as a basis for enhancing practices and procedures over several years, and to developing a revised Standard Procedure.

According to the Australasian Juvenile Justice Administrators, **Western Australian** youth justice department policies and procedures are reviewed to ensure compliance with the Australasian Juvenile Justice Administrator's National Standards. The Western Australian Government further notes that this recommendation has been implemented since the 1994 compliance report. More recently, the Department of Justice has been developing a new trauma-informed model of care for the Banksia Hill Detention Centre which incorporates individualised care and case coordination that recognises vulnerability, developmental levels, gender and cultural beliefs and practices.

As noted by the Western Australian Government, Recommendation 167 has been implemented since the 1994 compliance report.

The **Tasmanian** Government commented in their 1993 implementation report that staff had received training, and practiced closer liaison with the Aboriginal and Torres Strait Islander community in response to Recommendation 167.

The Tasmanian Government has partially addressed Recommendation 167 through the ongoing consultation of Aboriginal and Torres Strait Islander communities. However, it does not appear that ongoing monitoring and evaluation specifically occurs or that the standard of care is considered.

The **Northern Territory's** 1993-94 implementation report states that ongoing monitoring and evaluation has been conducted internally and through independent Official Visitors and Boards of Management. Territory Families has also reviewed and updated youth justice policy directives, and the amended *Youth Justice Act 2005* (NT) includes new provisions regarding the conditions and treatment of young people in detention.

The Northern Territory Government has mostly implemented Recommendation 167. While ongoing monitoring and evaluation activities occur, there does not appear to be a provisions made regarding the standard of care to be considered.

The **Australian Capital Territory** Government commented in their 1993-94 implementation report that Juvenile Justice's operational practices and procedures and training, as set out in Juvenile Justice's procedures manual, have been reviewed and amended in accordance with Recommendation 167. These principles have been incorporated into practice, for example through the model of care used by the Bimberi detention centre.

The Australian Capital Territory Government has implemented Recommendation 167 through the updated Juvenile Justice's procedures manual.

7.2 The prison experience (168-187)

Recommendation 168

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

Background information

The RCIADIC noted that community connection was important for Aboriginal and Torres Strait Islander people and the difficulties of sustaining this connection when an Aboriginal and Torres Strait Islander prisoner may be geographically displaced from their community.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

In **New South Wales** the *Aboriginal and Torres Strait Islander Inmate Handbook* notes that a prisoner can request to be close to family. Under current practices, the Aboriginal Classification Officer makes decisions relating to classification and placement decisions for Aboriginal inmates. Having regard to the safety of staff and security of the correctional centre and the needs of Aboriginal offenders, these decisions can be informed by the family and other supports available to Aboriginal offenders at specific locations. Aboriginal inmates have the right to ask for consideration of a change of placement, following the process set out in section 14.2 of the CSNSW Offender Classification and Case Management Policy and Procedures Manual.

The New South Wales Government has implemented Recommendation 168 as noted in the Aboriginal and Torres Strait Islander Inmate Handbook.

Victoria has implemented this recommendation through the *Corrections Regulation 2009* and the *Corrections Victoria Sentence Management Manual.* The manual states that Aboriginal and Torres Strait Islander people should be engaged in the discussion regarding placement options. Under regulation 26 of the *Corrections Regulation 2009* placements need to take into account the cultural background of a prisoner.

These provisions are also supported by the *Sentence Management Manual AC 5 – Determining a Prisoner's Placement,* which states that staff must ensure that the prisoner is able to engage in the discussion regarding placement options and that consideration must be given to placement at a location at which a prisoner may maintain cultural links and other appropriate supports. All prisoners have the right to request a review of their classification at any point in time by making an application to the Case Management Review Committee at their prison location. If unsatisfied with the response from the Committee, the prisoner can write to the Assistant Commissioner, Sentence Management, and ultimately to the Victorian Ombudsman.

Victoria has implemented Recommendation 168 through the Corrections Regulation 2009 and the Corrections Victoria Sentence Management Manual.

Queensland has implemented this recommendation through the *Corrective Services Act 2006* (Qld) and the *Corrective Services Regulation 2006.* Regulation 34 of the *Corrective Services Regulation 2017* states that an Aboriginal and Torres Strait Islander prisoner must be as close as practicable to their family. Section 71 of the *Corrective Services Act 2006* (Qld) allows for the prisoner to appeal to the chief executive to reconsider a transfer decision. If a young person cannot be located in the detention centre closest to their home and family, they can be eligible for financial assistance, which can support transport, accommodation, and meals. Young people are also allowed to correspond to approved persons through mail, telephone calls, and video link-ups.

The Queensland Government has implemented Recommendation 168 through the Corrective Services Act 2006 (Qld) and the Corrective Services Regulation 2006.

In **South Australia** the *Correctional Services Act 1982* (SA) section 23 requires that initial and periodic assessment of prisoners should take into account family ties. However, no appeal mechanisms were found. If a prisoner is located away from their family, the prisoner can request a short-term transfer to access family visits. The Adelaide Youth Training Centre operates as a 'one-centre, two-campus' model and therefore the principles of this recommendation concerning the transfer between institutions do not apply. The Adelaide Youth Training Centre does provide mechanisms, including phone and visitations, for residents to maintain contact with family.

South Australia has mostly implemented Recommendation 168 through the Correctional Services Act 1982 (SA) which requires that initial and periodic assessment of prisoners should take into account family ties. However, no appeal mechanisms were found.

In **Western Australia** the *Inspection Standards for Aboriginal Prisoners* and the *Code of Inspection Standards for Adult Custodial Services* state that Aboriginal and Torres Strait Islander prisoners should be able to serve out their term in their own country. A recent *Report of an Announced Inspection of Casuarina Prison*[31] found that 60% of Aboriginal and Torres Strait Islander prisoners were 'out of country'.

Currently, the Adult Custodial Rule 18 *Assessment and Sentence Management of Prisoners* provides that, where practicable, people in custody are to be placed as close as possible to family, friends, and/or significant others in order to promote family, community, and social support. This Rule also provides that prisoners have the right of appeal against placement decisions.

The Western Australian Government has implemented Recommendation 168 through the Inspection Standards for Aboriginal Prisoners, the Code of Inspection Standards for Adult Custodial Facilities, and Adult Custodial Rule 18. However, it is unclear to what extent this is followed in practice.

Tasmania has implemented this recommendation through the *Tasmania Prison Services, Director's Standing Orders*. Order 2.12 states that Aboriginal and Torres Strait Islander prisoners are allowed to request to be accommodated amongst their peers and are able to attend cultural events and programs. The Tasmanian Government also stated in their 1995 implementation report that there are difficulties in placing prisoners close their family members since the prisons suitable for longer term accommodation in Tasmania are all located in Southern Tasmania. There is also no mechanism for prisoners to appeal against their place of incarceration because there is only one prison in Tasmania for long-term accommodation and a single youth detention centre.

The Tasmanian Government has mostly implemented Recommendation 168 through Tasmania Prison Services, Director's Standing Order 2.12. However, no appeal mechanisms were found.

In the **Northern Territory,** prisoners are held in an institution as close to their home community as possible. However, this is not always possible due to security or operational constraints. Under the

[31] Office of the Inspector of Custodial Services 2014, *Report of an Announced Inspection of Casuarina Prison,* ISSN 1445-3134

Sentencing Act 1995 (NT), the Court decides where to place a prisoner. The family and cultural background of the prisoner might be taken into account in the Court's decision; however, there is no legislation or policy stating it must be taken into account. Prisoners have the right to appeal to the Commissioner on any operational matter, including where they may be accommodated.

The Northern Territory Government has partially implemented Recommendation 168. While the family and cultural background of the prisoner might be taken into account in the Court's decision; there is no legislation or policy stating it must be taken into account.

The **Australian Capital Territory** Government stated in their 1997 implementation report that there is a formal agreement with NSW that allows for ACT prisoners to be placed in one of the four facilities closest to the ACT. An ACT prisoner in a NSW jail can also request a transfer through the NSW system or through the ACT system. In 2008. The ACT opened the Alexander Maconochie Centre, and offenders in the ACT are as a matter of routine placed in this institution. The ACT is a small jurisdiction geographically and the Alexander Maconochie Centre is the only prison in the ACT. Only in extremely rare occasions are prisoners sent to a NSW prison, for example the Goulbourn prison in the event that a greater level of security is required.

In the Australian Capital Territory, Recommendation 168 has been addressed through formal agreement with NSW and the role of the Alexander Maconochie Centre.

Recommendation 169

That where it is found to be impossible to place a prisoner in the prison nearest to his or her family sympathetic consideration should be given to providing financial assistance to the family, to visit the prisoner from time to time.

Background information

The RCIADIC noted that the families of Aboriginal and Torres Strait Islander prisoners may have financial constraints and would be unable to visit family members in prison, especially if the family lives in a remote area. Providing financial support may aid Aboriginal and Torres Strait Islander people to visit their family members in prison and support cultural and family connection.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

In **New South Wales,** there is the *Travel and Accommodation Assistance Scheme* which provides funding for families who face difficulties in paying for the costs of travel and accommodation when visiting family members in correctional centres that may be located far away from their home[32]. CSNSW is also continuing work on utilising audio visual links for family visits.

New South Wales has implemented Recommendation 169 through the Travel and Accommodation Assistance Scheme.

Victoria implemented the *Aboriginal Family Visits Program* which aims to ensure Aboriginal and Torres Strait Islander prisoners within Victoria remain in contact with their families. The program provides bus and train tickets, reimbursement of petrol expenses and taxis, and accommodation if a person must travel at least three hours from home to prison and travel interstate. The AJA 3 aims to support the *Aboriginal Family Visits Program* to enhance connection of Aboriginal and Torres Strait Islander offenders with their families and communities.

Victoria has implemented Recommendation 169 through the Aboriginal Family Visits Program.

32 http://www.correctiveservices.justice.nsw.gov.au/Documents/Reports%20and%20Publications/Visit_Brochure_2016_2_Approved_ONLINE.pdf

Queensland Corrective Services has video conferencing equipment in all facilities to enable prisoners to keep in contact with families in rural and remote areas. Youth detention centres are also able to subsidise families for transportation and accommodation costs to visit their children in detention.

Queensland Corrective Services currently has a Family Support Budget program available for families to seek financial support to visit Aboriginal and Torres Strait Islander prisoners. Applications are approved at the discretion of the General Manager. Additionally, the following strategies are funded to enable families to maintain contact with Aboriginal and Torres Strait Islander prisoners: at-risk cell visitation, Elders Visitation Services, cultural connection programs (Aurukun), Aboriginal and Torres Strait Islander leadership programs, first peoples chaplaincy, and visitor transport services state-wide.

The Queensland Government has addressed Recommendation 169 through video conferencing, and the provision of funding and strategies targeted at supporting families to maintain contact with Aboriginal and Torres Strait Islander prisoners.

In **South Australia** an organisation called Aboriginal Prisoners and Offenders Support Services, which was set up in response to the RCIADIC, provides a bus once a month to transport families to Port Augusta and Cadell prisons to visit family members. No other financial services are provided to family members to cover travel costs.

The South Australian Government has partially implemented Recommendation 169 through the provision of bus transport once a month. No evidence of other financial consideration could be located.

The **Western Australian** *Code of Inspection Standards For Adult Custodial Services* standard 13.5 states that when an out of country placement is unavoidable, compensatory measures such as video telephone calls to family and periodic transfer to a prison that will enable family visits should be undertaken. Financial assistance is not provided in Western Australia for family members to visit people in custody.

The Western Australian Government has partially implemented Recommendation 129 through the Code of Inspection Standards for Adult Custodial Services. However, financial assistance is not provided for family members to visit people in custody.

The **Tasmania** Prison Service works closely with non-government organisations to provide support to families, including free transport from the north of the State and affordable accommodation for families next door to the Risdon Prison Complex. Video visits are also available for prisoners from the North or North-West of Tasmania. Community and Custodial Youth Justice work together to facilitate family access to Ashley Youth Detention Centre (AYDC). This may include booking and paying for transport or providing fuel vouchers.

The Tasmanian Government has implemented Recommendation 169 through initiatives including transport and video conferencing services.

The **Northern Territory** has video-conferencing services available to Aboriginal and Torres Strait Islander prisoners to be used for family contact. The NTCS Directive 2.15.3 Prisoner Access to Video Conferencing notes that prisoners should be permitted one hour of video conference linkup each month or two half hour conferences per month. However, no financial assistance programs for family were found and the Northern Territory Government noted that this recommendation is not supported due to funding constraints.

The Northern Territory Government has partially implemented Recommendation 169 through the provision of video conferencing. However, no financial assistance programs for family were found and the Northern Territory Government noted that this recommendation is not supported due to funding constraints.

In the **Australian Capital Territory,** Prisoners Aid is funded by the ACT Government to assist non-ACT residents to visit detainees in the Alexander Maconochie Centre. The provision of financial assistance is based on a merit-based process and primarily contributes towards petrol costs and assistance in finding inexpensive accommodation. ACT Corrective Services practice is to give

favourable consideration to Aboriginal and Torres Strait Islander detainees attending funerals and significant family functions.

The Australian Capital Territory has implemented Recommendation 169 through the provision of funding towards Prisoners Aid.

Recommendation 170

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

Background information

The RCIADIC identified a need to ensure an appropriate environment for visits with family and friends to reduce the negative impacts of prison and to improve social integration after release.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

New South Wales have stated in *Family Matters: A Strategy for Service and Program Provision to Children and Families of Offenders* that they are committed to providing child and family friendly visiting areas. CSNSW is committed to expanding access to video conference and other digital delivery channels to enhance contact between inmates and their families.

Currently, CSNSW offers quality-parenting programs to encourage offenders to be effective parents, and recognises the importance of visits by family and friends as part of an offender's rehabilitation. To address officer interventions, the *Crimes (Administration of Sentences) Regulation 2012* and s 10.2 of the Custodial Operations Policy and Procedures provides the overarching ability of the Commissioner and Governors to impose restrictions on, or prohibit entry to, a visitor to the correctional centre. Under clause 100 of the Regulation, the Governor of a correctional centre may direct that a visit is to be, or is to continue as a non-contact visit if of the opinion that the visitor is likely to (a) introduce into the centre prohibited goods; or (b) to act in a threatening, offensive, indecent, obscene, abusive or improper way.

The New South Wales Government has mostly implemented Recommendation 170 through Family Matters: A Strategy for Service and Program Provision to Children and Families of Offenders. However, this does not appear to address the level of intervention of correctional officers in the conduct of such visits.

The **Victorian** Government have stated that they have adequate facilities for conducting visits by friends and families which includes non-contact, contact, and in some facilities private areas for families. This is the case for the juvenile justice centres as well. Staff intervention during family visits is at a minimum and only occurs when necessary.

Victoria has implemented Recommendation 170 by having adequate facilities for conducting visits by friends and families.

In **Queensland,** under section 150 of the *Corrective Services Act 2006* (Qld) new prisons should have a meeting place for Aboriginal and Torres Strait Islander prisoners that promotes communication and endorses the prisoner's cultural heritage. The Queensland Government noted that supervision is undertaken by correctional services officers with the minimal intervention that is required to maintain the safety of staff, visitors and prisoners while ensuring prisoner containment and security. Queensland Corrective Services has video conferencing equipment in all facilities to facilitate family visits with families in rural and remote areas of Queensland. Youth detention centres aim to create a welcoming atmosphere for visitations to occur, by providing facilities including tea and coffee, access to barbecue areas, and access to a birthday cake and photographic facilities in the event of the young person's birthday.

The Queensland Government has implemented Recommendation 170 through the Corrective Services Act 2006 (Qld), the provision of adequate facilities, and updated organisational practices.

In their 1994 implementation report, the **South Australia** Government stated that they ensure that Rule 79 of the United Nations Standard Minimum Rules for the Treatment of Prisoners is enforced, this Rule states that "special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interests of both". Private family facilities have been provided in all new institutions and prisoners are entitled to receive visits from authorised visitors. The South Australian Government recognises that visits from relatives and friends enable prisoners to maintain community ties and play an essential role for the present and future wellbeing of prisoners and their families. Adelaide Women's Prison Visits Centre and the Adelaide Youth Training Centre have both been equipped with a children's play area and family visit rooms. An Adelaide Youth Training Centre operational order outlines the management and supervision of residents and their visitors.

The South Australian Government has mostly implemented Recommendation 170 by enforcing Rule 79 of the United Nations Minimum Rules for the Treatment of Prisoners, and the provision of adequate facilities. However, this does not appear to address the level of intervention of correctional officers in the conduct of such visits.

Western Australia has implemented this recommendation through their *Code of Inspection Standards for Adult Custodial Services* document. Standard 118 states that "all visiting facilities within the prison should be comfortable, pro-social and safe environment that maximise ease of contact between prisoners and their visitors".

Western Australia is also a signatory to the minimum national standards that require prisons to treat visitors with respect, and provide visiting facilities that are conducive to receiving visitors in a dignified manner consistent with the security and good order of the prison. This is also supported by Adult Custodial Rule 7, which allows for daily visits of remandees and weekly visits of those who are sentenced. Banksia Hill Detention Centre has a separate 'visits' area for families visiting young people in custody, and supervision is provided at the least intrusive level possible while still maintaining security. The Department of Justice also provides options for child residence and extended day and overnight stay programs, enabling women and primary caregivers to maintain or establish bonds and relationships with their children. Policy Directive 10 provides guidance on women having their children in prison with them.

The Western Australian Government has implemented Recommendation 170 through a range of procedural documents and processes governing visitation.

The **Tasmania** *Prison Services Director's Standing Order 4.04* explicitly sets out that visits should be in a friendly and relaxed environment. The Ashley Youth Detention Centre is equipped with an outdoor barbecue area, a dining room, and a range of other family-friendly areas. Risdon Prison Complex also offers family friendly facilities, as does the Ron Barwick Minimum Security Prison.

The Tasmanian Government has mostly implemented Recommendation 170 through the Prison Services Director's Standing Order 4.04. However, there does not appear to be a requirement that involvement by custodial officers be minimal.

In the **Northern Territory**, the Northern Territory Correction Services have incorporated this recommendation into a number of directives which make provisions within correctional facilities for the conduct of visits by friends and families, and which support visits to a prisoner in a constructive manner. If a visitor requires video conferencing to a prisoner this is conducted in accordance to NTCS Directive 2.15.3 Prisoner Access to Video Conferencing.

The Northern Territory Government has incorporated Recommendation 170 into a number of directives which make provisions within correctional facilities for the conduct of visits by friends and families, and which support visits to a prisoner in a constructive manner.

In the **Australian Capital Territory,** only one new prison has been built since the RCIADIC, the Alexander Maconochie Centre. This prison has been "specifically designed to provide a non-threatening family and child friendly environment". This prison also includes family rooms, child play areas, and barbeque facilities[33], and provides visits five days per week. Visits may be contact or non-contact, with contact visits occurring in a communal visit area under the supervision of Corrections Officers. An internal CCTV system also records visits. ACT Corrective Services also engage the 'Shine for Kids' community organisation to facilitate programs within the Alexander Maconochie Centre aimed at building relationships between parents in custody and their children, and reducing the level of trauma for the child associated with such visits.

The Australian Capital Territory Government has mostly implemented Recommendation 170 in the design of the Alexander Maconochie Centre. However, no specific actions have been taken towards minimising correctional officer intervention.

Recommendation 171

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

Background information

The RCIADIC recognised that the concept of family within Aboriginal and Torres Strait Islander culture includes extended family which should be taken into account when an individual requests leave.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

In **New South Wales** prisoners are able to apply for local leave permits to attend a funeral service of an immediate family member, attend the funeral services or burial of an extended family member where special kinship or cultural obligations have been verified and confirmed, and to attend an event of family or cultural significance. This is set out within section 7.16.3 in the *Corrective Services New South Wales Operations Procedures Manual*. Where it is not possible for an inmate to attend a funeral in person, an audio visual link option has been trialled with initial success. The CSNSW Strategy for Supporting Aboriginal Offenders to Desist from Re-offending recognises the importance of family, kinship, community and culture are highly significant to Aboriginal people.

The New South Wales Government has implemented Recommendation 171 through the Corrective Services New South Wales Operations Procedures Manual and CSNSW Strategy for Supporting Aboriginal Offenders to Desist from Re-offending.

In **Victoria,** sections 57A and 82 of the *Corrections Act 1986* (Vic) states that the Secretary may issue a custodial community permit to a prisoner for leave to travel to attend the funeral of a person with whom the prisoner has had a long standing personal relationship, or for any other compassionate purpose, including in the case of an Aboriginal and Torres Strait Islander prisoner, to enable them to be present at an occasion of special significance to the prisoner's immediate or extended family.

Victoria has implemented Recommendation 171 through provisions of the Corrections Act 1986 (Vic).

In **Queensland,** under section 73 of the *Corrective Services Act* (Qld), prisoners are granted compassionate leave to attend a relative's funeral. This Act also states that the culturally specific needs of the prisoner must be taken into account when considering a compassionate leave request. Another document, *Funeral Attendance of Aboriginal Prisoners,* provides guidance regarding Aboriginal and Torres Strait Islander prisoner attendance at funerals and includes clarification of the definition of kinship in Aboriginal and Torres Strait Islander communities. Queensland Corrective Services provides

[33] http://correctionscoalitionact.org.au/Links/docs/RCIADIChr.pdf

favourable consideration, as well as funding, to support Aboriginal and Torres Strait Islander prisoner attendance at funerals. Where funeral attendance is not possible, Queensland Corrective Services works with prisoners to hold a memorial service in the correctional centres in partnership with Murri Chaplains or to arrange a video-conference with the family to support the prisoner. Young people are permitted to take a leave of absence from a youth detention centre to attend a visit. This includes visits to other correctional facilities, funerals, and events to help with transitioning from detention back into the community.

The Queensland Government has implemented Recommendation 171 through provisions of the Corrective Services Act (Qld) and the Funeral Attendance of Aboriginal Prisoners document.

In **South Australia** the *Correctional Services Act 1982* (SA) and section 34 of the *Youth Justice Administration Act 2016* (SA) allows prisoners to be granted leave for compassionate purposes. The Aboriginal and Torres Strait Islander Youth Justice Principle within the *Youth Justice Administration Regulations 2016*, outlines that Aboriginal and Torres Strait Islander young people will be supported to uphold their cultural responsibilities through cultural ceremonies, funerals, and cultural practices.

In South Australia, Recommendation 171 has been implemented through the Correctional Services Act 1982 (SA), and the Youth Justice Administration Act 2016 (SA).

In **Western Australia**, under division 9 of *Prisons Regulation 1982,* prisoners are allowed an absence permit for facilitating maintenance of cultural ties, enabling the prisoner to meet cultural obligations, and enabling the prisoner to be absent from prison on compassionate grounds. However, under *Policy Directive 9,* the Department of Corrective Services has financial and security limitations and as a result only immediate family relationships will be considered favourably for absence permits.

Requests for exceptional relationships are considered on a case-by-case basis, and financial limits are placed on the attendance - $2,000 for local and $6,000 for remote communities. Unsuccessful applicants are allowed one appeal of the decision in order to provide more information to inform the decision. Young people in custody at Banksia Hill Detention Centre seeking to attend funerals and other significant family events are supported by provisions for absence from detention, factoring in Aboriginal and Torres Strait Islander culture and traditional matters.

The Western Australian Government has implemented Recommendation 171 through the Prisons Regulation 1982 and other actions taken to consider family in respect of principles in this recommendation.

In **Tasmania,** section 42 of the *Corrections Act 1997* (Tas) allows leave permits for prisoners to attend the funeral of a person with whom the prisoner had a longstanding relationship, or in the case of a prisoner who is an Aboriginal and Torres Strait Islander person, to attend events of special cultural significance to their community. Section 130 of the *Tasmanian Youth Justice Act 1997* (Tas) allows young people to take temporary leave from the detention centre for multiple purposes, including to take part in cultural events, visit family or to attend a funeral.

The Tasmanian Government has implemented Recommendation 171 through the Corrections Act 1997 (Tas) and the Tasmanian Youth Justice Act 1997 (Tas).

In the **Northern Territory,** under section 118 of the *Correctional Services Act 2014* (NT), the Commissioner may issue a general leave permit on compassionate grounds; however, it is unclear whether this would be applicable for extended family or kin. The Northern Territory Government noted that funeral attendance may be granted for close family members and significant others dependent on security issues, cost reimbursement and operational requirements. Additionally, the Northern Territory Correction Services Directive 2.1.19 *Sorry Business* seeks to ensure that all eligible Aboriginal and Torres Strait Islander prisoners are given the opportunity to attend Sorry Business and have their application considered with fairness and equity.

The Northern Territory has mostly implemented Recommendation 171 through the Correctional Services Act 2014 (NT) and the Northern Territory Correction Services Directive 2.1.19 Sorry Business. However, it is unclear if compassionate leave is avialable for extended family or kin.

In the **Australian Capital Territory,** there are local leave permits whereby any prisoner can obtain written permission to be absent from a correctional centre for compassionate reasons. This is not specific to Aboriginal and Torres Strait Islander prisoners and therefore might not include the extended family of Aboriginal and Torres Strait Islander people.

As discussed in actions taken towards Recommendation 170, Prisoners Aid is offered by the ACT Government. Additionally, the *Corrections Management (Aboriginal and Torres Strait Islander Detainee and Offender) Policy 2018* notes that ACT Corrective Services supports the rights of Aboriginal and Torres Strait Islander detainees and offenders to maintain, protect and develop their cultural heritage, language, knowledge and kinship ties. In line with this, it is practice to give favourable consideration to Aboriginal and Torres Strait Islander detainees attending funerals and significant family functions, with leave given by the General Manager on a case-by-case basis. ACT Corrective Services (ACTCS) is also bound by section 27(2) of the *Human Rights Act 2004* (ACT) on these issues.

The Australian Capital Territory has implemented Recommendation 171 through local permits and favourable consideration for Aboriginal and Torres Strait Islander people to attend significant family functions.

Recommendation 172

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

Background information

The RCIADIC identified the need for Aboriginal and Torres Strait Islander prisoners to be able to access Aboriginal and Torres Strait Islander organisations and services.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

In **New South Wales,** under the *Crimes (Administration of Sentences) Regulation 2014,* the governor of a correctional centre may permit a person to visit a centre. In addition, Aboriginal prisoners may be visited by a field officer of the Aboriginal Legal Services, or a field officer of any other organisation that provides legal or other assistance to Aboriginal people that is approved by the commissioner. This is supported by the *Corrective Services New South Wales Operations Procedures Manual* which states that field officers of the Coalition of Aboriginal Legal Service are permitted to visit all Australian Aboriginal inmates.

New South Wales has implemented Recommendation 172 under the Crimes (Administration of Sentences) Regulation 2014 and the Corrective Services New South Wales Operations Procedures Manual.

In **Victoria,** regulation 60 of the *Corrections Regulations 2009* states that a prisoner's lawyer may visit the prisoner and enter the prison. In addition, regulation 61 states that a prisoner who is in the custody of a prison officer or an escort officer and is at court awaiting trial must be given the opportunity to have access to a lawyer. The *Correctional Management Standards for Men's Prisons in Victoria* also states that a prison general manager will provide Aboriginal and Torres Strait Islander prisoners with access to an Aboriginal Wellbeing Officer/Aboriginal Liaison Officer within 24 hours of reception into the prison system, and provide programs for Aboriginal and Torres Strait Islander prisoners which incorporate links to community programs.

Victoria has implemented Recommendation 172 under the Corrections Regulations 2009.

Queensland offers legal services to prisoners through the Aboriginal and Torres Strait Islander Legal Service. The Elders Visitation Program is active in all correctional services facilities and First Peoples Chaplaincy Services also regularly visit most correctional centres. Young people are entitled to regular visits from their Elder groups from their local community, community visitor officers, and legal officers.

Queensland has implemented Recommendation 172 through a range of visitation programs, including the Elders Visitation Program.

In **South Australia** there is an Aboriginal Prisoners and Offenders Support Service which regularly visits prisons in South Australia. The South Australian Government note that prisoners can access periodic visits from professionals and representatives from Aboriginal and Torres Strait Islander organisations while incarcerated, including Aboriginal Legal Rights Movement. This is also the case for residents of the Adelaide Youth Training Centre.

The South Australian Government has implemented Recommendation 172 as prisoners can access periodic visits from professionals and representatives from Aboriginal and Torres Strait Islander organisations while incarcerated.

Western Australia has in place an Aboriginal Visitors Scheme whereby Aboriginal and Torres Strait Islander people visit and provide support for Aboriginal and Torres Strait Islander prisoners. Aboriginal and Torres Strait Islander organisations are able to visit Aboriginal and Torres Strait Islander detainees in custody pursuant to ss 62, 65 and 95E of the *Prisons Act 1981* (WA) and *Adult Custodial Rule 7*. These visitors are unable to directly help prisoners with money, legal, or medical issues but are able to refer prisoners to other agencies. Within WA, Legal Aid and the Aboriginal Legal Service of Western Australia also visit prisons and provide legal services to prisoners who may not have legal representation. However, Aboriginal and Torres Strait Islanders are not explicitly entitled to receive periodic visits from Aboriginal and Torres Strait Islander organisations.

The Western Australian Government has implemented Recommendation 172 through legislation governing visitation.

In the **Tasmanian** 1995 Implementation Report, it was noted that the Aboriginal Legal Service is encouraged to visit Aboriginal and Torres Strait Islander prisoners. The Tasmanian Government commented that there are no restrictions on visits from representatives of Aboriginal and Torres Strait Islander organisations, and that prisoners are able to access Elders who help to address cultural and social needs. Elders visit Ashley Youth Detention Centre every fortnight. They engage with both Aboriginal and Torres Strait Islander and non-Aboriginal and Torres Strait Islander young people with a particular focus on supporting reintegration and establishing community links.

The Tasmanian Government has implemented Recommendation 172. The Tasmanian Government comments that there are no restrictions on visits from representatives of Aboriginal and Torres Strait Islander organisations, and that prisoners are able to access Elders who help to address cultural and social needs.

In the **Northern Territory** there are a number of legal programs offered to Aboriginal and Torres Strait Islander prisoners including support from the North Australian Aboriginal Justice Agency and the Central Australian Aboriginal Legal Aid Service. Legislation provides for access to legal representatives and policy allows for access to other organisations, however there is no legislative entitlement made for Aboriginal and Torres Strait Islanders to receive periodic visits from Aboriginal and Torres Strait Islander organisations. Visits by legal practitioners are permitted at any time as approved by the Superintendent. Additionally, the Northern Territory has introduced the Elders Visiting Program which has contributed to decision-making on health, welfare and reintegration matters.

The Northern Territory Government has implemented Recommendation 172, through a number of legal programs offered to Aboriginal and Torres Strait Islander prisoners.

In the **Australian Capital Territory,** the *Corrections Management (Official Visitor) Policy 2011* allows for the appointment of an official visitor. The function of the official visitor is to receive complaints from prisoners and investigate any complaints deemed to be valid. There are also specific Aboriginal and Torres Strait Islander official visitors who perform these functions for Aboriginal and Torres Strait Islander prisoners.

Representatives from the ALS also visit the Alexander Maconochie Centre as needed to meet with Aboriginal and Torres Strait Islander detainees, as well as maintaining contact with the AMC Indigenous Case Manager and the AMC Indigenous liaison officer (ILO). Gugan Gulwan Aboriginal

Youth Corporation, Winnunga Nimmityjah Aboriginal Health Service, and the Indigenous Official Visitor visit the Alexander Maconochie Centre either regularly or periodically. ACT Corrective Services also provides an Elders and Community Leaders Visitation Program at the Alexander Maconochie Centre.

The Australian Capital Territory Government has implemented Recommendation 172 through the appointment and function of an official visitor.

Additional commentary

In Victoria's 2005 implementation report, Corrections Victoria observed that, because of the limited staffing and resources of Aboriginal and Torres Strait Islander community agencies, it was not always viable for them to provide these types of services to Aboriginal and Torres Strait Islander prisoners.

Recommendation 173

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

Background information

Based on the connection to community and culture, the RCIADIC surmised that Aboriginal and Torres Strait Islander prisoners had a preference for shared accommodation with other Aboriginal and Torres Strait Islander prisoners.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

In **New South Wales,** under section 7.17.4 of the *Corrective Services New South Wales Operations Procedures Manual,* all prisoners are able to request a two-out cell – a cell which may be shared by two prisoners. The New South Wales Government comments that the design of new correctional facilities is informed by the needs of Aboriginal offenders, including space dedicated to learning and communal interactions. However, no specific legislation or procedures for Aboriginal prisoners was found.

The New South Wales Government has implemented Recommendation 173 through the Corrective Services New South Wales Operations Procedures Manual and the provision of access to a two-out cell.

In **Victoria,** the *Correctional Management Standards for Men's Prisons in Victoria* and the *Correctional Management Standards for Women's Prisons in Victoria* state that the prison general manager will accommodate Aboriginal and Torres Strait Islander prisoners together, where possible and appropriate. A number of minimum and medium security prisons contain the option of shared accommodation.

Victoria has implemented Recommendation 173 by providing shared accommodation options for prisoners at lower-risk security levels.

The **Queensland** Government stated in their 1997 implementation report that there is shared accommodation in all correctional centres. In contemporary correctional centres, the design of the facilities incorporates a residential accommodation area that allows prisoners to live in small groups in domestic style housing. Youth Justice views the use of Independent Living Units as a key mechanism in facilitating reintegration back into the community, and ensures that young people are given opportunities to develop independent living skills.

The Queensland Government has implemented Recommendation 173 by providing shared accommodation and the facilitation of residential accommodation areas.

The **South Australian** Government presently note that where possible and practical, Aboriginal and Torres Strait Islander prisoners are provided shared accommodation facilities either doubled up with another Aboriginal and Torres Strait Islander person within a cell or within dormitory accommodation.

The Port Augusta prison provides shared accommodation for up to 36 Aboriginal and Torres Strait Islander prisoners. This accommodation is called Pakani Arangka and was specifically built with the purpose of accommodating Aboriginal and Torres Strait Islander prisoners. The Adelaide Youth Training Centre also provides shared accommodation facilities to residents, which include common room areas, games rooms, courtyards, kitchen and laundry.

The South Australian Government has implemented Recommendation 173, and notes that Aboriginal and Torres Strait Islander prisoners are provided shared accommodation facilities either doubled up with another Aboriginal and Torres Strait Islander person within a cell or within dormitory accommodation.

In **Western Australia** the *Aboriginal Prisoner Standards* (standard A2) states that prison buildings and the layout of the prison should be culturally appropriate for the prisoner population. These standards also note that there should be adequate shared accommodation for prisoners. However, a recent *Report of an Announced Inspection of Casuarina Prison*[34] found that these standards were not being implemented consistently across all prisons.

Currently, the Western Australian Government notes that shared accommodation facilities are available, and requests for placements in this style of accommodation are considered subject to security requirements. For example, the West Kimberley Regional Prison premises operate upon Aboriginal and Torres Strait Islander culture and values, including recognition and acceptance of kinship, family and community responsibilities. The Prison is designed with 22 houses on site, each of which accommodates six to seven prisoners. Self-care units are also available at Banksia Hill Detention Centre, designed to provide community-style living for young people in custody.

The Western Australian Government has implemented Recommendation 173 through the provision of shared accommodation.

In their 1995 implementation report, the **Tasmanian** Government stated they have a preference for single cell accommodation. However, shared accommodation is available if there is a specific need. Currently, shared accommodation units are available at the Risdon Prison Complex and the Ashley Youth Detention Centre. Shared accommodation is mostly facilitated through common areas, while still maintaining individual cells.

The Tasmanian Government has partially implemented Recommendation 173 through the provision of common areas. However, the Tasmanian Government maintains a preference for single cell accommodation.

In their 1996-97 implementation report, the **Northern Territory** Government stated that they support this recommendation. Dormitory accommodation is provided in the Alice Springs Correctional Centre, Barkly Work Camp and Datjala Work Camp. In Darwin Correctional Centre, space is provided outdoors and indoors to allow withdrawal, separateness, choices around prisoner groupings and opportunities for recreation.

The Northern Territory has mostly addressed Recommendation 173 by the provision of dormitory accommodation and the design of Darwin Correctional Centre. It is not clear whether the provision of shared accommodation has taken place across all custodial facilities.

In the **Australian Capital Territory,** the *Corrections Management (Aboriginal and Torres Strait Islander Detainees) Policy 2011 (No.2)* states that there is a Shared Cell Policy whereby Aboriginal and Torres Strait Islander prisoners should be accommodated together if requested. This is also noted in the *Corrections Management (PDC: Shared Accommodation) Policy 2011* where factors such as Aboriginal and Torres Strait Islander prisoner's requests for shared accommodation should be taken into account when accommodating prisoners.

The Alexander Maconochie Centre was designed to include cells for men (single and double) and cottages with individual rooms for both men and women. These measures are intended to provide for

[34] Office of the Inspector of Custodial Services 2014, *Report of an Announced Inspection of Casuarina Prison,* ISSN 1445-3134

the support of a fellow-detainee in an adjoining cell, while respecting individual privacy. The ACT Government notes that due to accommodation pressures in the Alexander Maconochie Centre, most cells now accommodate two detainees.

The Australian Capital Territory has implemented Recommendation 173 in the Corrections Management (Aboriginal and Torres Strait Islander Detainees) Policy 2011 (No.2).

Recommendation 174

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

Background information

Prisoners may experience trauma during the trial and sentencing processes, the RCIADIC considered that the most appropriate way to manage this trauma was to provide Aboriginal and Torres Strait Islander prisoners with an Aboriginal Welfare Officer to facilitate discussions.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

In **New South Wales,** the *Corrective Services New South Wales Operations Procedures Manual* states that prisons that have a significant Aboriginal population should employ an Aboriginal Inmate Delegate. This delegate will support Aboriginal prisoners. The majority of welfare positions have now been converted to Aboriginal Services and Programs Officers, and program delivery has moved away from a 1 to 1 basis to group work. CSNSW also engages Regional Aboriginal Programs Officers, and Aboriginal Mentors to address the needs of Aboriginal offenders and work with community and custodial corrections staff. The Aboriginal Strategy and Policy Unit (ASPU) works with internal and external stakeholders and cooperates with Aboriginal organisations. The work of the ASPU extends to reviewing program outcomes and deliverables under CSNSW funding arrangements and partnering with organisations to deliver culturally sensitive services to Aboriginal offenders and their families.

The New South Wales Government has implemented Recommendation 174 through the provision of an Aboriginal Inmate Delegate under the Corrective Services New South Wales Operations Procedures Manual as well as the employment of Regional Aboriginal Programs Officers, and Aboriginal Mentors.

In **Victoria,** the *Correctional Management Standards for Men's Prisons in Victoria* and the *Correctional Management Standards for Women's Prisons in Victoria* item 2.2 states that the prison general manager will provide Aboriginal and Torres Strait Islander prisoners with access to an Aboriginal Wellbeing Officer/ Aboriginal Liaison Officer. Also, Activity 3.5.1 of the AJA 3 aims to enhance advocacy by Aboriginal Wellbeing Officers or Aboriginal Liaison Officers for Aboriginal and Torres Strait Islander prisoners at Review and Assessment Committees.

Victoria has implemented Recommendation 174 by providing Aboriginal and Torres Strait Islander prisoners with access to an Aboriginal Wellbeing Officer/Aboriginal Liaison Officer.

In **Queensland,** Aboriginal and Torres Strait Islander cultural liaison officers and cultural development officers are employed at all correctional centres. They provide welfare and support to Aboriginal and Torres Strait Islander prisoners and conduct programs for Aboriginal and Torres Strait Islander prisoners. Queensland Corrective Services has made a commitment to increase the number of cultural liaison officer positions in Probation and Parole.

Queensland has implemented Recommendation 174. Aboriginal and Torres Strait Islander cultural liaison officers and cultural development officers are employed at all correctional centres.

In response to RCIADIC**, South Australia** developed an Aboriginal Services Unit in 1995 which is responsible for advising and developing culturally appropriate services for Aboriginal and Torres Strait Islander prisoners. This program also employs Aboriginal Liaison Officers (ALOs) in prisons. Currently, the Department for Correctional Services employs ALOs to provide counselling, advisory and advocacy support for prisoners, their families and staff. Visiting ALOs attend those correctional facilities where ALOs are not employed on a fulltime basis. An Aboriginal Cultural Advisor has been employed at Port Augusta Prison to provide expert cultural advice especially around the cultural needs of prisoners from APY and remote communities.

South Australia has implemented Recommendation 174 through the function of ALOs.

In **Western Australian** the *Aboriginal Prisoner Standards* (standard A35) states that it is preferable to have an Aboriginal superintendent, an Aboriginal Health Worker, an Aboriginal Education Officer, and an Aboriginal Prisoner Support Officer in prisons where the population is predominantly Aboriginal and Torres Strait Islander. In addition to these roles there should be at least one Prisoner Support Officer who is able to communicate with all groups of Aboriginal and Torres Strait Islander prisoners.

The Western Australian Government notes that all prisons have at least one Prison Support Officer, and that all Prison Support Officers undergo specialised training encompassing Aboriginal and Torres Strait Islander mental health, suicide prevention and self-harm intervention, and reintegration into family and community. The Banksia Hill Detention Centre employs Aboriginal Welfare Officers to support young Aboriginal and Torres Strait Islander people in custody, including through arranging their case management and ensuring their needs are met while in custody.

The Western Australian Government has mostly implemented Recommendation 174. It does not appear that Aboriginal Welfare Officers are provided in all prisons.

The **Tasmanian** Department of Justice have an Integrated Offender Management unit which aims to reduce re-offending by supporting prisoners. They offer therapeutic, rehabilitation and reintegration services as well as counselling. This unit also employs an Indigenous Officer. The Indigenous Officer is based at the Risdon Prison Complex and also works at the Mary Hutchinson Women's Prison. The Ashley Youth Detention Centre offers individualised and tailored case management services.

The Tasmanian Government has implemented Recommendation 174 through the function of the Department of Justice Integrated Offender Management unit, and the employment of an Indigenous Officer.

According to the 1996-97 implementation report, in the **Northern Territory**, one Aboriginal liaison officer is located at each Correctional Centre. Currently, the Northern Territory Government comments that Prisoner Support Officers at Darwin Correctional Centre and Aboriginal Liaison Officers at Alice Springs Correctional Centre are recruited under the Special Measures which give preference to selection of Aboriginal and Torres Strait Islander people. Additionally, Community Probation and Parole Officers are Aboriginal and Torres Strait Islander people and assist with cultural issues and awareness. These initiatives stand alongside the Elders Visiting Program, discussed as part of Recommendation 97.

The Northern Territory Government has implemented Recommendation 174 by providing an Aboriginal liaison officer at each Correctional Centre, as well as the provision of Prisoner Support Officers, Community Probation and Parole Officers, and the Elders Visiting program.

In the **Australian Capital Territory,** an Indigenous Case Manager and two Aboriginal Liaison Officers are employed to assist detainees in the Alexander Maconochie Centre, including the provision of assistance to reintegrate to the community upon release. However, no policy or legislation was found stating this as a requirement.

The Australian Capital Territory has implemented Recommendation 174 through the appointment of an Indigenous liaison officer.

Recommendation 175

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

Background information

The RCIADIC found that prisoners experience trauma when immediately entering prison and having a short transition period may reduce the trauma experienced by prisoners.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

In **New South Wales,** the *Corrective Services News South Wales Operations Procedures Manual* includes support measures in place for Aboriginal prisoners. There is an Aboriginal Inmate Committee, which is set up to support Aboriginal prisoners upon their reception into the prison, as well as support other Aboriginal prisoners. Additionally, the primary role of Aboriginal Delegates is to support all Aboriginal inmates at the centre, including through the development and presentation of an Aboriginal Induction Program for all inmates received at the centre.

Recommendation 175 is implemented in New South Wales through the Aboriginal Inmate Committee.

Victoria has implemented orientation units where new prisoners at all but three prisons are received and stay for two to five days. In Victoria's 2005 implementation report, Corrections Victoria observed that when inception numbers are high, newly received prisoners will spend shorter periods of time in orientation units than the two to five-day standard.

Recommendation 175 is implemented in Victoria through the orientation units.

In **Queensland,** no legislation was found specifically stating that there should be a transition period. Queensland Corrective Services places prisoners in induction units on reception to facilitate their transition into a correctional services facility and to enable relevant assessments to be undertaken. Youth Justice has a current policy which includes a number of requirements concerning induction, including that the process occurs no later than one day after admission and that staff must read the Induction Booklet with the young person and ensure their understanding of its contents.

Recommendation 175 is implemented in Queensland through the role of induction units.

The **South Australian** Government stated in their 1994 implementation report that this recommendation has not yet been implemented. However, under *SOP 001A – Admission – Case Management*, prisoners have an induction interview within 24 hours of admission or transfer and 7-Day Observations are commenced. The Adelaide Youth Training Centre Assessment Unit accommodates boys aged 15 years and above who are new to the centre and allows for a comprehensive needs and risk assessment to tailor their required services and supports while in custody. The induction process also includes the provision of information about residents' rights, complaints and how to contact the Guardian for Children and Young People.

Recommendation 175 is implemented in South Australia under SOP 001A and juvenile induction processes.

The **Western Australian** *Code of Inspection Standards* standard 2.9 states that newly admitted prisoners should be accommodated separately from the general population during the admission and orientation process. Standard 2.4 and 2.5 also state that admission staff should be trained to deal with newly received prisoners. The Prison Policy Directive 18 also addresses prisoner orientation, establishing a checklist for the Prisoner Orientation Program and requiring all superintendents to have a program that meet its requirements. Under the Directive, there are three stages of the prisoner orientation program:

- day of arrival, provide basic information and items to assist with adjustment to prison routine;

- within three working days of arrival, provide a detailed orientation program and a copy of the Prisoner Handbook; and
- within one month of arrival, explain sentence management systems including assessment, personal development courses, addressing offending behaviour, and any compulsory course requirements.

The length of time provided for orientation varies, depending on the individual's needs and exposure to the custodial setting. New detainees at Banksia Hill Detention Centre are observed for 24 to 72 hours, depending on their needs, before being placed in the facility.

The Western Australian Government has implemented Recommendation 175 through the Code of Inspection Standards and the Prison Policy Directive 18, which establish orientation procedures.

The **Tasmanian** Government stated in their 1995 implementation report that prisoner induction programs had been developed and were designed with the input from the Aboriginal Prisoner Support Officer. Recently, the Hobart Reception Prison has been launched as the induction prison for Tasmania. Prior to transferring to their accommodation, prisoners will complete an assessment focused on identifying immediate welfare and security issues and a more comprehensive assessment to obtain a picture of the issues presenting a prisoner and the supports required.

Recommendation 175 is implemented in Tasmania through the development of prisoner induction programs with input from the Aboriginal Prisoner Support Officer.

In their 1996-97 implementation report, the **Northern Territory** Government stated that they support this recommendation but had not specified any actions taken to implement this recommendation. The Darwin Correctional Centre Induction Unit focuses on previous and new prisoners entering in custody and ensures they receive sufficient information and adjustment within a custodial setting prior to entering general population. Additionally, a purpose built sentenced prisoner reception area is located in the Alice Springs Correctional Centre which allows for a transition period prior to mainstream placement.

The Northern Territory has partially implemented Recommendation 175 through prisoner reception processes, however no clear orientation or induction procedure appears to exist.

The **Australian Capital Territory** Government stated in their 1997 implementation report that this recommendation is applicable primarily to imprisonment in larger jurisdictions with multiple facilities. Currently, new detainees at the Alexander Maconochie Centre are placed in a new reception area for an average of 5 days where they undergo an assessment and induction process. As part of this induction, information is sought to ensure the detainee's longer-term accommodation placement is appropriate after considering the detainee's offence, associations, intelligence, and any other medical and mental health assessments. The Induction Policy requires that when a detainee is received, they will be advised of their entitlements, privileges and responsibilities and how to access services.

The Australian Capital Territory has implemented Recommendation 175 through the Induction Policy.

Recommendation 176

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

> *a. To attend at the prison at regular (perhaps weekly) intervals or on special request for the purpose of receiving from any prisoner any complaint concerning any matter internal to the institution, which complaint shall be lodged in person by the complainant;*
>
> *b. To take such action as the officer thinks appropriate in the circumstances;*
>
> *c. To require any person to make enquiries and report to the officer,*
>
> *d. To attempt to settle the complaint;*

e. To reach a finding (if possible) on the substance of the complaint and to recommend what action if any, should be taken arising out of the complaint; and

f. To report to the complainant, the senior officer of the prison and the appointing Minister (see below) the terms of the complaint, the action taken and the findings made.

This person should be appointed by, be responsible to and report to the Ombudsman, Attorney-General or Minister for Justice. Complaints receivable by this person should include, without in any way limiting the scope of complaints, a complaint from an earlier complainant that he or she has suffered some disadvantage as a consequence of such earlier complaint.

Background information

The RCIADIC believed that prisoners will inevitably face some difficulties with prison; having a complaints officer will help ensure that difficulties and complaints are monitored and can be addressed.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

In **New South Wales,** the Minister for Corrective Services appoints official visitors who visit prisoners approximately every fortnight and whose role is to resolve complaints from prisoners. Official visitors are also independent from Corrective Services New South Wales. Section 228 of *Crimes (Administration of Sentences) Act 1999* (NSW) and clauses 155-157 of the *Crimes (Administration of Sentences) Regulation 2008* (NSW) set out the functions of the official visitor role. The Corrective Services Support Line is also in place for inmates to raise complaints. Currently, inmates have access to Official Visitors, the Ombudsman and the Inspector of Custodial Services who monitor and report issues/complaints to the Commissioner of Corrective Services NSW, the Minister for Corrections and the NSW Government.

The New South Wales Government has implemented Recommendation 176 through the role of official visitors, outlined under the Crimes (Administration of Sentences) Act 1999 (NSW) and the Crimes (Administration of Sentences) Regulation 2008 (NSW).

Victoria has official visitors whose role is to listen to the concerns of prisoners. Official visitors are appointed by the Minister for Corrections. In the 1991 Implementation report, the Victorian Government noted that they were establishing the role of Aboriginal official visitor who would specifically manage the Aboriginal and Torres Strait Islander prisoners. The AJA 3 supports the continued appointment of Aboriginal Official Visitors into the adult prison system, and also sought the participation of Aboriginal visitors in the Independent Visitors Program for youth justice custodial centres.

Aboriginal Official Visitors in Victoria satisfy the requirements of Recommendation 176.

As noted in Recommendation 174, **Queensland** has official visitors whose role is set out in section 290 of the *Corrective Services Act 2006* (Qld). The functions of the official visitor are: to investigate complaints made by prisoners, to be impartial when investigating a complaint, the ability to make a recommendation to the Chief Inspector and advise the prisoner if they do so. These reports assist the Chief Inspector to identify systemic issues and inform the process of centre inspections. The official visitor will visit their assigned prisoner at least once a month, with two or three visits per month for most correctional centres. Youth detention Centres, there are extensive oversight mechanisms which streamline and strengthen internal youth detention oversight governance and accountability. Staff are required to ask the young person/people if they would like to make a complaint within 24 hours after being involved in an incident in the centre. Youth Justice has a legislative reporting requirement to provide all complaints received to the Public Guardian on a quarterly basis.

The Queensland Government has implemented Recommendation 176 through the function of official visitors under the Corrective Services Act 2006 (Qld).

In **South Australia,** there is the Aboriginal Liaison Officer who handles the complaints of prisoners. This role sits within the South Australian Department for Correctional Services. Currently, if after giving local staff the opportunity to resolve a complaint and the prisoner remains unsatisfied, the complaint can be referred to other sources including the Prisoner Complaint Line, a Visiting Inspector, or Ombudsman. The Department for Correctional Services has Visiting Inspectors who have been appointed to independently conduct weekly inspections of each prison to ensure that all prisoners are treated fairly, accommodation is clean and safe and that they have access to adequate food and clothing. Inspectors are approached by prisoners to discuss problems that they may have. The Inspectors are also called upon to investigate any complaints that could affect the health and welfare of prisoners. The recommendations of Visiting Inspectors are taken seriously and improvements to prisoner conditions are continually being made. The Guardian for Children and Young People has been appointed as the Training Centre Visitor under the *Youth Justice Administration Act 2016* (SA) and visits the Adelaide Youth Training Centre on a regular basis.

The South Australian Government has mostly implemented Recommendation 176 through ALOs and through the Youth Justice Administration Act 2016 (SA). However, it does not seem to be a requirement that visits occur periodically.

In **Western Australia,** under sections 39 and 40 of the *Inspector of Custodial Services Act 2003* (WA), the Minister may appoint an independent prison visitor whose role is to visit the prison approximately every three months and record any complaint made by, or on behalf of, a prisoner. However, there is no specific complaints officer role in the WA.

Additionally, Western Australia's Administration of Complaints, Compliments and Suggestion Service is available to visitors and the general public to provide complaints, feedback and suggestions to the Department of Justice in order to improve service quality. The Western Australian Government notes that at present, Western Australia meets the Australian Standards guidelines for complaints resolution, including the principles of natural justice.

The Western Australian Government has implemented Recommendation 176 through measures to address complaints resolution including the function of an independent prison visitor.

Tasmania has in place the role of the official visitors who are tasked with investigating complaints made by prisoners, and making enquiries into the conditions of prisoners – see section 10 of the *Correction Act 1997* (Tas). The official visitors operate separately from the Tasmanian Prison Service and can help prisoners make complaints to the Ombudsman[35].

The Tasmanian Government has partially implemented Recommendation 176 through official visitors under the Correction Act 1997 (Tas). Further action is required to implement parts (a), (b), and (f) of this recommendation.

The **Northern Territory** does not have a specific complaints officer role. Instead, the process for managing prisoner complaints is set out in the *Ombudsman Act 2009* (NT). Section 26 of the Act states that a prisoner may ask the officer in charge of the institution in which the prisoner is detained for help in preparing a written complain to make to the Ombudsman. The Northern Territory Government notes that official visitors are engaged to inquire into the treatment, behaviour and conditions of the prisoners at the facility. All prisoners are provided with access to a number of avenues of complaint either through telephone or written letters.

The *Correctional Services Act 2014* (NT) allows for visits at any time by priority visitors which includes official visitors and a number of other independent officers providing avenues for complaints. All prisoners have access at reasonable times to the Superintendent or Officer in Charge of the Prison who shall hear with patience, reasonable complaints. Additionally, all prisoners have access to a number of avenues of complaint, including the Minister, Commissioner, Official Visitors, legal representatives, the Ombudsman, Health Complaints Commission, the Anti-Discrimination Commissioner and the Human Rights and Equal Opportunity Commissioner.

[35] http://officialvisitors.tas.gov.au/prison_official_visitors_program

The Northern Territory Government has mostly implemented Recommendation 176 through procedures allowing for complaints to be made. However, there is no specific complaints officer role in the Northern Territory.

The **Australian Capital Territory** has in place the role of the official visitor who receives and considers complaints from prisoners. The official visitor then gives to the operational Minister, as soon as practicable after the end of each quarter, a written report summarising the number and kind of complaints they have received, and the actions taken. This is set out in the *Official Visitor Act 2012* (ACT) and the *Corrections Management Act 2007* (ACT). Under the *Corrections Management Act 2007* (ACT), the Minister has appointed an Official Visitor and an Indigenous Official Visitor to undertake visits to the Alexander Maconochie Centre, the ACT court cells, and other places outside the correctional centres to which detainees have been assigned. The Director-General must ensure that an Official Visitor is told as soon as practicable about any detainee that has informed a Corrections Officer that they want to see an Official Visitor, and an Official Visitor must investigate any complaint unless there is reasonable belief that the complaint is frivolous or vexatious. The ACT Government has also recently appointed an Inspector of Correctional Services to conduct comprehensive and systemic inspections of correctional services every two years and to review matters referred by the Minister for Corrective Services.

The Australian Capital Territory Government has implemented Recommendation 176 under the Official Visitor Act 2012 (ACT).

Recommendation 177

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

Background information

The RCIADIC identified issues relating to racism in custodial settings, including racist attitudes held by some officers, which contributed to feelings of distress and isolation felt by some Aboriginal and Torres Strait Islander detainees.

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

The **Commonwealth** and the **Australian Capital Territory** Governments have responsibility for the AFP, which provides community policing in the ACT. In the Commonwealth's *1995-96 Annual Report*, it was noted that the selection process used by the AFP, includes psychological testing, comprehensive group selection exercises and one-to-one interviews. It was reported that these procedures provide a forum whereby unsuitable traits, including racist views, can be identified. The AFP confirmed that this is still relevant now. Training regarding harassment and bullying is provided, and behaviours demonstrated in initial training are managed by learning and development. The *1995-96 Annual Report* further noted the provision of cross-cultural awareness training to AFP members. Aspects of the training are conducted by Aboriginal and Torres Strait Islander people and cover issues such as community and police relations, racism, stereotyping and communication barriers. The *Corrections Management Act 2007* (ACT) addresses this recommendation for the Department of Corrective Services and the care of prisoner's in custodial facilities. Custodial staff are required to undertake research into the RCIADIC as a compulsory component of the Certificate III in Correctional Practice (Custodial), a mandatory qualification for continued employment as a Correctional Officer with the ACT Corrective Services.

The Commonwealth and the Australian Capital Territory Governments have implemented Recommendation 177 through the AFP selection process and cross-cultural awareness training programs.

In **New South Wales,** all potential police recruits undergo the California Personality Inventory which identifies traits of aggression, ethnocentrism, and authoritarianism. All recruits also undergo cross cultural training. There is also the Aboriginal Awareness Training e-learning module for NSW Corrective Services employees (Department of Attorney General and Justice, 2013[36]). NSW police officers employed in communities who display inappropriate attitudes or work practices may be transferred away from that area and directed to undertake periods of instruction and retraining. At the end of the period, their suitability for retention is assessed. The Aboriginal Cultural Awareness training (ACAT) day is provided to all new CSNSW recruits and to existing staff upon request. All Justice Health and Forensic Mental Health Network staff attend mandatory Respecting the Difference training.

Recommendation 177 has been implemented in New South Wales through the provision of training, disciplinary procedures, and recruitment selection screening.

In **Victoria,** under item 40.2.1 of the *Correctional Management Standards for Men's Prisons in Victoria* and the *Standards for the Management of Women Prisoners in Victoria,* the prison general manager will ensure prison staff demonstrate appropriate attitudes and culturally sensitive practices and actively engage prisoners in positive behaviour change. Victoria also stated in their 1994 and 2005 implementation report that new prison officer positions and Victoria Police have screening procedures which aim to identify inappropriate traits such as racist views. Human Resource policies reinforce an intolerance of racist behaviour and views in staff. Cultural awareness programs are delivered to new recruits by Aboriginal and Torres Strait Islander people.

Appropriate screening, human resource and cultural awareness procedures in Victoria have satisfied the requirements of Recommendation 177.

The **Queensland** Government stated in their implementation reports on the status of the recommendations that all newly recruited officers are assessed during the pre-service training and that this training also includes cultural awareness training. All Youth Justice frontline roles require cultural capability and this is assessed at recruitment through selection tools and references from an Aboriginal and Torres Strait Islander person recognised within the community. The use of racist language and behaviour by Queensland Corrective Services staff is against Queensland's Code of Conduct and the *Anti-Discrimination Act 1991* (Qld) and is grounds for disciplinary action, including termination of employment.

Recommendation 177 has been implemented in Queensland through the provision of training and recruitment selection screening strategies.

South Australia established the Aboriginal Services Unit which in 2013-14 provided cultural training to 262 staff members (Department of Corrective Services, 2014[37]). The South Australian Corrections Services have also noted in their 2011 *Declaration for Reconciliation* a commitment to develop requisite leadership and training to eliminate racism in the workplace and build a culturally competent organisation by increasing the knowledge and practical skills of Department staff in relation to Aboriginal and Torres Strait Islander people's values and beliefs. In the Department for Corrective Services, it is a requirement that any officer wishing to gain promotion must also undertake further cultural awareness training. A screening procedure is in place at the Adelaide Youth Training Centre that includes psychological testing used to determine any views, including racist views, which cannot be eliminated by training. As part of mandatory training, new recruits are required to undertake DHS Cultural Sensitivity and Awareness Training to gain a better understanding of Aboriginal and Torres Strait Islander people. DHS developed the Support Aboriginal young people online program incorporating the Circles of Trust Training Package, to build on this training.

Recommendation 177 has been mostly implemented in South Australia through the provision of training and recruitment selection screening strategies. However, it does not appear that

[36] Department of Attorney General and Justice 2013, *2012-2013 Annual Report,* NSW Government, Sydney.
[37] Department for Correctional Services 2014, *Annual Report 2013-14,* South Australian Government, Adelaide.

disciplinary mechanisms are in place or that there exists mechanisms to cease the retention of officers with racist views.

The **Western Australian** *Standards for Aboriginal Prisoners* state that there should be appropriate training for staff that work with Aboriginal and Torres Strait Islander prisoners, cultural training should be undergone by new recruits along with refresher training for other staff, and specific key performance indicators for each prison around racism.

Currently, Prison Officer recruits are screened for suitability including assessment of attitudes and values. Racist behaviour is reportable and subject to further investigation and subsequent action. Similarly, the Western Australia Police Force has selection and screening processes at recruitment stages to ensure that applicants meet the ethical and integrity standards required by the agency. All Western Australia Police Force personnel are inducted with the Western Australia Police Code of Conduct, and Our Values and Service Delivery Standards, which articulate the integrity requirements of the agency. Should any officer demonstrate racist behaviour, subject to a sustainable complaint, that officer will be subject to disciplinary action, including provision for dismissal.

Recommendation 177 has been implemented in Western Australia through screening processes for prison officers and police, and the provision of disciplinary actions to be taken in the instance that racist language is used.

Tasmania has a questionnaire for correctional officers undertaken in their application for a position. Within this questionnaire there is a question about whether the person can treat another person humanely and fairly regardless of a person's culture and background[38]. However, this is a self-assessment and it is uncertain how these assessments are taken into account in the application process. Tasmania also has in place the *Aboriginal Strategic Plan,* one objective in this plan is to implement recruitment and selection processes consistent with Tasmania Government policy that provide opportunity to everyone, remove barriers to diverse recruitment, and aim for a workplace that is discrimination free. One strategy to meet this objective is to screen applicants for racist attitudes prior to selection. However, it is unclear as to the extent that this strategy has been implemented. Correctional recruits are required to complete a *Cultural Awareness and Aboriginal Issues in Corrections* session and all staff complete an e-learning package called Interactive Ochre designed to assist learners build their knowledge and practical application of the concepts and principles of cultural awareness. The Department of Justice also has detailed policies in place for all staff relating to harassment and discrimination.

Recommendation 177 has been mostly implemented in Tasmania through the provision of training and recruitment selection screening strategies. However, it does not appear that disciplinary mechanisms are in place or that there exists mechanisms to cease the retention of officers with racist views.

The **Northern Territory** 1994-95 Implementation Report noted that all applicants for positions with the NT police undergo psychological testing, including testing for ethnocentricity. An applicant with racist or discriminatory views would be found unsuitable. All recruits also undergo mandatory cross-cultural training conducted by accredited local organisations using Aboriginal and Torres Strait Islander facilitators, including elders. Cross cultural training is also incorporated in promotional courses at the supervisory level. This is administered through a Correctional Practice Certificate IV unit, *Work Effectively with Culturally Diverse Offenders and Colleagues*.

Recommendation 177 has been mostly implemented in the Northern Territory through the provision of training and recruitment selection screening strategies. However, it does not appear that disciplinary mechanisms are in place or that there exists mechanisms to cease the retention of officers with racist views.

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38 http://www.justice.tas.gov.au/prisonservice/careers/applying_to_be_a_correctional_officer/suitability_questionnaire

Recommendation 178

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

Background information

The RCIADIC found evidence that Aboriginal and Torres Strait Islander staff are beneficial to the wellbeing of Aboriginal and Torres Strait Islander prisoners.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

In 2009, all States and Territories signed the *National Partnership Agreement on Indigenous Economic Participation 2008* which set a national target of at least 2.6% of public sector employment for Aboriginal and Torres Strait Islander people across all classifications by 2015.

In **New South Wales** the number of Aboriginal staff in the Department of Justice was 5.4%, exceeding the target of 2.6%. The Department of Justice's *Aboriginal Employment Strategy 2015-2017* aims to increase the number of Aboriginal people employed throughout the Department. In CSNSW, 3.12% of staff are Aboriginal people. CSNSW actively promotes employment opportunities to potential and existing Aboriginal recruits across custodial and community corrections as well as corporate and policy functional areas. The CSNSW Aboriginal Staff Network has more than 200 members, working as a forum to provide support to and networking opportunities for Aboriginal staff.

In New South Wales, Recommendation 178 has been implemented through ongoing employment strategies.

In **Victoria**, the *Correctional Management Standards for Men's Prisons* and the *Standards for the Management of Women Prisoners in Victoria* state that a prison manager should endeavour to employ a range of staff taking into account gender and ethnicity. In its 2005 implementation report, Corrections Victoria noted concerted efforts to attract Aboriginal and Torres Strait Islander candidates, including advertising positions in Aboriginal and Torres Strait Islander newspapers. In an independent 2012 *Evaluation of the Aboriginal Justice Agreement – Phase 2*, Nous Group observed that Corrections Victoria employed 19 full-time Aboriginal and Torres Strait Islander staff.

Victoria's Standards for prisons satisfy Recommendation 178.

In **Queensland,** the *Standard Guidelines for Corrections in Australia* (standard 5.4) state that the composition of the workforce should provide a gender and ethnicity mix that reflects the prison population where practicable. Currently, Queensland Corrective Services has a target of 3% on the employment of Aboriginal and Torres Strait Islander staff, and as at September 2017, 3.4% of Queensland Corrective Services staff identified as Aboriginal and Torres Strait Islander. Queensland Corrective Services has also committed to significantly increase the number of Cultural Liaison Officers employed in Probation and Parole. Youth Justice actively promotes all advertised vacancies through established Aboriginal and Torres Strait Islander employment networks and community events such as NAIDOC (National Aboriginal and Islanders Day Observance Committee), Winds of Zendath festival and Laura Dance festival to promote working for Youth Justice across all roles.

The Queensland Government has implemented Recommendation 178 through the Standard Guidelines for Corrections in Australia and ongoing employment initiatives.

In **South Australia,** the Corrections Services have noted in their 2011 *Declaration for Reconciliation* the intention to improve Aboriginal and Torres Strait Islander employment. The 2015-16 percentage of employees that were Aboriginal and Torres Strait Islander in the Corrective Services was 3.8%, which exceeded the *South Australian Strategic Plan* target of 2.0%[39]. The development of the Aboriginal Services Unit also plays a critical role in improving Aboriginal and Torres Strait Islander employment in Corrective Services by promoting employment opportunities within the Aboriginal and

[39] Department for Correctional Services 2016m *Annual Report 2015-16,* South Australian Government, Adelaide.

Torres Strait Islander community. The Department for Correctional Services employs Aboriginal and Torres Strait Islander staff across custodial, administrative, the DCS-ASU and ALO positions.

The South Australian Government has implemented Recommendation 178 through ongoing employment initiatives.

The **Western Australian** *Inspection Standards for Aboriginal Prisoners* notes that all prisons with a predominately Aboriginal and Torres Strait Islander population should employ a substantial number of Aboriginal and Torres Strait Islander custodial and non-custodial staff. A recent review conducted by the Office of the Inspector of Custodial Services about the number of Aboriginal and Torres Strait Islander staff in the Corrective Services (*Recruitment and Retention of Aboriginal staff in the Department of Corrective Services)* found that the Department's overall rate of Aboriginal and Torres Strait Islander employment was 7.9% of all staff, which is higher than the public sector average (2.8%). The rate of Aboriginal and Torres Strait Islander employment across prisons was quite varied, for example Acacia Prison only had 0.9% Aboriginal and Torres Strait Islander staff, while West Kimberley Regional Prison had 10.0%. This report also found that Aboriginal and Torres Strait Islander staff took on a variety of roles such as prison officer, specialist staff, group program officers, and vocational support officers. The Department of Justice's Reconciliation Action Plan for 2017-18 to 2020-21 maintains this focus on increasing the number of Aboriginal and Torres Strait Islander employees across the Department.

The Western Australian Government has implemented Recommendation 178 through ongoing employment initiatives.

In addition to signing the *National Partnership Agreement on Indigenous Economic Participation 2008,* the **Tasmanian** Government is developing a whole of service strategy to meet the employment target for Aboriginal and Torres Strait Islander people in the State Service in consultation with the Tasmanian Aboriginal and Torres Strait Islander Community, as part of the State Service Diversity and Inclusion Framework. The Strategy will complement the State Service Diversity and Inclusion Framework.

The Tasmanian Government has partially implemented Recommendation 178. However, there do not seem to be specific actions taken in relation to corrective services.

The **Northern Territory** Government notes that the current percentage of Northern Territory Corrective Services (NTCS) employees who identify as Aboriginal and Torres Strait Islander has increased to 11%. The current bulk recruitment provider Bielby partners with GOAL Indigenous services to connect with potential Aboriginal and Torres Strait Islander candidates for the front line roles of Correctional Officer and Probation and Parole Officers. The Special Measures with priority consideration for recruiting Aboriginal and Torres Strait Islander people continues to be used for a range of advertised positions across NTCS.

The Northern Territory has implemented Recommendation 178 through recruitment processes and Special Measures.

Since the signing of the *National Partnership Agreement on Indigenous Economic Participation 2008,* the number of Aboriginal and Torres Strait Islander people in the **Australian Capital Territory** public service has increased from 176 in 2010 to 407 in 2015 (Standing Committee on Health, Ageing, Community and Social Services, 2014[40]).

The ACT Corrective Services has taken a number of initiatives to promote the employment of Aboriginal and Torres Strait Islander people. The JACS Directorate Aboriginal and Torres Strait Islander Employment Action Plan 2016-19 requires the ACT Corrective Services to develop a recruitment and retention strategy with a view to attracting and retaining Aboriginal and Torres Strait Islander staff, and to look for opportunities to increase the professional development of current Aboriginal and Torres Strait Islander staff. ACT Corrective Services currently has nine identified

[40] Standing Committee on Health, Ageing, Community and Social Services 2014, *Inquiry into ACT public service Aboriginal and Torres Strait Islander employment,* ACT Government, Canberra.

positions including: an Indigenous Services Coordinator; an Indigenous Services Officer; an AMC Indigenous Case Manager; an AMC Indigenous Liaison Officer; two Indigenous Probation and Parole Officers; an Aboriginal Client Support Officer; an Indigenous Throughcare Officer; and an Indigenous and Cultural Diversity Senior Policy Officer. The ACT Corrective Services workforce is 6.4% comprised of Aboriginal and Torres Strait Islander people, which is above the Council of Australian Government's target of 2.6% Indigenous public sector employment by 2015.

The Australian Capital Territory has implemented Recommendation 178 through ongoing employment initiatives.

Recommendation 179

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

Background information

The RCIADIC found that appearing before an officer to make a request may be traumatic for an Aboriginal and Torres Strait Islander prisoner; keeping these processes simple and short will reduce the negative impact on the Aboriginal and Torres Strait Islander prisoner.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

Corrective Services in **New South Wales** have in place a *Complaints Management Policy* which sets out the processes that a prisoner follows when making a complaint. Inmates are encouraged to resolve issues locally with an avenue to escalate if this is not possible. The Corrective Services Support Line enables prisoners to make a complaint and receive support through a telephone service. Inmate Development Committees and Aboriginal delegates in correctional centres provide a forum for matters to be raised by inmates for the attention of corrections officers.

In New South Wales, Recommendation 179 has been implemented through the Complaints Management Policy.

In **Victoria,** under item 42 in the *Correctional Management Standards for Men's Prisons in Victoria,* and the *Standards for Management of Women Prisoners in Victoria* the prison manager must implement procedures to resolve issues and conflicts in the prison using open and legitimate processes. They must also ensure prisoners have access to appropriate parties to resolve issues, and ensure that prisoners are informed of the internal and external requests and complaints process in a form appropriate to their language and cognitive abilities. Corrections Victoria Operating Procedure 4.1 encourages staff to process requests and complaints in a timely and fair manner; prisoners are advised of requests and complaints procedures upon their reception at each prison location.

In Victoria, procedures encourage timely responses to prisoner requests, thus implementing Recommendation 179.

Queensland has implemented the World Health Organisation Health Prison concept in the *Healthy Prisons Handbook,* which sets out a complaints procedure that ensures an effective, easy to access, and easy to use process. Correctional services officers are responsible for the day-to-day welfare of prisoners including dealing with basic prisoner requests in a timely manner. A case management process allocates specific officers to a number of prisoners to provide for the management and support of prisoners.

In Queensland, Recommendation 179 has been implemented through the Healthy Prisons Handbook and complaints procedures.

In **South Australia,** under section 35AA of the *Correctional Service Act 1982* (SA), the manager of a correctional institution where a prisoner is detained must facilitate a prisoner in making a complaint.

Aboriginal Liaison Officers are also available to receive complaints from Aboriginal and Torres Strait Islander prisoners. Currently, the Department of Human Services Youth Justice has a comprehensive policy and practice framework which supports effective complaints management and enables young people to make a complaint. The Adelaide Youth Training Centre Client Feedback Operational Order provide guidance and direction for staff to manage feedback and complaints in a timely manner. The Youth Advisory Committee at the Adelaide Youth Training Centre and the Guardian for Children and Young People provide further mechanisms for residents to raise concerns.

In South Australia, Recommendation 179 has been implemented under the Correctional Services Act 1982 (SA).

The **Western Australian** *Adult Custodial Rule 5* sets out the policy around requests, complaints and grievances by prisoners. Section 1.4 of this Rule allows for any request or complaint to be made either verbally or in writing, to support the needs of prisoners. The *Inspection Standards for Aboriginal Prisoners* also state that departmental processes for making complaints should take account of the inhibitions that Aboriginal and Torres Strait Islander prisoners may have about putting matters in writing and that prisons should avoid the need for Aboriginal and Torres Strait Islander prisoners to make a written application, wherever practicable (standard A37.1). As such, standard A37 requires that prisons with a substantial number of Aboriginal and Torres Strait Islander prisoners should ensure that any procedures are appropriate to Aboriginal and Torres Strait Islander prisoners.

The Department of Justice also operates the ACCESS service to receive complaints about service delivery in prisons where an adult is unsatisfied with the response or behaviour of an officer. Prison Support Services, Peer Support Prisoners and the Aboriginal Visitor Scheme operate to provide support to at risk and vulnerable prisoners.

The Western Australian Government has mostly implemented Recommendation 179 through procedures and avenues for the registration of complaints by prisoners. However, it is not clear whether this process is facilitated as quickly or soon as is practicable.

In **Tasmania,** the Tasmanian Prison Service Compliance Unit, the Official Visitor Scheme and the Office of the Ombudsman are involved in handling complaints from prisoners. Official visitors are available to receive complaints from Aboriginal and Torres Strait Islander prisoners.

In Tasmania, Recommendation 179 has been mostly implemented through the Tasmania Prison Service Compliance Unit, the Official Visitor Scheme, and the Office of the Ombudsman. However, it is not clear whether this process is facilitated as quickly or as soon as is practicable.

In the **Northern Territory,** prisoner complaints can be made to official visitors, while serious complaints can be made to the NT Ombudsman. The correctional facilities have an induction process which all prisoners are required to attend following Reception, showing the rules and processes of the correctional centres.

In the Northern Territory, procedures encourage timely responses to prisoner requests, thus mostly implementing Recommendation 179. However, it is not clear whether this process is facilitated as quickly or as soon as is practicable.

In the **Australian Capital Territory,** the *Official Visitor Act 2012* allows for Aboriginal and Torres Strait Islander prisoners to make their complaints to the Aboriginal Official Visitor. Additionally, Aboriginal and Torres Strait Islander detainees may make complaints and requests via telephone or email to either the Ombudsman, Alexander Maconochie Centre case manager, or Alexander Maconochie Centre Indigenous Liaison Officer. Complaints may also be made to a yard delegate or custodial officer. Staff are required to be responsive in a timely manner and for critical matters such as At Risk referrals, a mandated 2-hour window is allowed to have a mental health assessment with observations until that assessment occurs.

In the Australian Capital Territory, Recommendation 179 has been implemented through the Official Visitor Act 2012.

Recommendation 180

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

Background information

The RCIADIC noted that the prison disciplinary systems needed to have procedures and systems that ensured that "disciplinary penalties and punishments are not unduly harsh or counter-productive to the process of correction".

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

In **New South Wales** the *Crimes (Administration of Sentences) Act 1999 (NSW)* states that if the governor of a correctional centre believes an offence is serious then they may refer a correctional centre offence with which an inmate is charged to a visiting magistrate for hearing and determination. General criminal offences (which are not correctional centre offences) are heard by public courts under normal processes.

● *The New South Wales Government has implemented Recommendation 180 through the Crimes (Administration of Sentences) Act 1999 (NSW).*

In the **Victorian** Implementation Review of Recommendations**,** this recommendation is listed as "no longer relevant" since Victoria now has the Official Prison Visitor Scheme. The system of *Visiting Justices* was phased out in Victoria in the 1980s.

● *The Victorian Government implemented the intent of Recommendation 180 prior to the RCIADIC, as the Visiting Justice System was phased out in the 1980s as a custody disciplinary tool.*

In **Queensland,** under section 1.71 of the *Standard Guidelines for Corrections in Australia,* prisoners should be notified in writing of any charges relating to an alleged breach of prison discipline at the first available opportunity. Proceedings for criminal offences committed within a correctional centre, if not proceeded with as a breach of discipline, are commenced in the same manner as any other offence requiring a prisoner's attendance before a Magistrates Court in the first instance. In addition, no prisoner shall be tried unless informed of the alleged offence. Any adjudication processes should be fair and should incorporate principles of natural justice and procedural fairness.

● *The Queensland Government has implemented Recommendation 180 through the Standard Guidelines for Corrections in Australia and disciplinary procedures.*

In **South Australia,** section 17 of the *Corrections Act 1982* (SA) states that visiting tribunals must be established for each correctional institution. A magistrate or a special justice may be appointed to be a visiting tribunal. The chief executive of the administrative unit who enforces this act may, at their discretion, refer any offence against the prison regulations to a visiting tribunal for hearing and determination. However, it is unclear whether charges of offences against the general law are heard in public courts.

◑ *The South Australian Government has partially implemented Recommendation 180 through the Corrections Act 1982 (SA). However, it does not appear that it is a requirement for cases to be heard by a Magistrate. However, it is unclear whether charges of offences against the general law are heard in public courts.*

In **Western Australia,** under section 54 of the *Prisons Act 1981* (WA), the Minister may appoint visitors to be known as visiting justices. Visiting justices shall be appointed from persons who are magistrates or justices of the peace. The visiting justice may inquire into and determine any charge of a minor prison offence (section 72). If an aggravated prison offence is commenced in a court of summary jurisdiction, then the offence can be treated as a "simple offence". This means that the

offence will not be treated as a criminal offence and generally faster will not go through a full trial. Charges for minor prison offences may also be dealt with by a Superintendent. Penalties applicable for minor offences do not affect the person in custody's terms of imprisonment.

The Western Australian Government has partially implemented Recommendation 180 through the Prisons Act 1981 (WA), however visiting justices are not required to be magistrates and it does not appear that matters are heard in public court.

In **Tasmania,** section 59 of the *Corrections Act 1997* (Tas) provides that a disciplinary officer may do one of the following: (a) reprimand the prisoner or detainee; (b) withdraw one of the prisoner's or detainee's privileges for less than 14 days; (c) confine the prisoner or detainee to his or her cell for up to 48 hours; (d) charge the prisoner or detainee with the prison offence; (e) take steps to have the matter dealt with under criminal law. If the matter is considered serious enough to refer to Tasmania Police, a prisoner may be charged with a criminal offence. All prisoners charged with a criminal offence would be dealt with by a Magistrate / Judge.

The Tasmanian Government has implemented Recommendation 180 through the Corrections Act 1997 (Tas).

In the **Northern Territory,** under section 71 of the *Correctional Services Act 2014* (NT), if a prisoner is charged with engaging in misconduct, the proceedings on the charge must be conducted by either the general manager of the custodial facility or the correctional officer nominated by the general manager. None of the penalties that may be imposed affect the period of imprisonment. Criminal charges are handled through normal police and courts processes.

The Northern Territory Government has mostly Recommendation 180 through the Correctional Services Act 2014 (NT). However, it does not appear that it is a requirement for cases to be heard by a Magistrate.

In the **Australian Capital Territory,** chapter 10 of the *Corrections Management Act 2007* (ACT) sets out the processes in relation to a disciplinary breach, or alleged disciplinary breach, by a prisoner. Any disciplinary breaches go before a presiding officer who may refer the report to an investigator. The presiding officer may also refer the allegation to the chief police officer or the director of public prosecutions if the disciplinary breach is a criminal offence. An inquiry may take place, in which the rules of natural justice would apply.

The Australian Capital Territory Government has implemented Recommendation 180 through the Corrections Management Act 2007 (ACT).

Recommendation 181

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

Background information

The RCIADIC identified that solitary confinement caused anxiety for Aboriginal and Torres Strait Islander prisoners.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

In **New South Wales,** under section 14.7.14 of the *Corrective Services New South Wales Operations Procedures Manual,* placing an Aboriginal prisoner in segregated custody is undesirable to the highest degree and in cases where it is necessary the general manager must ensure the inmate is provided with daily exercise, appropriate clothing, food, and water. The Regional Aboriginal Program Officer is also notified of all cases in which an Aboriginal inmate is placed in segregation. The Custodial

Operations Policy and Procedures (section 14.1 Inmate Discipline) stipulates that young Aboriginal inmates should not be confined to cells alone. The policy provides that consideration is to be given to inmates' mental health and that alternative disciplinary penalties should be considered.

New South Wales has implemented Recommendation 181 through the introduction of minimum standards around the use and conditions of management units.

In the **Victorian** 2005 Implementation Review of Recommendations, Corrections Victoria advised that approval must be given by the Sentence Management Unit before a prisoner is placed in a Management Unit as a result of a significant incident or for disciplinary purposes. Placements in a Management Unit are reviewed by Sentence Management on a weekly basis. Access to food and water will continue in the usual manner. Prisoners will also have access to fresh air, lighting, daily exercise and adequate clothing.

Victoria has implemented Recommendation 181 through the introduction of minimum standards around the use and conditions of management units.

In **Queensland,** under section 1.80 of the *Standard Guidelines for Corrections,* prolonged solitary confinement, punishment by placement in a dark cell, inhuman or degrading punishments should not be used. Section 2.14 of these guidelines also states that every prisoner should be provided with continuous access to clean drinking water with nutritional food adequate for health and wellbeing. Where separation of prisoners occurs, Queensland Corrective Services has regard for special needs of prisoners, visits, amount of property to be kept, the prisoner's access to approved activities, courses and programs, and phone calls and electronic communications.

Queensland has implemented Recommendation 181 through the introduction of minimum standards around the use and conditions of management units.

In **South Australia,** section 36 of the *Correctional Services Act 1982* (SA) sets out information on the power to keep a prisoner apart from other prisoners. A prisoner may only be separated if the prisoner has allegedly committed an offence and an investigation is required, or in the interests of the safety and welfare of the prisoners or protecting other prisoners. The Department for Corrective Services review of SOP 1 *Case Management Admission and Induction Procedures* requires officers to consider Aboriginal and Torres Strait Islander status, and sharing accommodation with another Aboriginal and Torres Strait Islander prisoner, in their decision regarding accommodation placement. The *Youth Justice Administration Act 2016* (SA), prohibits isolation or segregation from other residents, other than in a safe room or in prescribed circumstances.

South Australia has implemented Recommendation 181 through the introduction of minimum standards around the use and conditions of management units.

The **Western Australian** *Code of Inspection Standards for Adult Custodial Services* (standard 42) states that the management of 'protection prisoners' must ensure their immediate safety and should be directed in the longer-term to returning them safely back into a normal (non-segregated) prison regime. In addition to these standards, *Adult Custodial Rule 1* sets the policy for the management of prisoners in confinement stating that prisoners in separate confinement must be held in a ventilated and well-lit cell, have access to daily exercise, adequate clothing, food, water, and sanitation facilities. However, there was no policy or legislation found that discussed a notable difference in the treatment of Aboriginal and Torres Strait Islander prisoners and non-Aboriginal and Torres Strait Islander prisoners.

Additionally, legislative provisions are made in the *Prisons Act 1981* (WA) ss 43 and 82 to place Aboriginal and Torres Strait Islander prisoners in separate confinement if deemed necessary for the purposes of maintaining good government, good order or security in a prison, or as a penalty imposed following a disciplinary hearing or conviction.

The Western Australian Government has implemented Recommendation 181 through the Code of Inspection Standards for Adult Custodial Services and Adult Custodial Rule 1.

In **Tasmania,** under section 29 of the *Corrections Act 1997* (Tas), prisoners must have access to sufficient food and drink, clothing, facilities for personal hygiene, exercise, and bedding. However, there was no policy or legislation found that discussed a notable difference in the treatment of Aboriginal and Torres Strait Islander prisoners and non-Aboriginal and Torres Strait Islander prisoners. The Tasmanian Government comments that prisoners in Tasmania are not kept in social isolation, inhumane conditions, or subject to sensory deprivation. A new regime, introduced in 2012 and applying to all prisoners, includes safeguards to ensure that prisoners are only separated from other prisoners as a last resort, are treated decently and humanely and are separated for the minimum amount of time necessary to address the high risk behaviours that led to their separation.

Tasmania has implemented Recommendation 181 through the introduction of minimum standards around the use and conditions of management units.

In their 1996-97 implementation report, the **Northern Territory** Government stated that they support this recommendation but have not specified any actions taken to implement this recommendation. The Northern Territory Government provides that separate confinement is used as a "last resort" prisoner management procedure in incidents of proven prison misconduct as a deterrent for continued poor performance and behaviour.

The Northern Territory Government has not implemented Recommendation 181, as it does not appear that specific actions have taken place in response to this recommendation.

In the **Australian Capital Territory,** the section 12 of the *Corrections Management Act 2007* (ACT) states that prisoners must have access to sufficient food and drink, clothing, facilities for personal hygiene, exercise, and bedding. Section 95 of the Act requires that these minimum living conditions also apply to those prisoners in segregation, unless it is reasonable that the standards not apply. There is a distinction between the treatment of Aboriginal and Torres Strait Islander prisoners and non-Aboriginal and Torres Strait Islander prisoners in the *Correction Management (Aboriginal and Torres Strait Islander Detainees Policy 2011* stating that consideration needs to be taken into account of the impact segregation has on Aboriginal and Torres Strait Islander prisoners. When segregating a detainee for safety or security reasons, regard must be given to any relevant known cultural considerations as well as any likely impact of the segregation on the health and wellbeing of the detainee. Under the ACT Corrective Services *Corrections Management (Shared Cell) Policy 2009*, Aboriginal and Torres Strait Islander detainees should be accommodated together where this is requested subject to operational requirements and other necessary considerations.

The Australian Capital Territory has implemented Recommendation 181 through the introduction of minimum standards around the use and conditions of management units.

Recommendation 182

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

Background information

The RCIADIC heard of instances when correctional officers would not interact appropriately with prisoners.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

In **New South Wales,** the *Guide to Conduct and Ethics* section 2.8 sets out the professional conduct towards offenders that is expected of Corrective Services NSW employees. This section notes that the treatment of prisoners should encourage their self-respect and a sense of personal responsibility. Corrective Services employees should also act with integrity and compassion towards prisoners. Any misconduct may be subject to disciplinary or other remedial action including fine, demotion, or

dismissal. All training for frontline staff is regularly reviewed and updated in line with these expectations.

New South Wales has implemented Recommendation 182 through standards, training, and procedures for responding to inhumane or discourteous treatment of prisoners.

In **Victoria,** item 40 of the *Standards for the Management of Women Prisoners in Victoria* and the *Correctional Management Standards for Men's Prisons in Victoria* outline the expectations of how prisoners will be managed in correctional institutions. Specifically, the prison general manager will ensure prison staff demonstrate appropriate attitudes and culturally sensitive practices. In the 2005 implementation review, Corrections Victoria stated that any alleged incidents where staff have behaved inappropriately are investigated and, as appropriate, sanctions imposed.

Victoria has implemented Recommendation 182 through standards, training, and procedures for responding to inhumane or discourteous treatment of prisoners.

In **Queensland,** under section 1.49 of the *Standard Guidelines for Corrections,* interactions between staff and prisoners should promote dignity and respect. The *Corrective Services Act 2006* and the Code of Conduct for the Queensland Public Service also reinforce the principles of treating all persons with respect and without prejudice, and to communicate and respect people from different backgrounds.

The Queensland Government has implemented Recommendation 182 through the Standard Guidelines for Corrections as well as the Corrective Services Act 2006 (Qld) and the Code of Conduct for the Queensland Public Service.

In their 1994 implementation report, the **South Australia** Government stated that they were developing a Code of Ethics in the Correctional Services which addressed this recommendation. This report also noted that there is a Cross Cultural Awareness program undertaken by trainees in their induction training and by current officers. The Department for Corrective Services Core Values statement requires employees to respect each person, staff and clients alike, for their individuality and reject and confront discrimination, prejudice, victimisation, physical and psychological bullying and sexual and racial discrimination. DCS has its own Declaration of Reconciliation as well as being a signatory to the Justice Portfolio's Reconciliation Statement. The Youth Justice Administration Act 2016 recognises a duty of care to young people in custody:

- to provide for the safe, humane and secure management of youths held in training centres in the State;
- to follow, to the extent practicable, international and national requirements or guidelines relating to the detention of youths;
- to promote the rehabilitation of youths by providing them with the care, correction and guidance necessary for their development into responsible members of the community and the proper realisation of their potential;
- and to promote, and endeavour to ensure compliance with, the Charter of Rights for Youths Detained in Training Centres.

Mechanisms are in place to ensure any breaches in staff conduct are reviewed and addressed appropriately.

The South Australian Government has implemented Recommendation 182 through standards, training, and procedures for responding to inhumane or discourteous treatment of prisoners.

The **Western Australian** *Code of Inspection Standards for Custodial Services* standard 72 states that prisoners must be treated with respect for their inherent dignity as individual human beings. However, there have been a number of complaints made to the Office of Custodial Services and the Ombudsman with regards to the treatment of prisoners by correctional officers. Currently, Department of Justice employees are required to adhere to the *Code of Conduct, Policy Directives* and *Prison Standing Orders* as well as the provisions of the *Prisons Act 1981* (WA) and other legislative provisions.

The Western Australian Government has implemented Recommendation 182 through legislation and policy.

In their 1995 implementation report, the **Tasmania** Government stated that this requirement is written in Standing Orders and is also incorporated in staff training. Any breaches are dealt with on a case-by-case basis.

Tasmania has mostly implemented Recommendation 182 through standards and training. However, there does not appear to be clearly defined procedures for responding to inhumane or discourteous treatment of prisoners.

The **Northern Territory** has in place the *Northern Territory Public Sector Principles* and *Code of Conduct* which all prison officers must adhere to. *The Northern Territory Public Sector Employment Instruction Number 12- Code of Conduct* item 7 notes that a public sector officer must be seen to exhibit the highest ethical standard in carrying out his or her duties. The *Code of Conduct* also endorses integrity, transparency and ethical accountable behaviour as a requirement from all staff. The Code of Conduct is issued in accordance with Employment Instruction 13 and as such is a lawful direction under the Public Sector Employment and Management Act.

The Northern Territory has implemented Recommendation 182 through its policies.

In the **Australian Capital Territory,** under section 9 of the *Corrections Management Act 2007* (ACT)*,* prisoners' human rights should be respected and protected and prisoners should be treated decently and humanely. All ACT Corrective Services staff are subject to the ACT Public Service Code of Ethics, the ACT Public Service Code of Conduct, and undertake mandatory training in areas including: human rights; bullying and harassment; respect, equity and diversity; ethical standards; effective communication; and cultural awareness training. The 2011 Independent Review of Operations at the Alexander Maconochie Centre found that the ACT Government and ACT Correctional Services had placed considerable emphasis on creating a pro-social environment that contributes to the human and dignified treatment of detainees.

The Australian Capital Territory has implemented Recommendation 182 through the Corrections Management Act 2007 (ACT).

Additional commentary

In the Northern Territory, there have been reports of inappropriate treatment of prisoners by prisoner officers which has resulted in the Royal Commission into the Protection and Detention of Children in the Northern Territory as well as complaints to the NT Ombudsman (NT Ombudsman, 2014[41]).

Recommendation 183

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

Background information

The RCIADIC found that there had been an increase in the number of Aboriginal and Torres Strait Islander support groups within institutions, which had a positive impact on Aboriginal and Torres Strait Islander prisoners.

Responsibility

All State and Territory governments are responsible for this recommendation.

[41] NT Ombudsman, *Annual Report 2013-14,* Northern Territory Government, Darwin.

Key actions taken and status of implementation

The **New South Wales** Government stated in their 1995-96 implementation report that they have resident committees within juvenile justice centres that meet regularly with the manager of the correctional institution. Representatives on this committee are elected by either staff or their peers. The Department of Corrective Services also has programs run with TAFE where they aim to train prisoners to become mentors. This is specifically for Aboriginal prisoners. Lastly, NSW has also established Aboriginal Inmate Committees which aim to facilitate communication between staff and prisoners. Aboriginal delegates act as a touch point for communication between inmates and staff, and liaise with the Regional Aboriginal Programs Officer employed by CSNSW. CSNSW also collaborate with Aboriginal offenders and community organisations through the delivery of programs including:

- the Gundi Program which provides participants with real world construction experience and employment placements;
- Bundian Way - a community engagement and cultural learning initiative for male and female offenders delivered in partnership with the Eden Land Council;
- Yetta Dhinnakkal - a working farm maintained by inmates with programs addressing offending behaviour as well as providing practical skills and vocational training in horticulture, construction and technology; and
- Balund – a residential diversionary program that includes interventions to address reoffending risks, enhance cultural connections and provide employment seeking assistance.

New South Wales has implemented Recommendation 183 through Aboriginal Inmate Committees and other similar initiatives.

In **Victoria,** the *Victorian Correctional Management Standards for Men's Prisons* states that Aboriginal and Torres Strait Islander prisoners should be provided access to an Aboriginal Wellbeing Officer or Aboriginal Liaison Officer (item 2.2). Aboriginal Wellbeing Officers maintain individual contact with Aboriginal and Torres Strait Islander prisoners and arrange for group meetings to occur. The Aboriginal Cultural Immersion Program (ACIP) facilitates group discussions for Aboriginal and Torres Strait Islander prisoners and offenders. The AJA 3 also supports this recommendation by aiming to enhance advocacy of Aboriginal Wellbeing Officers or Aboriginal Liaison Officers for Aboriginal and Torres Strait Islander prisoners at Review and Assessment Committees.

Victoria has implemented Recommendation 183 through the ACIP.

The **Queensland** Government stated in their 1997 implementation report that Aboriginal and Torres Strait prisoner support groups operate in correctional centres. These groups remain current and include visits from Elders, legal services, Aboriginal and Torres Strait Islander chaplaincy services and health organisations. The *Corrective Services Act 2006* states that when establishing a new prison, the chief executive must ensure that appropriate provision is made in the prison for a meeting place for Aboriginal and Torres Strait Islander prisoners. All correctional centres in Queensland comply with this requirement.

Queensland has implemented Recommendation 183 through Aboriginal and Torres Strait prisoner support groups and the Corrective Services Act 2006 (Qld).

In **South Australia,** there is the Aboriginal Services Unit which is responsible for advising and developing the provision of culturally appropriate services to Aboriginal and Torres Strait Islander prisoners and contributes to policy development. DCS holds six-weekly Prevention of Aboriginal Deaths in Custody Forums rotating around the State's prisons which encourage prisoner participation in sharing their concerns related to their custodial health and welfare. An Aboriginal Peer Support Program is under development for Port Augusta and Port Lincoln Prisons, with assistance from the DCS's Health Promotions. In 2015, the Yarning Circle Pilot commenced at the Adelaide Youth Training Centre which is open to young Aboriginal and Torres Strait Islander males who expressed interest in having a safe space to discuss issues which impact upon themselves, their families and wider communities.

South Australia has implemented Recommendation 183 through the function of the Aboriginal Services Unit, the introduction of rotating forums, and other similar initiatives.

In **Western Australia**, prisoner peer-support groups currently operate in all prisons and are provided by standard A12 of the *Inspection Standards for Aboriginal Prisoners,* which states that Aboriginal and Torres Strait Islander prisoners should have active peer support groups of prisoners. Standard A23 also notes that educational opportunities should be culturally appropriate to the needs and beliefs of the prison population. Aboriginal Meeting Places have been created in most prisons. Regional prisons liaise with local Aboriginal and Torres Strait Islander groups and communities, and encourage their participation in prison programs. For example, regular unit meetings including the Unit Manager and detainees are held at Banksia Hill Detention Centre to discuss particular issues as required.

The Western Australian Government has implemented Recommendation 183 through the introduction of prisoner peer-support groups and meeting places, including liaison between detainees and custodial staff.

The **Tasmanian** Government stated in their 1993 implementation report that Aboriginal and Torres Strait Islander support groups are facilitated in the prisoner system. Currently, while Aboriginal and Torres Strait Islander prisoners have the opportunity to participate in and represent other prisoners through prisoner forums, specific support groups are not maintained within institutions. The Tasmania Prison Service facilities support by providing access to external supports and connects Aboriginal and Torres Strait Islander prisoners with appropriate programs.

The Tasmanian Government has implemented Recommendation 183 through ongoing support groups and the function of Tasmania Prison Service in implementing the principles of this recommendation.

The **Northern Territory** Government stated in their 1996-97 implementation report that each facility has an Activities Officer and Welfare Officer who actively encourages interactions with support groups where there is no compromise of security. There is also assistance with education programs offered through Batchelor College, Centralian College, the Centre for Appropriate Technology, and Aboriginal Development Unit. Currently, the Elders Visiting Program includes 14 communities with over 45 Elders participating in the Program. The Elders make regular visits to the Correctional facilities to engage with the prisoners from their region and to listen to their concerns. The Northern Territory Government provides $1 million per annum in funding for the Elders program, and additional funding of $120,000 per annum to organisations supporting community-based work in association with the program.

The Northern Territory Government has implemented Recommendation 183 through the Activities Officer and Welfare Officer, education programs, and the Elders Visiting Program.

In the **Australian Capital Territory,** the *Corrections Management (Aboriginal and Torres Strait Island Detainees) Policy (No 2)* allows for Aboriginal and Torres Strait Islander prisoners of the same gender to meet for the purpose of providing communal, cultural, and spiritual support. There is also an Indigenous Liaison Officer who will see all Aboriginal and Torres Strait Islander prisoners and who liaises with other Aboriginal and Torres Strait Islander community organisations.

The Alexander Maconochie Centre has incorporated a cultural place to provide Aboriginal and Torres Strait Islander people with a venue to discuss and express themselves through culturally relevant ways including visual art activities. The Corrections Management (Aboriginal and Torres Strait Islander Detainees) Policy 2011 (No. 2) provides that:

- recreational programs and activities that are culturally appropriate are provided within the activities centre, designated compound areas, and the women's community centre; and
- representatives of community-based organisations may be granted access to the Alexander Maconochie Centre to conduct programs and/or provide education for Aboriginal and Torres Strait Islander detainees.

The Australian Capital Territory Government has implemented Recommendation 183 through the Corrections Management (Aboriginal and Torres Strait Island Detainees) Policy (No 2).

Recommendation 184

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

Background information

The RCIADIC identified an opportunity for Aboriginal and Torres Strait Islander prisoners to continue building their skills while incarcerated.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

In **New South Wales,** inmates are provided with education and vocational training with priority given to those with the highest learning needs and most at risk of re-offending. The *Aboriginal and Torres Strait Islander Inmate Handbook* states that each prison has educational units which are run by the Adult Education and Vocational Training Institute. Aboriginal inmates are provided with opportunities that recognise their land, heritage, relationships and cultural beliefs. CSNSW has completed an education review and as part of this programs offered are being further explored. CSNSW engages qualified (degree in Education or equivalent) Aboriginal teachers who deliver Aboriginal Cultural Programs. Corrective Services Industries prepares inmates for employment after release through real work opportunities. CSNSW is partnering with the Commonwealth Government to implement the Time to Work Employment Service across NSW correctional centres.

New South Wales has implemented Recommendation 184 through its work and education programs.

In **Victoria,** under section 47 of the *Corrections Act 1986* (Vic)*,* prisoners have the right to take part in education programs in the prison. The Victorian Government noted in its 2005 implementation report that all sentenced prisoners are required to work six hours each day, five days per week, across a number of types of work. All correctional facilities provide educational programs, including the Certificate I in Koori Education which develops foundational skills for Aboriginal and Torres Strait Islander prisoners.

Victoria has implemented Recommendation 184 through its work and education programs.

In **Queensland,** section 266 of the *Corrective Services Act 2006* (Qld) states which programs and services should be established to help prisoners. Included within this list are programs or services to help prisoners reintegrate into the community after their release from custody, including programs that enable the prisoner to acquire skills. Any programs or services must take into account the special needs of prisoners. Prisoners are also encouraged to undertake work as part of a structured day. All prisoners are provided with opportunities to access basic education and vocational education and training programs.

Queensland has implemented Recommendation 184 through its work and education programs.

The **South Australia** Department of Correctional Services *Annual Report 2015-16* noted that the following services are offered to prisoners; vocational training such as literacy and numeracy skills, business and business administration, textiles and clothing as well as agrifood and horticulture. The Aboriginal Services Unit also provides additional programs to Aboriginal and Torres Strait Islander prisoners such as employment programs.

VTEC-SA provides advice for planning, policy and direction for the education and training programs that are available to prisoners to ensure that they meet national standards. Additionally, DCS has a number of key partnerships with external providers, including TAFE SA, to deliver programs to prisoners to improve job readiness.

The Work Ready scheme provides assistance for prisoners in gaining valuable work skills and qualifications. In addition, the 'Job Club' at the APC prepares prisoners at the end of their sentence for employment through employment specific courses. These include job network placements, short courses, long term TAFE SA programs and several external TAFE enrolments where prisoners are enrolled externally but study in prison. A structured work day has been introduced in PAP and Mobilong prisons where prisoners are provided opportunity to participate in meaningful work and education. The Adelaide Youth Training Centre provides residents with opportunities for success such as participation in a range of South Australian Certificate of Education (SACE) courses, vocational and University level studies, sports programs, poetry and art competitions. The Youth Education Centre, run by the Department of Education onsite, provides a high quality, contemporary educational environment.

South Australia has implemented Recommendation 184 through its work and education programs.

In **Western Australian,** under standard A21 of the *Inspection Standards for Aboriginal Prisoners,* Aboriginal and Torres Strait Islander prisoners should have available to them culturally appropriate offender programs, including core programs that address education and employment training. Furthermore, standard A22 also notes that vocational skills programs that are relevant to post-release employability of Aboriginal and Torres Strait Islander prisoners in either local industries or on their own communities should be established and maintained. Detainees are provided with a choice to work in a range of industries, including the abattoir, dairy, bakery, laundry, textiles and cabinet workshops, with many of these work placements linked to accredited TAFE courses. Additionally, support is offered in accessing VET courses, secondary/higher education, skills-based programs and other pre-release employability programs.

The Western Australian Government has implemented Recommendation 184 through a range of culturally-appropriate employment and education programs for Aboriginal and Torres Strait Islander detainees.

A review of **Tasmania** Community Corrections[42] conducted by the Tasmanian Department of Justice (2008) found that although there were a variety of educational programs offered to prisoners, there were limited programs that were specifically aimed at Aboriginal and Torres Strait Islander prisoners. In response to the lack of tailored educational programs, the *Tasmanian Prison Services Education and Training Strategic Plan 2011-2016* was developed. This plan outlined new initiatives that would be developed such as a core programs of learning that are available to all prisoners. In Tasmania, all prisoners are entitled to participate in work, education and programs, and are encouraged to do so through the payment of various allowances. A Memorandum of Understanding is in place between the Tasmania Prison Service and TasTAFE, with TasTAFE taking on primary responsibility for the delivery of prisoner education and training within the prison service. The Tasmania Prison Service also works with TasTAFE to delivery Aboriginal specific educational courses.

Tasmania has implemented Recommendation 184 through its work and education programs.

According to their *2015-16 Annual Report*, in the **Northern Territory** the-then Department of Correctional Services offered a range of educational programs to prisoners in conjunction with the Batchelor Institute of Indigenous Tertiary Education. There was also an increase in the proportion of prisoners participating in education programs from 10% in 2014-15 to 38% in 2015-16. One of the strategic issues for 2016-17 outlined in this annual report was to improve participation in vocational education and training as well as prisoner education. The Northern Territory Government notes that prisoners on remand are given their choice to participate in work programs under the *Correctional Services Act 2014* (NT). The Commissioner may give any other prisoner the opportunity to work at the custodial correction facility or elsewhere.

42 http://www.justice.tas.gov.au/__data/assets/pdf_file/0019/130069/FINAL_REPORT_Tasmania_Community_Corrections.pdf

The Northern Territory has implemented Recommendation 184 through its work and education programs.

In the **Australian Capital Territory,** the *Corrections Management (Aboriginal and Torres Strait Island Detainees) Policy (No 2)* notes that culturally appropriate recreational programs and activities are allowed to be provided within the activities centre, designated compound areas, and the women's community centre. Additionally, detainees at the Alexander Maconochie Centre are remunerated for participating in approved programs, education and employment as set out in the *Corrections Management (Prisoner Remuneration Policy) 2009* (ACT). The *Corrections Management (Work Release) Policy 2012* extends the employment programs offered at the Centre to allow low-risk detainees approaching release to engage in paid employment in the community.

Since 2009, the Centre has had an education provider delivering more than 20 mainstream vocational education and training courses, as well as general education. Individual learning plans are developed for all participants including through ongoing skills assessment. Delivery is now principally through the enrolment in three certificates of Foundations Skills with VET skill sets as electives within each qualification, these include:

- Certificate I in Access for Vocational Pathways;
- Certificate I in Skills for Vocational Pathways; and
- Certificate II in Skills for Work and Vocational Pathways, which has the following electives: hospitality, hairdressing, business, information and communications technology, cleaning operations, construction, first aid, horticulture. A range of education programs also address topics relating to Aboriginal and Torres Strait Islander history and culture.

The Australian Capital Territory has implemented Recommendation 184 through its work and education programs.

Additional commentary

In Victoria's 2005 implementation report, Corrections Victoria observed that education provisions have not increased in real terms in spite of dramatic increases in prisoner numbers. As a result, demand for education and training exceeded supply.

Recommendation 185

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

Background information

The RCIADIC commented on the significant differences in educational outcomes between Aboriginal and Torres Strait Islander people and other Australians. It further noted that lower education achievement is one of the "principle underlying issues associated with the disproportionate representation of Aboriginal people in custody and Aboriginal deaths in custody" (RCIADIC Report, Volume 3 paragraph 25.9.4).

Responsibility

The Commonwealth, and all State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

In 1999, the **Commonwealth** Department of Education, Science and Training released a National Strategy to Improve Education and Training Outcomes for Adult Indigenous Australians in the Custody of Correctional Authorities (the 'National Strategy') directly in response to the RCIADIC's

recommendation. The strategy was developed in collaboration with the States, Territories, the Commonwealth and the Aboriginal and Torres Strait Islander community.

DET is a member of the Prison to Work Advisory Committee which works across government to identify practical ways to address barriers to employment for Aboriginal and Torres Strait Islander people leaving prison and to provide support during the transition from incarceration to employment. The *Prison to Work* report, released by COAG in 2016, identifies national strategies to help Aboriginal and Torres Strait Islander people to transition from prison into employment. This includes in-prison training and rehabilitation programs, employment and health initiatives, and welfare income support services. The report was developed through consultations in every jurisdiction including with governments, academics, service providers, employment providers, healthcare providers, Aboriginal and Torres Strait Islander people, prison staff and prisoners.

The Prison to Work program announced in the 2017-18 Budget builds on the findings of the Prison to Work report and will support Indigenous prisoners to make a successful transition from Prison to Work.

Recommendation 185 has been implemented by the Commonwealth Government through the 1999 National Strategy and the subsequent Prison to Work report in 2016.

In 1999, the Department of Education, Science and Training released a National Strategy to Improve Education and Training Outcomes for Adult Indigenous Australians in the Custody of Correctional Authorities (the 'National Strategy') directly in response to the RCIADIC's recommendation. The strategy was developed in collaboration with the States, Territories, the Commonwealth and the Aboriginal and Torres Strait Islander community.

States and Territories: all States and Territories either referred to the National Strategy or stated that this recommendation was under the Commonwealth's jurisdiction.

All States and Territories have implemented Recommendation 184 through cooperating with the Commonwealth in its establishment of a national partnership, as well as through State-based work and education programs.

Additional commentary

In **New South Wales**, CSNSW provides adult basic education and vocational training to offenders in custody with assessed educational needs. All education programs are delivered by a registered training organisation. All education programs that are delivered issue nationally recognised credentials under the Australian Qualifications Training Framework. The provision of vocational education has been informed by Australian National Training Authority's 'Rebuilding Lives: VET for prisoners and offenders' provides a framework for a national approach to the implementation of vocational education and training for adult prisoners and offenders who are in custody. CSNSW and the Department of Education and Training collaborated to develop an implementation plan for TAFE NSW provision for Aboriginal prisoners. CSNSW has recently commenced a Service Level Agreement that will provide for the delivery of inmate education and vocational training centres. CSNSW engaged BSI Learning under a new education model which prioritises offenders most at risk of reoffending to ensure that those inmates with the highest needs participate in programs.

Queensland Corrective Services works with other agencies to provide accredited vocational education and training and literacy and numeracy education opportunities to all prisoners. Culturally appropriate training needs of Aboriginal and Torres Strait Islander prisoners are determined at the centres by the cultural development officers in consultation with Aboriginal and Torres Strait Islander prisoner's communities. Training providers who are contracted to deliver this training to Aboriginal and Torres Strait Islander prisoners must address specific criteria, as detailed in the tender documentation, to ensure that training is delivered in a culturally competent way. Queensland Corrective Services will increase rehabilitation and re-entry service opportunities for prisoners over the next five years.

In **South Australia**, significant progress towards the principles in this recommendation is occurring as part of Time to Work. A Memorandum of Understanding is also being progressed for the delivery of employment services in South Australian prisons. The Department for Correctional Services is

progressing work in the employment area with New Foundations and Work Ready Release Ready as part of the 10% by 2020 initiative.

The **Western Australian** Government notes that educational attainment is assessed at reception in prison and an agreed management plan, which may incorporate education and training, is implemented within six months of arrival. The Department of Justice offers numeracy and literacy courses to Aboriginal and Torres Strait Islander prisoners assessed as having low attainment in these areas. Assistance is provided with training, career, employment and transitional services into the community. Young people at Banksia Hill Detention Centre are provided education based on the Western Australian Curriculum. Banksia Hill Detention Centre collaborates with the Department of Education to ensure young people receive the best education possible, and are assisted to transition back into schooling upon release.

In the **Northern Territory**, the Batchelor Institute of Indigenous Tertiary Education provide the education and training requirements for the Darwin and Alice Springs Correctional Centre. On 29 June 2015, the-then Department of Correctional Services and Batchelor Institute of Indigenous Tertiary Education signed a seven-year Service Level Agreement for Batchelor Institute of Indigenous Tertiary Education to be the primary education and training provider for Northern Territory Correctional Services until the end of 2022.

Recommendation 186

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

Background information

The RCIADIC stated that while in prison, Aboriginal and Torres Strait Islander prisoners should be encouraged to develop skills which would help them find employment when released from prison. The RCIADIC also noted that Aboriginal and Torres Strait Islander prisoners should be compensated for their work to improve their self-worth.

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

New South Wales adheres to the *Standard Guidelines for Corrections in Australia.* Item 3.8 of these guidelines state that prisoners who are approved to be full-time students should be remunerated equivalently to prisoners who are employed in full-time work. However, these guidelines are not legally binding and as such States and Territories do not have to abide by them. Actions taken towards the implementation of Recommendation 183 are also relevant.

The New South Wales Government has implemented Recommendation 186 through the Standard Guidelines for Corrections in Australia.

In **Victoria,** prisoners are paid for work undertaken in work programs or attendance at prison programs (which can include educational programs).

The Victorian Government has implemented Recommendation 186 through the paid work schemes.

In **Queensland,** section 316 of the *Corrective Services Act 2006* (Qld) states that the chief executive may set remuneration for approved activities within the prison. Queensland Corrective Services has a prisoner remuneration policy that provides payments for unemployed, employed workers, full-time students and prisoners taking part in intervention programs.

The Queensland Government has implemented Recommendation 186 through the establishment of a prisoner remuneration policy.

South Australia also adheres to the *Standard Guidelines for Corrections in Australia.* Prisoners who work in prison industries are paid a work allowance, and where appropriate, an additional performance allowance. The performance allowance may vary daily and is dependent on assessment by the relevant Supervising Correctional Officer. Prisoners who participate in approved education programs receive the same level of allowance as a prisoner who is paid a work allowance.

The South Australian Government has implemented Recommendation 186 through the Standard Guidelines for Corrections in Australia.

Western Australia also adheres to the *Standard Guidelines for Corrections in Australia.* We were unable to locate additional guidelines specific to Western Australia. Remuneration is offered for those who engage in Prison Industries work, requisite with the level of difficulty required by the work and as defined in the *Prisons Regulations 1982* (WA). This work is associated with education and training outcomes that provide options for Aboriginal and Torres Strait Islander people on release. Given the mandatory obligation of young people to engage in education, they are provided gratuities consistent with the *Young Offenders Regulations 1995* (WA).

The Western Australian Government has implemented Recommendation 186 through the Standard Guidelines for Corrections in Australia and the introduction of relevant state-based measures.

In **Tasmania,** prisoners are able to earn wages for this work. In addition, different jobs and activities have different wages[43]. Currently, all prisoners are paid to attend work, education or programs.

The Tasmanian Government has implemented Recommendation 186 through the introduction of paid work for prisoners.

In the **Northern Territory**, under section 55 of the *Correctional Services Act 2014* (NT) applies. This recommendation is also given effect in the NTCS Directive 2.14.1 which provides that internally employed prisoners will be paid at level when engaged in education or programs.

The Northern Territory Government has implemented Recommendation 186 through the Correctional Services Act 2014 (NT).

In the **Australian Capital Territory,** the *Australian Capital Territory Corrections Management (Prisoner Remuneration) Policy 2009* allows for prisoners to be paid for their work. Each activity receives a set wage. Remuneration is also provided for approved programs and employment under the *Corrections Management (Prisoner Remuneration) Policy 2009*. However, education programs that are not included within the Detainee Rehabilitation Plan are not remunerated in the detainee wage system.

The Australian Capital Territory Government has implemented Recommendation 186 through the Australian Capital Territory Corrections Management (Prisoner Remuneration) Policy 2009.

Recommendation 187

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

Background information

At the time of the RCIADIC, there was increasing support for community corrections instead of institutional corrections, but a greater understanding of the outcomes from community corrections was needed.

[43] http://www.justice.tas.gov.au/prisonservice/life_in_prison/prohibited_articles

Responsibility

All State and Territory governments are responsible for this recommendation.

Key actions taken and status of implementation

New South Wales stated in their 1995-96 implementation report that they consulted with community organisations about the services required for Aboriginal offenders. The Bureau of Crime Statistics and Research has undertaken studies relating to community-based sentences and Aboriginal experience. Community involvement is established through the AAC, community led programs such as Never Going Back and Bundian Way. The new High Intensity Program Units in CSNSW also seeks to involve communities to support inmates and establish community connections for post release. The Community Corrections Practice Guide for Intervention used in CSNSW enhances the effectiveness of supervision of offenders by staff by providing a structure for supervision based around simple exercises which allow staff to continue to use their professional skills and judgement, but in a more focused and structured manner.

New South Wales implemented Recommendation 187, as noted in their 1995-96 implementation report.

Victoria implemented a Koori Court in Shepparton which involved collaboration with Aboriginal and Torres Strait Islander agencies. Corrections Victoria are also a member of Regional Aboriginal Justice Advisory Committees and have contributed to the supervision and management of Aboriginal and Torres Strait Islander offenders by Community Correctional Services. The AJA 3 aimed to support Community Correctional Services by developing and expanding programs and frameworks that are more responsive and inclusive of Aboriginal and Torres Strait Islander needs, and meet the needs of Aboriginal and Torres Strait Islander offenders.

Victoria implemented Recommendation 187 through the AJA 3.

Queensland Corrective Services have a number of district offices and reporting centres. Reporting centres enable offenders to be supervised in the community in which they live. There are three parole boards which decide whether prisoners receive parole. At least one appointed member on each board must be an Aboriginal and Torres Strait Islander person[44]. Queensland Corrective Services works closely with a number of Aboriginal and Torres Strait Islander government and non-government agencies across the State and has established Probation and Parole offices in various communities to ensure that services are delivered in areas with significant numbers of Aboriginal and Torres Strait Islander offenders. Queensland Corrective Services collects and maintains data on all offenders and orders with the aim of improving services, programs and completion rates. The Research and Evaluation unit guides the strategic direction for Queensland Corrective Services' research and evaluation activities and, monitors and evaluates outcomes as a result of the implementation of the Queensland Parole System Review.

Queensland implemented Recommendation 187 through the ongoing function of Queensland Corrective Services.

In **South Australia,** the Aboriginal Services Unit was set up to advise on policy matters as well as to liaise with other Aboriginal and Torres Strait Islander community organisations. ALOs work closely with Community Corrections Officers and Aboriginal Community to support this. The Youth Justice Aboriginal Advisory Committee assists Youth Justice to reach its goals outlined in the *Youth Justice Strategic Plan 2015 - 2018* and the *Youth Justice Aboriginal Cultural Inclusion Strategy 2015 - 2018*. The aim of the committee is to bring the voice of the Aboriginal community and key partner agencies into the decision-making process of Youth Justice. DHS continues to develop its own evidence base regarding the efficacy of its interventions and to seek opportunities with sector partners to develop effective solutions for Aboriginal and Torres Strait Islander over-representation.

South Australia implemented Recommendation 187 through the ongoing function of the Aboriginal Services Unit.

[44] https://www.manpower.com.au/media/manpower-au/images/pdf/QCS.pdf

The **Western Australia** Government stated in their 1995 implementation report that negotiations had been undertaken in Wyndham and Central Desert to develop preventive programs in the communities there. Aboriginal and Torres Strait Islander staff were also appointed to country Community Corrections offices and Aboriginal and Torres Strait Islander communities were involved in providing community based options. This monitoring remains current practice, and the Department of Justice is currently seeking to build capacity in Aboriginal and Torres Strait Islander organisations to deliver support services to those in contact with the justice system.

The Western Australian Government has implemented Recommendation 187 through ongoing monitoring and continued efforts to build capacity.

The **Tasmanian** Government stated in their 1993 implementation report that Community Corrections programs were reviewed for effectiveness on a six monthly basis by way of Program Management Reviews. Consultative processes were in place to ensure participation of Aboriginal and Torres Strait Islander organisations in the correctional processes, although a less formal basis exists for consultation with regard to program development. Appropriate consultative processes were developed and formalised with Aboriginal and Torres Strait Islander organisations. Tasmania participates on the Corrective Services Administrators' Council (CSAC) Indigenous Issues Working Group that was established to develop a strategic framework that identifies common challenges and principles for the management of Aboriginal and Torres Strait Islander offenders and reports, regularly to both Corrective Services Administrators and Ministers. Relevant research or studies are also shared through CSAC.

Tasmania implemented Recommendation 187, as noted in their 1993 implementation report.

The **Northern Territory** *Parole Act 1971* (NT) requires Aboriginal and Torres Strait Islander representation on the parole board. Following a 2010/11 Workplace Review of Community Corrections, there was an organisational restructure and a review of organisational policies and procedures including the Offender Management Framework. Additionally, under the Closing the Gap initiative NTCS has employed Community Probation and Parole Officers in remote locations with a high proportion of Aboriginal and Torres Strait Islander people to assist offenders and community engagement.

The Northern Territory implemented Recommendation 187 through the ongoing function of the parole board.

The **Australian Capital Territory** Government stated in their 1997 implementation report that ACT Corrective Services is committed to expanding non-custodial, community-based sentencing options. Corrective Services continues to involved with Aboriginal and Torres Strait Islander organisations in consideration of community-based sentencing options, including the ACT Aboriginal and Torres Strait Islander Elected Body; the United Ngunnawal Elders Council; Gugan Gulwan Youth Aboriginal Corporation; Winnunga Nimmityjah Aboriginal Health and Community Service; the ALS; and Legal Aid ACT. The ACT Corrective Services monitors the results of, and experiences in, the administration of Community Corrections programs. This includes through the publication of recidivism rates in the JACS Annual Report.

The ACT Government has established intensive correction orders under chapter 5 of the *Crimes (Sentence Administration) Act 2005* (ACT). Under the Act, entities under which the offender participates in community service work or rehabilitation programs must provide written reports to the Director-General about the offender's participation. Section 76 of the Act requires the Director-General to keep data of each intensive correction order made in relation to an offender, the offence for which an order is made, and each order that is cancelled, suspended or discharged including the reasons for such action. The operation of the intensive correction order scheme is to be reviewed by the ACT Government in March 2019.

The Australian Capital Territory implemented Recommendation 187 through the Crimes (Sentence Administration) Act 2005 (ACT) and associated monitoring activities.