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OF CUSTODIAL SERVICES

Inspection Standards For Aboriginal Prisoners

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INTRODUCTION

These *Inspection Standards for Aboriginal Prisoners* have been developed in order to reflect the prison experience of Aboriginal prisoners. If the correctional goals set by society are to be achieved for Aboriginal prisoners, there needs to be a better understanding and acceptance that Aboriginal people constitute a distinct and significant cohort within the total prison population. This is not to imply that Aboriginal prisoners can simply be considered as a homogenous group as they span a rich variety of language and social groups. Equally, while many Aboriginal people in Western Australia still live in remote communities that retain much of their traditional lifestyle, others have lived in highly urbanised settings for many generations.

However, dispossession, white settlement and the cumulative acts of colonial and state governments have left a distinct and enduring legacy of economic, social, cultural and political disadvantage for almost all Aboriginal people. The lack of social supports and economic opportunities, particularly in rural and remote areas where many Aboriginal people live, further add to this disadvantage.¹ⁱ Like all cultural groups, Aboriginal people hold distinctive views that are a product of their beliefs and values, traditions, practices and personal and group experiences. Even though Aboriginal people comprise only 3.2% of the Western Australian population, Aboriginal prisoners disproportionately account for around 40% or more of the prison population at any given time. The magnitude of the over-representation is a matter of major concern. This has stubbornly remained as an indication of the continuing high levels of disadvantage experienced by Aboriginal people and of a residual level of structural bias in the criminal justice system.

These *Inspection Standards for Aboriginal Prisoners* represent the codification of the findings and recommendations for improving outcomes for Aboriginal prisoners developed over eight years of inspecting prisons. They add to and further develop the *Code of Inspection Standards for Adult Custodial Services* and should be read in the context of that Code. That is, these standards build upon the generic standards already identified in the *Code of Inspection Standards for Adult Custodial Services* and cannot be properly understood in isolation from the Code.

Aboriginal prisoners are not evenly distributed among all of the prisons in Western Australia. Indeed, the population of many prisons is predominantly Aboriginal, while others contain a relatively small number. The concept of an "Aboriginal Prison" was first articulated by the Inspector in the Overview to Report 4 – Report of an Unannounced Inspection of Eastern Goldfields Regional Prison, August 2001. It was defined as "a prison whose normal population is predominantly (75 per cent or more) Aboriginal." The four prisons in Western Australia falling into this category are Broome Regional Prison, Roebourne Regional Prison, Greenough Regional Prison and Eastern Goldfields Regional Prison.

The significance of the concept is that such prisons in the past have manifested "structural racism". In the Overview to Report 4 this was explained as follows:

"The notion does not presume that individual staff possess racist or discriminatory attitudes or beliefs. The concept of structural racism looks to outcomes, not intentions. If the provision of facilities, conditions and services are such that they simply would not be tolerated in a non-Aboriginal prison,

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then it can be said that the outcome is structurally racist. This kind of racism proceeds from systemic indifference, from the failure at all levels within the organisation to question one's own assumptions about what is acceptable. It is likely to be found in areas where the prisoners are mostly undemanding and compliant – characteristics particularly associated with Aboriginal prisoners in the regions. It is more insidious than overt, attitudinal racism and more difficult to challenge and confront."

The concept of an "Aboriginal Prison" was primarily used for several years after its formulation as a means of trying to get the Department and the Government to focus upon areas of blatant inequity within the prison system. However, in Report 30 – The Directed Review of the Management of Offenders in Custody, November 2005 – there was extensive discussion of the issues of custodial management of Aboriginal prisoners in both the Kimberley and the Goldfields and Lands areas of the State: see chapters 3 and 4, pages 53-135. This discussion began to move the concept of an "Aboriginal Prison" away from the notion of disadvantage to that of the desirable characteristics. In doing so, links were made with broader aspects of correctional management, including diversion and community justice services.

These standards are intended to apply to the management of all Aboriginal prisoners regardless whether they are imprisoned in "Aboriginal Prisons" where they predominate in the prison population or in prisons where they represent a minority of prisoners. Clearly, in prisons where Aboriginal prisoners predominate, there is a greater imperative for prisons to tailor their regimes to Aboriginal norms. In prisons with a lesser representation of Aboriginal prisoners the challenge is to integrate these standards while retaining an overall regime and feel to prison operations suited to the profile of prisoners being held at that prison at that time.

This is particularly so given that three prisons – Hakea, Casuarina and Acacia – individually accommodate more Aboriginal prisoners than are found in any one of the four "Aboriginal Prisons" that have been identified. This fact, of course, highlights the issue of Aboriginal prisoners being held "out-of-country", which in turn exacerbates the pain of imprisonment and also tends to minimise the opportunities for some form of useful rehabilitation and re-entry into their communities.

The Inspector's original Code of Inspection Standards was published in 2007 as Version 1. In at least 40 sub-rules called "Elements" within 22 principal Standards the special issues relating to Aboriginal prisoners were addressed. This manner of presenting Standards was intended to stress that Aboriginal issues should be "mainstreamed" within prison regimes and management generally. This approach is certainly valid. However, it does carry the risk of fragmentation, so that the cumulative and culturally unique importance of Aboriginal issues may be less visible. Moreover, this approach has not sufficiently highlighted the fact that some prisons are so much over-populated by Aboriginals that the whole approach to management and staffing takes on a different emphasis.

With the National Sorry Day (13th February 2008) the Government and the Parliament of Australia acknowledged the special deprivations, historical and ongoing, of the Aboriginal peoples of Australia. On 18th February 2008, the Foreign Minister, Hon. Stephen Smith, announced that the consultative processes were under way leading to Australia's early ratification of the UN Convention on the Elimination of All Forms of Racial Discrimination. In the context of these national initiatives and with the continuing maturation of the insights of this Office into the conditions for Aboriginal prisoners, the time is now apposite to identify what all prisons, but particularly those prisons where Aboriginal predominate in the prison

population should be setting out to achieve and by what standards they should be operating.

Consequently, where standards in the broader *Code of Inspection Standards for Adult Custodial Services* have specifically mentioned or relate to Aboriginal prisoners, these have been moved to these Inspection standards for Aboriginal prisoners, along with nearly 40 new Standards with some 100 specific new Elements. Where this occurs a reference has been provided in the original Standard indicating that further Aboriginal specific standards are applicable and will be found in these Standards.

As with the generic *Code of Inspection Standards for Adult Custodial Services*, the Standards in this Code will be kept under continuous review. They will be measured for their relevance and efficacy against experiences on the ground as the Office of the Inspector continues its inspection activities. Feedback from stakeholders will also be taken into account in the further development of these Standards. At the same time, this Office will begin to benchmark the performance of individual prisons and the Department against these standards. This will be done by way of regular liaison visits by officers and at formal inspections as they fall due.

Bill Cullen, Director Strategy and Research and Joseph Wallam, Community Liaison Officer, have made enormous contributions to the development of these standards.

Richard Harding
Inspector of Custodial Services
15 July 2008

Custody 'in Country' (the importance of Aboriginal attachment to land)

For many years a system of single regional prisons, now increasingly complemented by small outlying male work camps has provided prison services to much of regional Western Australia. Over the past decade many of these prisons have not been upgraded sufficiently for them to keep pace with the demand for prison beds. This inability to meet demand is most extreme in those regions with predominantly Aboriginal prisoner populations, and has resulted in many Aboriginal prisoners serving their sentence far from their home country.

For those prisoners who are not sent to other regions, imprisonment in 'country' is highly valued even though the amenities and the opportunities for participating in relevant offender programs are fewer than in metropolitan prisons. This is so despite the fact that for many Aboriginal prisoners the regional prison may still be hundreds of kilometres from their home. For the families of Aboriginal prisoners, particularly women and children who live in remote communities that are little served by public transport, travel over even comparatively moderate distances within their home region can be a major challenge. Just getting out of many remote communities can be quite difficult and even risky, with reliance often placed on getting lifts in old and worn out vehicles driven overlong distances, in extremes of heat, over dirt roads, frequently by drivers without a valid driving licence.

By not providing an adequate quantum and comprehensive range of minimum, medium, and maximum-security custodial services in a regional area, for both genders, and with the full range of necessary rehabilitative programs, the State is forced to relocate large numbers of Aboriginal prisoners, sometimes to prisons thousands of kilometres away from their home country. Such dislocation inevitably adds a further layer to the emotional hardship of reduced or non-existent family visits. Most Aboriginal people in Western Australia hold a strong attachment to their 'land' or 'country' which is inextricably bound up with their own sense of who they are. During prison inspections over a number of years across Western Australia we have repeatedly heard the anguish in Aboriginal prisoners' concerns at being held 'out of their country' or under the threat of being sent 'out of country'. Almost universally, Aboriginal prisoners consider this to be the most important and distressing aspect of their imprisonment.

Ultimately, relocating Aboriginal prisoners outside their 'country' imposes emotional and spiritual distress beyond that imposed upon non-Aboriginal prisoners. This practice arguably constitutes 'cruel inhuman and degrading punishment', in terms of the applicable Human Rights Conventionsⁱⁱⁱ to which Australia is party.

It should also be noted that the Aboriginal concepts of 'land', 'country', or region do not necessarily conform to governmental regional boundaries. Consequently, consultation with Aboriginal community groups and prisoners themselves should be undertaken to ensure the location of prisons is culturally appropriate and, on an individual level, that Aboriginal prisoners are held at the prisons with which they have some cultural affiliation.

Thus, unless there are compelling reasons to the contrary, custodial services should aim to keep all prisoners in their home region. Where this is absolutely not practicable – for example, because of the limited availability of special needs services or the extreme security rating of the particular prisoner, prisons should aim to keep Aboriginal prisoners from a particular area together in groups where they can draw social support from their kinsmen or women and should provide a range of compensatory measures to reduce and ameliorate the emotional and spiritual stress.

A1 Aboriginal prisoners should be able to serve out their sentence within their own country.^{iv}

- A1.1 The location of new prisons, particularly those with a predominance of Aboriginal prisoners, should be determined by the Administering Department with reference to extensive consultation with

representatives from various relevant Aboriginal communities and organisations. There may be significant cultural or pragmatic imperatives that may impact upon the location of a prison for Aboriginal people that may not be apparent to the Administering Department.

- A1.2 A range of custodial options should be available in each region, including maximum, medium, and minimum-security prison accommodation, pre-release centres and work camps.
- A1.3 Because the size of many regional catchment areas is so vast^y, the custodial options should be located around the catchment area so as to reach out closer to the more remote communities where many Aboriginal prisoners live, and prisons should be generous and flexible in facilitating family visits for prisoners from remote areas. Consideration should be given to allowing remote area prisoners to receive extended visits, in lieu of frequent short visits.
- A1.4 Where Aboriginal prisoners are held 'out of country' they should not be individually isolated by their placement. Prisoners from a particular area should be kept together in groups where they can draw social support from their kinsmen or women.

Culturally Appropriate Facilities

A2 Prison buildings and the layout of the prison should be culturally appropriate for the prisoner population. (Drawn from inspection standard 24)

- A2.1 Prisons with a predominance of Aboriginal prisoners should look and 'feel' like they are Aboriginal rather than 'European' constructions. However, this should not prevent the use of appropriate technology nor in any sense result in infrastructure of lesser quality than other prisons.
- A2.2 In prisons where there is a large number of Aboriginal prisoners, Elders and members of relevant local community groups should be consulted in the building and design to better ensure a culturally appropriate environment and facilities. **(Drawn from inspection standard element 24.1)**
- A2.3 Prison infrastructure should have regard to the diversity of Aboriginal cultures, beliefs and languages and the resulting need for a range of places and facilities appropriate to the needs of different Aboriginal groups for association or separation. **(Drawn from inspection standard element 24.2)**
- A2.4 Prisons should be designed giving consideration to Aboriginal avoidance customs and practice, where practicable. For example, classrooms or art areas that prisoners cannot see into may inhibit participation. **(Drawn from inspection standard element 24.3)**
- A2.5 Particular consideration should be give to the provision of adequate shared living space in addition to single accommodation. However, the assignment to shared accommodation should always be accompanied by a risk assessment and be undertaken in consultation with the assigned prisoners. **(Drawn from inspection standard element 24.4)**
- A2.6 Multiple or dormitory accommodation should only be provided for prisoners with appropriate risk and need profiles and who have agreed to such placements. **(Drawn from inspection standard element 19.7)**

- A2.7 The design and construction of Aboriginal fire pits, 'sorry places' and cultural meeting places should be undertaken in full consultation with various relevant Aboriginal groups and prisoners. Prison management should ensure ongoing consultation with prisoners regarding the use of such places. **(Drawn from inspection standard element 24.5)**
- A2.8 Particular regard should be paid to the significant impact that being held 'out of country' may have upon Aboriginal prisoners. Consideration should be given to areas being planted with a range of regional plants and vegetation, the use of regionally specific murals, and more pragmatically to the provision of adequate telephone and video conferencing facilities. **(Drawn from inspection standard element 24.6)**
- A2.9 Consideration should be given to ensuring that prisons where the predominant population is Aboriginal, incorporate a sense of space, relevant to the experiences of the Aboriginal prisoners to be held there, and that where possible, fencing allows a long view, preferably to the horizon.
- A2.10 Consideration should also be given to providing some capacity for outside sleeping for prisoners unused to sleeping indoors.

The Transport of Aboriginal Prisoners

Western Australia is Australia's largest State comprising 2,525,500 sq km, and is about the same size as Western Europe. A long standing inability to accommodate regional prisoners, particularly Aboriginal regional prisoners, in their home region has meant that many Aboriginal prisoners have had to endure being transported over vast distances often through remote areas, spanning extremes in climatic conditions, in order to be relocated in other prisons.

The challenges facing the transportation of Aboriginal prisoners from the more remote regional areas are both different to and greater than those faced in other areas of the State. A vehicle break-down, or a failure of air conditioning systems, or communications, in such remote areas can present life threatening risks. The sheer length of time spent on the road in cramped conditions is also both exhausting and distressing. In addition, further stress is often caused simply by taking an Aboriginal prisoner out his or her country.

A3 The transport of Aboriginal prisoners out of their country should only be undertaken where absolutely necessary and after making provision for the high level of stress that that such journeys generally cause.

- A3.1 The prison should establish fail-safe procedures to ensure that prisoners have sufficient notice of transfers to appeal the transfer, or to advise their families so that long and ultimately wasted journeys to visit a prisoner who has been transferred are avoided.
- A3.2 Prior to being transferred out of country Aboriginal prisoners should be provided with an outline of the available mechanisms at their destination and at any stop-over points, for mitigating the negative aspects of the relocation. These should include details of:
 - officer assisted (free) telephone calls,
 - any video call facilities
 - the number of other prisoners being held at the destination who come from the same area or country as the prisoner,

- any other special arrangements that may alleviate such prisoners' concerns.
- A3.3 Auditable systems must be in place that record the actual length of time prisoners spend in vehicles, including in-vehicle waiting times departure and destination points.
- A3.4 On long-haul prisoner transport journeys, consideration should be given to the issue of nicotine lozenges or other treatments to reduce stress and withdrawal symptoms for Aboriginal prisoners who smoke.

Minimising Remand Transportation

Traditionally, the judiciary has held the view that it is preferable for an accused person to be present in court, even for status conferences, as some issues arising at such proceedings may require conferral between the accused and counsel, or due process may be impeded in some other way.^{vi} However, the Chief Justice has indicated his strong support for a greater use of video facilities in order to minimise court appearances.

Video links between courts, prisons and defence counsel are critical to the decent treatment of prisoners because the severe overcrowding of regional prisons, particularly those prisons with a predominantly Aboriginal population, has become endemic and results in the regular relocation of large numbers of unsentenced prisoners. Consequently, many prisoners find themselves having to endure gruelling road trips of up to nine or ten hours, in some cases with overnight stops at police lock-ups, followed by a further similar journey the next day. These same prisoners are then returned via the same gruelling transport process, sometimes within a few days, in order to appear in court.

While longer-term solutions to overcrowding are being implemented, it is essential that maximum use be made of video court technology to minimise the need for prisoners to make court appearances in person. The Department of Corrective Services and the local prison Superintendent should ensure there are processes in place to inform all relevant parties to these matters and that maximum use is made of video technology to reduce the unnecessary transport of prisoners.

A4 Prisons that regularly relocate Aboriginal remand prisoners or prisoners that hold relocated remand prisoners should ensure that there are effective service links to courts to prevent any unnecessary imprisonment and ensure that the transportation to and from court (especially where this involves a long-haul journey) is minimised.

- A4.1 Bail Coordinators should be made available at courts and prisons, to assist people to effect bail, and to ensure that people granted bail but unable to immediately secure surety are retained at court or in police custody for a reasonable period before being transferred to a prison, while such arrangements are finalised.
- A4.2 Superintendents of all prisons where unsentenced prisoners are held should ensure that there is maximum use made of video technology to minimise the need for prisoners to appear in court in person, particularly if this results in the long-haul transport of prisoners.
- A4.3 Where appropriate Superintendents should facilitate defence counsel access to video facilities in order to consult and take instructions from their clients in custody.

Interpreters

A5 Interpreters for local Aboriginal languages or dialects should be made available as required for the preparation for legal proceedings or for significant matters relevant to the internal operations of the prison.

A5.1 For Aboriginal prisoners (particularly Aboriginal prisoners who have been living traditional lifestyles) an interpreter should be used to ensure a full understanding and exchange of information by both the prisoner and the health professional; **(Drawn from inspection standard element 3.3)**

CULTURALLY APPROPRIATE CARE AND WELL-BEING

Cultural Sensitivity

There exists a vast communication and understanding gap between many Aboriginal people and most non-Aboriginal people. It has become so much of a fixture in staff/prisoner relationships that it is often not recognised by non-Aboriginal people. It is not possible to comprehensively detail all of the many subtle and varied cultural values held by different Aboriginal groups or to list the many assumptions that non-Aboriginal people bring to their communications with Aboriginal people.

It is clear that many of the non-Aboriginal behavioural norms, security and administrative procedures taken for granted in prisons appear strange and beyond the experience of many Aboriginal people, especially those who come from remote communities. In contrast to European values and behavioural norms that have undergone an enormous liberalising social change over the past fifty years, many Aboriginal people, particularly those from remote communities still live traditional lifestyles and live by comparatively more circumscribed behavioural norms.

Consequently, many Aboriginal people may have a greater sensitivity to questions of a highly personal nature and a prohibition on what or may not be discussed with the opposite gender. In some cases traditional 'avoidance' practices may restrict where women may go, in case they inadvertently meet someone they should avoid. Personal modesty and respect for Elders are likely to be highly regarded by Aboriginal people. In Western Australia, among almost all Aboriginal people, respect must be shown to Elders, law men and those who have been through traditional process such law or 'cutting'. Many aspects of law are highly secretive and must never be spoken of to the uninitiated.

Family and cultural/hierarchical relationships that exist in the community do not cease to exist simply because of the fact of imprisonment, but must take into account Aboriginal cultural/hierarchical relationships.

Communication difficulties between prison staff and Aboriginal prisoners are going to be multifaceted and complex, and will require a particular effort on the part of staff. For Aboriginal prisoners who speak little English, interpreters may be necessary with all the complications that translations bring. However, in order to give meaning to routine instructions and the reasons for them it will be necessary to find concepts which bridge the cultural gap. If this is not done, the result is often perceived as simply a chain of apparently arbitrary orders and a kind of bullying to ensure they are carried out.^{vii}

A6 Care should be taken to ensure that significant Aboriginal cultural values are not unknowingly or unnecessarily transgressed or that European cultural assumptions are placed on Aboriginal behaviour.

- A6.1 Prison staff should treat all Aboriginal prisoners with decency and a respect for their culture, avoiding any prejudice or racism.
- A6.2 Prison staff should take time to explain to Aboriginal prisoners why orders are being given, wherever practicable.
- A6.3 Many Aboriginal people have a desire to comply with authority and this may result in a ready acquiescence and to giving answers that are felt to be what the questioner wants to hear. This aspect of behaviour must never be exploited or abused. Careful explanation should be given to ensure that the prisoner understands where he or she may exercise choice, and the full implications accruing to all choices.
- A6.4 Elders, regardless of whether they are prisoners, family visitors, or part of an official Elders Group, must always be treated with due respect for

- their status in Aboriginal society. In some cases this may mean giving them a priority or not being subjected questioning in front of others.
- A6.5 General interactions should be characterised by respect and decency. Suggestive or overtly sexual banter between officers and prisoners or visitors should be avoided at all times.
 - A6.6 Care must be taken to ensure, consistent with ordinary security protocols, the strip searching or urine testing of Aboriginal people is conducted in ways that are consistent with a proper regard for the modesty of the person, and for the status of elders.
 - A6.7 The joint use (by Aboriginal male and female prisoners from traditional backgrounds) of facilities such as classrooms, art rooms or workshops should be carefully assessed to ensure that traditional avoidance practices are not breached and do not act to deter female prisoners' participation.
 - A6.8 Admission and orientation procedures must be respectful of the culture of Aboriginal prisoners.
 - A6.9 Health checks and procedures with Aboriginal prisoners must also be conducted in ways that are respectful and sensitive to culture and modesty.
 - A6.10 European cultural assumptions about the importance of direct eye contact in conveying honesty should not be applied to Aboriginal people who often believe such eye contact to be disrespectful.

Funerals and other Cultural Obligations

Obligations to community and family are an integral part of Aboriginal cultural life. Marking the death of an Aboriginal person from one's own community or family is one of the strongest obligations that exist. Consequently, special provisions under the Prisons Act that allow for the attendance of prisoners at the death bed or funeral of a family member need to be exercised with a sensitive regard to Aboriginal community and family relationships. These relationships may extend beyond European norms that focus exclusively upon notions of next of kin. Among many Aboriginal groups, special responsibilities and relationships may be assigned to uncles and aunts or others who have been significant in an Aboriginal person's family life, spiritual life, or cultural training. If an Aboriginal person dies in the community, it is likely that they will be known to many prisoners and that obligations will press upon each of such prisoners. All will need to be allowed to grieve to some extent and to express their grief with other members of the family or community. Many such prisoners will feel obliged to attend the funeral. While considerations of security and cost will inevitably act to restrict the number of prisoners who are allowed to attend a funeral in the community, it is essential decisions about which prisoner may or may not attend a funeral be based upon sound advice from the community suffering the death. For those unable to attend the funeral, the prison should allow those affected to express the grief together in an appropriate 'sorry time' ceremony. Again, it is essential that advice be obtained from the relevant community.

A7 Culturally appropriate criteria for leave to attend family funerals should be established and implemented for Aboriginal prisoners.

- A7.1 Prisons should always seek advice from relevant community members or groups concerning who should be allowed to attend and participate in a funeral.
- A7.2 There should be a presumption in favour of the approval for a community nominated prisoner attending a funeral, and that nomination

should only not be disallowed simply on the grounds of security, cost, or that to do so would unreasonably drain the resources of the prison.

- A7.3 Prisons must 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 special family significance. **(Drawn from inspection standard element 119.1)**

A8 Aboriginal prisoners must be allowed to participate in the funeral in culturally appropriate ways

- A8.1 Attendance at a funeral must not be restricted to prisoners being shackled to an officer while standing at the back of the group away from mourners. The point of attendance is to participate in the funeral and discharge any cultural obligations.
- A8.2 Staff (including staff employed by privately contracted services) who accompany Aboriginal prisoners to funerals should undergo cultural awareness training specific to funerals prior to attending a funeral.
- A8.3 Cultural awareness training must provide an overview of local Aboriginal cultural expectations with regard to staff behaviour, the prisoner's behaviour (including any law obligations he or she may be required to perform), and community practice with respect such things as culturally appropriate grieving, wailing, the role of dust, or other local cultural expectations.

A9 In those situations where all the Aboriginal prisoners who wish to attend a funeral are not granted leave to do so, each prison should make provision for appropriate internal meetings or ceremonies to take place.

- A9.1 'Sorry time' ceremonies should be allowed to continue for as long as culturally appropriate and provision should therefore be made for resulting disruption to the routine of the prison.
- A9.2 'Sorry time' ceremonies should be facilitated by the prison at an appropriate place in the prison precinct and may need to incorporate a fire pit and shade. Advice should be sought from the Aboriginal community regarding the appropriate siting and configuration of such places.

A10 Consideration should be given for leave to attend to Aboriginal law obligations

- A10.1 Aboriginal prisoners who have important law obligations to discharge, and who are assessed as posing minimal risk to the community should be allowed to apply for special leave.

A11 Aboriginal spirituality should be encouraged and strengthened through the systematic observance of customs relating to language, food, death, healing, storytelling, rites of passage or tribal traditions. (Drawn from inspection standard element 106.10)

Aboriginal Peer Support

Different skin groups will often involve unique and different social relationships based upon skin. They may impose avoidance or special responsibility status among members of a group. These relationships do not cease to exist simply because a person is in prison and may be expected to affect behaviour and well-being. Each prison management team should seek to become informed and know as much as possible about these cultural aspects of the prisoners under their control. An active peer support group is an essential part of better understanding and communicating with Aboriginal prisoners.

A12 Prisons where the population is predominantly Aboriginal should have an active peer support group of prisoners which broadly reflects the various gender and skin groups that comprise the prison population.

- A12.1 Peer support group prisoners should be provided with incentive gratuity payments for their work.
- A12.2 Peer support group prisoners should have the ability to meet with all prisoners, subject to the good order of the prison.
- A12.3 Peer support group prisoners should have regular access to senior management through the Prisoner Support Officer.
- A12.4 Peer support prisoners should have a significant and clearly defined role in the admission and orientation processes for new prisoners.

The Treatment of Aboriginal Women Prisoners

Women prisoners are frequently disadvantaged because their relatively low numbers make a variety of relevant women-specific employment, programs and activities difficult to support. Aboriginal women prisoners are often doubly disadvantaged in these respects. It is important to seek advice from a wide variety of relevant Aboriginal female sources as to appropriate programs, facilities and services. Advice should also be sought on what barriers may prevent Aboriginal women from accessing programs, facilities and services.

A13 The management of Aboriginal women should reflect an understanding of a women-centred approach to all aspects of imprisonment.

- A13.1 Aboriginal women prisoners must feel and be safe. However, this should not be used to unnecessarily prevent Aboriginal women from mixing with male prisoners. Aboriginal women prisoners should have their own 'precinct' where they can be out of sight of male prisoners if they choose, but have the option from time to time, under supervision, to mix with male prisoners from their community.
- A13.2 Aboriginal women prisoners must be managed in the prison environment in such ways that they feel that their gender and culture are respected.
- A13.3 Aboriginal women prisoners must be supported in dealing with pressing domestic concerns and to have adequate and appropriate contact with their children;
- A13.4 Aboriginal women prisoners should have access to women specific health services.

- A13.5 Because there are fewer women's prisons, Aboriginal women prisoners are more likely to be imprisoned a long way from their home and to be in need of a range of strategies to mitigate the disadvantages that come from such distant imprisonment. These disadvantages should be addressed by such means as officer initiated telephone calls to families, help with contacting dependents, and temporary stays at prisons closer to their homes.
- A13.6 Aboriginal women prisoners must have access to a full range of education, work and rehabilitative programs specifically linked to the skills requirements of Aboriginal women prisoners.

A14 Female Aboriginal prisoners should have equitable access to programs, facilities and services as male prisoners.

- A14.1 A variety of relevant Aboriginal women-specific employment, programs and activities should be available.
- A14.2 Community consultation must be obtained with regard to:
- the extent to which it may be desirable and beneficial for Aboriginal women to have the opportunity to mix with male prisoners, particularly from their own extended family group;
 - the extent to which Aboriginal women may want to keep themselves apart and out of sight from male prisoners;
 - the implications of avoidance practices on Aboriginal women from more traditional communities accessing programs, facilities and services.
- A14.3 Community consultation must be obtained to ensure that the design and operation of mothers and babies units are culturally appropriate while meeting all necessary health, safety, and amenity standards;
- A14.4 As noted later in these standards under the heading "*The need for female Pre-Release Centres*", Aboriginal women should be able to access pre-release centres that prepares them for returning to the community.

Health Care for Aboriginal Prisoners

Numerous inspections by this Office have confirmed the poor health status of Aboriginal prisoners, even though in the absence of a comprehensive health status survey specific to Western Australia it is not possible to put precise figures on these matters.

Research conducted in NSW^{viii} on the health issues for Aboriginal prisoners found that:

- Between 78-95% report chronic diseases such as diabetes, cardiac disease, respiratory and early renal disease
- 46% of receptions had suffered a mental health disorder
- 40-64% had hepatitis C
- 64-74% used drugs regularly
- 80% were smokers compared to 20% in the community
- There were high levels of alcohol abuse
- 57-64% reported that their last dental care took place in prison.

Such health issues are exacerbated by poor living conditions, poverty and alcohol abuse. The increasing use of drugs amongst Aboriginals is also adding to the already complex array of conditions. There is a different drug culture here in West Australia especially among

Aboriginals, whereby amphetamine use is higher than for example in NSW. Western Australia also has a higher rate of imprisoning Aboriginals than any other state. Both these factors impact upon the health of Aboriginals and the lives of their children.^{ix}

A15 Prisons with a predominantly Aboriginal population must have comprehensive health services that reflect and cater for the epidemiological profile and needs of its Aboriginal population.

- A15.1 All Aboriginal prisoners should receive a comprehensive health check within 14 days of their first admission to prison. This should include:
- Cardiovascular conditions;
 - Blood borne virus status;
 - Diabetes;
 - Mental health; and
 - Auditory capacity.
- A15.2 This check should include a full family history relevant to health needs and status.
- A15.3 On subsequent admissions to prison this health profile should be updated, as required.

Studies of Aboriginal health issues have identified serious concerns related to the interchange of health information.^x The consequences of ineffective health professional/patient communication may include: a wrong diagnosis, treatment without informed consent, taking prescribed drugs without an understanding of their purpose or side effects, or receiving treatment at odds with cultural beliefs

A16 At prisons with a predominant Aboriginal population, the health service should employ an Aboriginal health worker.

- A16.1 Links with Aboriginal Health services must be strengthened in such a way as to make that service a core component of Prisoner Health Services.^{xi}
- A16.2 Aboriginal health workers should be available, particularly in prisons with high numbers of Aboriginal prisoners. **(Drawn from inspection standard element 84.1)**
- A16.3 As appropriate, the prison should use interpreters, Aboriginal health workers, peer support prisoners, etc. to ensure that prisoners understand and are able to make informed decisions about their own health care. **(Drawn from inspection standard element 82.5)**
- A16.4 All health care workers should have undergone Aboriginal cultural awareness training. **(Drawn from inspection standard element 84.2)**
- A16.5 Health care services must be provided in a culturally secure environment and manner to accommodate legitimate cultural rights, view, values and expectations of Aboriginal prisoners. **(Drawn from inspection standard element 84.3)**
- A16.6 An Aboriginal definition of health should be adopted when working with Aboriginal prisoners. This means health status should include attention to physical, spiritual, cultural, emotional and social well-being. **(Drawn from inspection standard element 84.5)**

- A16.7 All prevention activities, screening programs, diagnosis and treatment to improve the health of Aboriginal and Torres Strait Islander people should be evidence based. **(Drawn from inspection standard element 84.6)**
- A16.8 Prisons should seek to establish a partnership with a local Aboriginal Medical Service to improve the cultural appropriateness of health services. **(Drawn from inspection standard element 84.7)**

Mental Health Services for Aboriginal Prisoners

"Western Interpretations of mental health do not adequately acknowledge the Aboriginal holistic view of health or the importance of spiritual issues for Aboriginal emotional and physical well-being. In short, Aboriginal people have very different interpretations of why someone may not be feeling right and how they should be managed, and these views need to be considered in the development of mental health treatment and risk management plans."^{xiii}

A17 Culturally informed and appropriate mental health services should be made available

- A17.1 While there is a critical shortage of psychiatric services in many of the regional towns and cities near Aboriginal prisons because of their relative remoteness, such services must be made available. If there are no suitable local mental health workers available then consideration must be given to otherwise sourcing the necessary resources by way of fly in and fly out services, teleconference services, and other appropriate means.
- A17.2 All mental services should be informed by an awareness of Aboriginal holistic views of health and wellness and the importance of spiritual issues on emotional and physical well-being.
- A17.3 Any delineation of Aboriginal mental health problems and disorders must encompass recognition of the historical and socio-political context of Aboriginal mental health. A clear understanding of cultural factors and beliefs must inform the diagnosis of Aboriginal prisoners. Otherwise, mental illness can be misinterpreted; or alternatively, cultural beliefs or behaviour may be wrongly diagnosed as mental illness. **(Drawn from inspection standard element 94.9)**
- A17.4 Aboriginal prisoners should have access to traditional healers, where appropriate and practicable. **(Drawn from inspection standard element 95.3)**

Food and Dietary Requirements

Aboriginal prisoners generally have a poor health status. Food is integral to improving health and prisons with a predominantly Aboriginal population must ensure that the prison diet takes this into account. However, prison food cannot just be about what is good for prisoners; it also has to meet prisoners' preferences to some extent. The complexity of the task of getting food right should not be under-estimated as is shown by the following extract from an inspection of Greenough Regional Prison:

"Overall, the efforts by the prison to improve the diet and serving methods produced an excellent result, much improved on the last inspection. Prisoners though, still expressed two issues regarding food to the inspection team. Aboriginal prisoners

wanted more frequent traditional foods, reflecting the diversity of their backgrounds. While traditional meat (typically kangaroo) was offered at least once a week, prisoners reported that traditional cooking and serving methods were not used, resulting in such dishes as kangaroo meat curry. It was likely that the cooks had little experience cooking traditional ingredients in traditional ways, and would benefit from training in the preparation of traditional foods and the development of menu options to fit the necessary dietary guidelines and cost limitations.

The second issue was that many prisoners simply did not like eating healthily. Their preference was for diets high in meat, fat and pastry. More therefore needed to be done in the area of health promotion and diet education for these prisoners and in their communities. Coordination on health promotion activities was required between the kitchen, education and health centre within the prison".^{xiii}

A18 Food and dietary arrangements should take account of the particular health needs and preferences of the prisoner population and appropriate provision should be made for the availability of traditional food and bush tucker.

- A18.1 A range of menu options for traditional foods should be provided that recognises the diversity within the Aboriginal prisoner population and that meets the requisite health and dietary requirements.
- A18.2 Simply providing a traditional meat such as kangaroo once a week is not sufficient without considering traditional vegetables, nuts and fruits. It is acknowledged that these are not as readily available as European style foods but this should not prevent the identification of sources of supply. In this regard, community groups should be approached for assistance in securing regular supplies of traditional foods.
- A18.3 Traditional ways of preparing and cooking traditional foods may not meet strict institutional health regulations, and in prisons with a predominantly Aboriginal population it will be necessary ensure that health standards are met while at the same time producing food that is acceptable and appetising to Aboriginal prisoners.
- A18.4 Healthy diet promotions need to be implemented on an ongoing basis for all prisoners. These should engage Aboriginal prisoners through tastings and cook-ins rather than relying upon standard classroom approaches to learning.

Prisoners from Remote Communities

Prisoners from remote communities are likely to be disadvantaged compared to other prisoners in terms of getting visits from and staying in contact with their families. Many remote communities are characterised by a shortage or even a total lack of a number of basic services, such as telephones or public transport.

A19 Aboriginal prisoners from remote communities should be able to access appropriate compensatory arrangements to mitigate the many additional disadvantages that they experience in prison.

- A19.1 For Aboriginal prisoners from remote communities special regard should be given to any difficulty with contacting family; **(Drawn from inspection standard element 4.2)**
- A19.2 Aboriginal prisoners from remote communities must be provided with opportunities to make telephone contact with their families

- A19.3 Alternative arrangements need to be in place to the normal telephone access rules, for prisoners from remote communities where there may be few telephones. These alternative arrangements should make allowance for the difficulty and extended time that may be required to get a family member or other approved person to a telephone, when a call is made. In such circumstances, a prisoner may need to call a number of times before contacting the relevant person, they may need extra time to allow for that person to get to the telephone, and they may need to supplement their ability to pay for such calls.
- A19.4 Prisons with a predominantly Aboriginal population should monitor and record the number of officer-initiated (free) telephone calls to ensure that prisoners, particularly those from remote communities are able to maintain contact with their families.
- A19.5 Prisons with a predominantly Aboriginal population should provide free video or Skype contact to close family members in remote locations and establish a project to ensure the system is promoted as part of orientation to all eligible prisoners or detainees and their families, to resolve other barriers to its use and to implement outlets on key Aboriginal communities.

Visiting Arrangements

A20 Visiting arrangements at Prisons with a predominantly Aboriginal population should be highly flexible, particularly for visitors that have come from remote communities. Many such visitors are only able to visit infrequently and where practicable, such visitors should be allowed extended and all day visits.

- A20.1 In prisons with significant numbers of Aboriginal prisoners drawn from communities that observe traditional cultural practices, consideration should be given to ensuring that visiting facilities can be quickly scanned by visitors and prisoners to ensure observance of avoidance customs. Where necessary, alternative venues should be made available to facilitate simultaneous visits by people observing avoidance. Drawn from inspection standard element 118.5)

PREPARATION FOR RELEASE AND REHABILITATION

Addressing the Criminogenic Needs of Aboriginal Prisoners

While many non-Aboriginal prisoners also experience many disadvantages with Aboriginal prisoners, what is not shared is the history of dispossession and disadvantage that has resulted from the cumulative acts of colonial and State governments, and the residual level of structural bias in the criminal justice system that operates to the detriment of Aboriginal people. The rate of recidivism is much higher for Aboriginal prisoners in Western Australia than for non-Aboriginal prisoners, and Aboriginal people are imprisoned at a hugely disproportionate rate to that of non-Aboriginal people.^{xiv} Yet, few of the mainstream prison-based programs successfully address these issues.

In Western Australia, the rate re-offending by Aboriginal prisoners has proved to be resistant to mainstream programs and services as well as repeated governmental approaches to reducing imprisonment.

"[B]eing Aboriginal is sufficiently 'criminogenic' to presume failure, as recidivism in their case approaches absolute certainty. For policy makers and reformers, the problem is acute and lies deep in systemic processes that render the Aborigine the perpetual subject of an extreme mechanism of control – imprisonment, the supposed last resort."^{xv}

There is a critical need for Aboriginal specific criminal justice programs and services to reduce the level of re-offending. While there is a need for a critical review of policing and court practices as well as correctional practices as they apply to Aboriginal people, Aboriginal prisons must take the lead by developing culturally appropriate programs and services directed to reducing re-offending.

Research elsewhere on Aboriginal prisoners^{xvi} found that they have more severe needs than non-Aboriginal prisoners. Prisons with a predominantly Aboriginal prisoner population must provide a full range of programs and services that are designed to meet the needs of those prisoners.

A21 Each prison with Aboriginal prisoners should make available culturally appropriate offender programs, with the whole suite of programs calibrated to the offending profile and criminogenic needs of the prisoners

- A21.1 Aboriginal programs should be developed in consultation with Elders and relevant community organisations.
- A21.2 Core programs should be made available that address education and employment training, alcohol and drugs, family violence, and sex offending of various types.^{xvii}
- A21.3 Core programs should be developed in consultation with Aboriginal organisations and relevant Aboriginal people, and they should be delivered (wherever possible) by Aboriginal presenters with appropriate clinical supervision and support.
- A21.4 A range of other programs and services should be made available as required to address such issues as: parenting and relationship skills, abuse counselling, community leadership, and Aboriginal history.

Meeting the Needs for Education and Training

Western Australia is currently experiencing shortfall in skilled and semi-skilled workers, particularly in the mining industry (all Aboriginal Prisons are situated in proximity to mining areas). Consequently there is a great opportunity for Aboriginal prisoners to get work in the mining industry providing they have some level of training in the use of machinery such as forklift, elevated platform work, bob-cats, graders, as well as OSH and a basic Blue Card. It also makes sense to provide training for prisoners to become proficient in repairs and basic construction so that they may take these skills back to their communities. (Also see Work Camps).

A22 Vocational skills programs that are relevant to post-release employability of Aboriginal prisoners in either local industries or on their own communities should be established and maintained.

- A22.1 Opportunities for prisoners (especially Aboriginal) prisoners to undertake higher level VET qualifications should be made available. **(Drawn from inspection standard element 128.3)**
- A22.2 VET resources and support materials should be customised to suit the learning styles and learning needs of prisoners and particularly Aboriginal prisoners, where appropriate. **(Drawn from inspection standard element 129.5)**

A23 Educational opportunities should be culturally appropriate to the needs and beliefs of the prison population. (Drawn from inspection standard 125)

- A23.1 Prisoners should have access to cultural activities that reflect the diversity of Aboriginal cultures, traditions and histories **(Drawn from inspection standard element 125.1)**
- A23.2 Appropriately qualified Aboriginal instructors and educators should be part of delivery programs that are predominantly undertaken by Aboriginal prisoners. **(Drawn from inspection standard element 125.2)**
- A23.3 All non-Aboriginal training delivery and assessment staff should be skilled in cross-cultural communication. **(Drawn from inspection standard element 125.3)**
- A23.4 Where appropriate, education programs should be customised to suit the learning styles and learning needs of prisoners, particularly Aboriginal prisoners. **(Drawn from inspection standard element 125.4)**
- A23.5 Education should be provided in a language and manner appropriate to the cultural beliefs of prisoners. **(Drawn from inspection standard element 125.5)**

A24 Processes should be in place to maximise the opportunities for Aboriginal prisoners to access post-release employment and suitable accommodation.

- A24.1 Prisons with a predominantly Aboriginal prisoner population should ensure that there are strong links between prisoners on release and prospective employers. This should include the preparation of prisoners for interviews with a variety of employers.
- A24.2 Strong links with regional industries should be forged with such industries being encouraged to view and comment on the training facilities at prisons and to interview prisoners prior to release.

Meeting Aboriginal Needs for Life Skills

A25 Prisons with a predominantly Aboriginal prisoner population should provide a range of life skills training courses based upon a training needs analysis of its prisoner population

- A25.1 The Aboriginal community should be consulted to develop a priority set of short life skills training courses.
- A25.2 Life skills courses should be scheduled to run on a continuous basis according to demand and should be delivered in culturally appropriate ways.
- A25.3 Consideration should be given to including courses on such matters as:
 - Budgeting and debt management,
 - Household maintenance,
 - Leadership and civic responsibilities,
 - Healthy Lifestyles.
- A25.4 Opportunities should be provided to Aboriginal prisoners who intend to return to remote traditional communities to acquire skills likely to be of value to that prisoner. These may include art, general maintenance, budgeting, etc. **(Drawn from inspection standard element 137.3)**

The Need for Female Pre-Release Centres

While work camps are appropriate to many male Aboriginal prisoners they are not particularly suited to the needs of female Aboriginal prisoners. Yet the need for, and success of the purpose built female pre-release centre approach is clearly demonstrated, not the least by the success of the Boronia Pre-Release Centre for Women in Perth.

While the relatively small number of female prisoners in regional areas means that economies of scale such as found at Boronia may be difficult to achieve, there are ways to ensure good correctional value for money while providing effective small-scale pre-release centres for regional Aboriginal women. Firstly, the Aboriginal community, particularly Aboriginal women's groups must be involved in the planning and development of a suitable model approach. It may be possible to adapt a suitable family home in a regional town or in an Aboriginal community to accommodate a small number of suitable women prisoners who could then be involved in a range of work projects that benefit the community while accessing educational programs, a range of relevant life skills, or employment skills.

A26 Prisons with a predominantly Aboriginal prisoner population must ensure that there are appropriate pre-release opportunities for women prisoners.

Ensuring Prisoners get Home on Release

A27 Release arrangements for Aboriginal prisoners, particularly for those from remote communities must include robust processes to ensure that prisoners can safely and promptly return to their homes, regardless of where they were initially arrested and/or tried.

A27.1 Prisons must make special arrangements for the release of prisoners who are to return to remote communities, to ensure that they are able to get back to their community.

A27.2 Where public transport is not available for any part of the journey, the prison has the responsibility for ensuring that the prisoner is not left stranded. In this regard it may be necessary and desirable to involve community corrections in release planning, even where no parole is mandated.

A Structured Day for Aboriginal Prisoners

As far as practicable, prisons should strive to simulate normal daily life schedules of eating, recreation, education and work. Consequently, prisons with a predominantly Aboriginal population must give consideration to simulating the normal daily life schedules of eating, recreation, education and work for Aboriginal people.

Many Aboriginal people do not have a history of work beyond CDEP projects. These prisoners are unlikely to be used to working 6, 7, or 8 hours a day. Consequently, they are unlikely to bring a European work ethic to any employment they are given while in prison. The provision of work, training, education and recreational activities such as music and art should be approached via wide consultation with community groups and the prisoners themselves so that these are provided at a level and in a way that prisoners can readily access them and build their skills in ways appropriate to the reality of their lives. Skills training should begin with basic Blue Card training so that prisoners can apply to work on various projects. However, for prisoners who will be returning to remote communities, training and work experiences should be made available that would be useful in developing and maintaining community infrastructure such as: pump maintenance, solar panel repairs, etc. as well as basic carpentry.

A28 The structured day for prisons with a predominantly Aboriginal population should reflect the skills, capacities, needs and interests of Aboriginal prisoners.

- A28.1 The precise details and balance of the structured day for each prison with a predominantly Aboriginal population prison should be adapted by local management, rather than rigidly following a uniform Eurocentric Australian model.

A29 There should be a strong recreation and activities program focusing on matters of interest to Aboriginals, such as art and music.

- A29.1 Prisons with a predominantly Aboriginal population should maintain a range of appropriate art material and musical instruments to encourage and engage artistic and musical expression.
- A29.2 While prisoners should be encouraged to buy their own art materials, prisons with a predominantly Aboriginal population should always have a stock of materials that can be accessed free of charge by new prisoners.
- A29.3 Regardless of whether the prisoner or the prison meets the cost of materials, the intellectual property of a piece of artwork always belongs to the prisoner that created it.
- A29.4 Aboriginal prisoners should be actively encouraged to play sport and to undertake refereeing and coaching courses in prison so that these skills can be taken back into their own community lives.

In-Prison Work and Training Opportunities

All prison-based work undertaken by prisoners can be seen to have some reparative aspect inasmuch as it offsets the costs of imprisonment and thereby makes some reparation to Australian taxpayers.^{xviii} However, prisoners are also able to contribute to the community good with work that directly benefits members of the community. This can be achieved

through in-prison work such as constructing or repairing items for community use or through prisoners working outside the prison directly on projects or items for the community.

Much of the harm done by Aboriginal offending is done within the Aboriginal community. It therefore makes sense that much of the reparative work undertaken by Aboriginal prisoners in prisons with a predominantly Aboriginal prisoner population should benefit the Aboriginal community.

A30 Where practicable, prisons with a predominantly Aboriginal prisoner population should develop training workshops with appropriate classroom facilities to enable the ongoing provision of practical skills training.

- A30.1 A first priority should be the provision of OSH and Blue card training to as many prisoners as possible.
- A30.2 Kitchen duties, cleaning, grounds maintenance, laundry work and other routine work around the prison should be carried out by prisoners and be subject to some level of training and accreditation.

While there is a wide variety of external work that can be done, much of the external reparative work that Aboriginal prisoners have been set has often centred around assisting councils with clean-up activities or cleaning and gardening around police stations, court houses and hospitals. As much Aboriginal offending occurs in Aboriginal communities it is appropriate that the Aboriginal community should see some benefit from reparative work carried out by Aboriginal prisoners. It is also important that in assigning Aboriginal prisoners to external work projects that prisons recognise the historical harms experienced by Aboriginal people through the police, courts and corrections system and from other arms of government.

A31 External work opportunities should be maximised so that minimum-security Aboriginal prisoners have the opportunity to do reparative work in the Aboriginal community.

- A31.1 All external work should be associated with employment skills training and accreditation.
- A31.2 Where practicable, Aboriginal prisoners working outside the prison should work on appropriate work details that benefit the Aboriginal community.

Aboriginal Prisoners' Access to Work Camps

The main focus of work camps is directed to projects for the community good. Camps thus facilitate a substantial amount of reparation from those that have offended against the laws of the community and clearly, there are benefits for the community to be had from the operation of these camps. However, there are also many benefits for the prisoners themselves.

Based in rural or bush areas, work camps offer prisoners an opportunity to serve out their prison sentence in a less regimented and restricted minimum-security prison regime, where they can demonstrate their trustworthiness and work on community projects that are intrinsically more rewarding.

The outdoor, nature of much of the type of work undertaken by work camps is particularly suited to many Aboriginal prisoners, and the types of skills that can be transferred through this type of work are in strong demand from many of the companies in the mining, construction or pastoral sectors that are active in the regions where many Aboriginal people live.

While work camps have never been formally evaluated, there is strong acceptance of their worth from the community and particularly the Aboriginal community. "The Department should give greater prominence to work camps and to work camp staff. Work camp assets should be upgraded, including purpose-built accommodation, vehicles, plant and equipment. The Department should review its work camp eligibility criteria for prisoners as well as its incentives for prisoner participation in work camps."^{xix}

A32 Prisons with a predominantly Aboriginal prisoner population should have affiliated outlying work camps and should aim to ensure that all Aboriginal prisoners spend as large a part of their sentence as possible in a work camp.

- A32.1 Wherever practicable, OSH and Bluecard qualification for prisoners should be provided prior to assignment to a work camp. Where this is not possible, such training and qualification should be an urgent priority for the work camp.
- A32.2 All work should be associated with training and wherever possible, formal accreditation of the training should occur.
- A32.3 In addition to employment training, opportunities should be available for prisoners to continue educational studies and to undertake a range of life skills courses.

A33 Aboriginal prison work camps should ensure that Aboriginal communities and Aboriginal not-for-profit organisations benefit from the majority of the reparative activities

Substantial Aboriginal Staffing Complement

In Western Australia, the recruitment of Aboriginal people into correctional services, particularly in custodial work, has proved to be particularly difficult. Nonetheless, it is essential that effective recruitment strategies be found to ensure prisons with Aboriginal prisoners, particularly those prisons where the population is predominantly Aboriginal are staffed by significant numbers of Aboriginal people. In particular, it is important that there preferably be an Aboriginal superintendent, an Aboriginal Health Worker, an Aboriginal Education Officer, and an Aboriginal Prisoner Support Officer.

A34 All Aboriginal prisons with a predominantly Aboriginal population should employ a substantial number of Aboriginal custodial and non-custodial staff

- A34.1 Criteria for entry to the workforce of a prison where the population is predominantly Aboriginal should be culturally appropriate and recruitment advertising should explicitly encourage Aboriginal people to apply.
- A34.2 The senior management team, the health services team, and the education team, should include Aboriginal people.
- A34.3 Wherever possible, the proportion of Aboriginal staff at a prison should be in proportion to the number of Aboriginal prisoners.

A35 Prisons where the population is predominantly Aboriginal should employ at least one Prisoner Support Officer who is able to communicate effectively with all groups of Aboriginal prisoners

- A35.1 Prisoner Support Officers should ideally, have strong pre-existing connections with communities and community organisations in all or part of the prison's catchment area, or at minimum, the capacity to develop and maintain such connections.
- A35.2 Prisoner Support Officers should ideally, have a proficiency or an understanding in one or more of the languages spoken by prisoners within the catchment area.
- A35.3 Prisoner Support Officers should be the coordinating point for the AVS and have a key role in ensuring prisoner well-being.
- A35.4 Prisoner Support Officers should have regular access to the senior management team in order to brief them on contemporary issues arising via the peer support group.

Staff Cultural Training

A36 Staff training requirements appropriate to working at Prisons where the population is predominantly Aboriginal should be established as a pre-requisite to transfer into and working at each Aboriginal prison.

- A36.1 Prior to taking up their duties, custodial and non-custodial new recruits, transferees, and officers taking up promotional positions at Prisons where the population is predominantly Aboriginal should undergo cultural training specific to the cultural prisoner profile for the prison.
- A36.2 Periodic refresher cultural training should be regularly scheduled for staff already working at Prisons where the population is predominantly Aboriginal.

Culturally Appropriate Prison Procedures and Regimes

Many Aboriginal prisoners are comparatively compliant and reluctant to question the authority of the prison even where not to do so involves considerable personal disadvantage or distress. In this context, there is a strong risk that even enlightened and progressive prisoner management regimes will require Aboriginal prisoners to conform to processes and procedures that may conflict with cultural values and norms of behaviour. Prison regimes should, wherever possible, aim to empower prisoners to make good choices. Prisons, particularly those with a predominantly Aboriginal prisoner population should have strong links to Aboriginal communities to ensure that their regimes are informed by a cultural perspective relevant to prisoners and should review their operations from a cultural perspective.

A37 Prisons with a predominantly Aboriginal population must ensure that the regime and procedures are appropriate to Aboriginal prisoners.

- A37.1 Prisons should avoid the need for Aboriginal prisoners to make written applications, wherever practicable. Wherever possible written systems should be supplemented with clear and simple verbal processes such as morning meetings where all prisoners get the opportunity to raise an issue of concern or make a statement about what they want. If the matter requires a higher authority the intention should be to get an answer back to the prisoner the same day.
- A37.2 Where written forms cannot be supplemented by verbal systems, consideration should be given to providing assistance in ways which avoid shaming the applicant.
- A37.3 While prisoner processes that rely upon written applications and forms should be avoided as far as practicable, appropriate levels of accountability through accurate records should be maintained.
- A37.4 Prisons must also recognise that many Aboriginal prisoners from traditional lifestyles may be more accustomed to using group discussion to resolve disputes and issues of concern. **(Drawn from inspection standard element 51.2)**
- A37.5 Where there are multiple skin groups held in one prison, the regime of the prison must ensure there are opportunities for prisoners from the

same skin group (including prisoners of different security and gender) to interact with each other, subject to the security and good order of the prison.

- A37.6 Departmental processes for making complaints should take account of the inhibitions that Aboriginal prisoners may have about putting matters in writing.

A38 Key performance indicators for each prison should measure and report on processes to address racism, including structural racism.

Enhanced Role of Community

Forums should be established for regular consultation and these should be used to advise on a range of prisoner matters including culturally appropriate prison procedures and more pragmatic issues such as identifying sources of traditional food, the arrangements for cultural events, appropriate skills for community living, to provide advice on feuding and 'payback' that has the potential to threaten the good order of a prison, etc.

A39 Prisons with a predominantly Aboriginal prisoner population, should give a high priority to facilitating Aboriginal community involvement in the operation of the prison.

- A39.1 The prison should establish a positive relationship with the Aboriginal communities relevant to the prison population, to achieve better outcomes for these prisoners during their custodial sentence and after release. **(Drawn from inspection standard element 153.2)**
- A39.2 Aboriginal cultural issues should be addressed by prison management engaging with representatives of Aboriginal communities. Prisoners should have access to recognised spiritual leaders and Aboriginal spirituality encouraged and strengthened through observance of customs related to language, food, death, funerals, healing, art and other tribal traditions. **(Drawn from inspection standard element 153.3)**
- A39.3 Minutes should be kept of such meetings and Reference Group members should be provided with information concerning the progress of initiatives being undertaken. **(Drawn from inspection standard element 153.4)**
- A39.4 A regional correctional plan^{xx} should be developed in consultation with regional stakeholders such as Aboriginal peak organisations and community representatives. The plan should include:
- Custodial infrastructure and services across the region;
 - Community corrections services across the region.
- A39.5 Senior management at the prison should ensure that it is informed about the family and cultural/hierarchical relationships that exist in the community and recognises that these do not cease to exist simply because of the fact of imprisonment.

A40 Senior management at prisons with a predominantly Aboriginal prisoner population should ensure they have a ready source of advice to enable them to effectively manage feuding or payback where it affects the operation of the prison

- A40.1 The regime of the prison must ensure there are opportunities for prisoners from the same family or skin group (including prisoners of

different security and gender) to interact with each other, subject to the security and good order of the prison.

Aboriginal Visitors Scheme

Originally conceived as a preventative for Aboriginal deaths in custody, the Aboriginal Visitors Scheme was established in Western Australia as a consequence of recommendation 20 of the Interim Inquiry into Aboriginal Deaths in Custody (The Vincent Inquiry). Subsequently, the Royal Commission into Aboriginal Deaths in Custody recommended that the scheme be extended to all jurisdictions^{xxi} and in recommendation 145 the Royal Commission recommended in part: "The involvement of the Aboriginal community should be sought in management of such schemes. Adequate training should be provided to persons participating in such schemes. Government should ensure that cell visitor schemes receive appropriate funding."^{xxii}

A41 An Aboriginal Visitors' Scheme (AVS) should be established at every prison with Aboriginal prisoners.

- A41.1 Aboriginal Prison Visitors should be one of the main links to the Aboriginal community for Aboriginal prisoners.
- A41.2 Aboriginal Prison Visitors should have regular presence and preferably an office at the prison but, given their other responsibilities for Police Lock-ups and community liaison, should not necessarily be based at the prison.
- A41.3 Aboriginal Prison Visitors should be integrated and coordinated with the peer support prisoners program and the PSO.

Aboriginal Elders

An Aboriginal person who has attained a certain age, speaks an Aboriginal language, or has been through law will usually be accorded a high status and therefore have influence with Aboriginal people. In order to ensure the links and communication with Aboriginal people and communities are as effective as possible, it is important that the prison have a number of such influential Elders to advise on cultural matters and where appropriate to use such Elders to speak and counsel Aboriginal prisoners.

A42 Prisons with a predominantly Aboriginal prisoner population should establish an Aboriginal Elders program

- A42.1 An Elders' forum should be regularly convened to consider ways of enhancing the cultural life of the prison.
- A42.2 Elders should be invited to participate in the prison's cultural meetings and celebrations including NAIDOC celebrations.
- A42.3 Elders should be consulted about the siting of cultural places within a prison and other matters of cultural significance.
- A42.4 Where there are multiple skin groups held in one prison, the prison must ensure that the Elders program has representation from all major skin groups with prisoners at the prison.
- A42.5 Aboriginal Elders should be nominated by their own community in ways that are culturally relevant for each group.

- A42.6 Subject to normal security checks, once nominated Elders should be accredited by the prison and receive compensation for all out of pocket expenses in discharging their responsibilities.
- A42.7 The responsibilities and arrangements for Elders should be collaboratively developed in and put into plain English as a memorandum of agreement or other suitable contractual arrangement.

ENDNOTES

ⁱ Report No. 30, *Directed Review of the Management of Offenders in Custody*, Office of the Inspector of Custodial Services in Western Australia, November 2005, p 5

ⁱⁱ The term 'country' is widely used among Aboriginal people in Western Australia when referring to areas of traditional and spiritual significance. It is often used in the context of 'my country' and may relate to country of particular individual significance or it may be used in a broader context to denote group belonging as in 'Kimberley Country', Yamatji, or 'Ngaanyatjarra Country'. The term 'in country' is used in this latter sense in these standards.

ⁱⁱⁱ International Convention on the Elimination of All forms of racial Discrimination, Convention Against torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

^{iv} While all prisoners should be generally kept within their local area, it is acknowledge that up to 5% of prisoners from a region may need to be held in highly specialized facilities such as high-security units or mental health units and this will likely require they held out of country.

^v In Western Australia, the catchment area for many regional prisons^v is often vast. For example, the largest region, [t]he Eastern Goldfields region is located in the south-eastern corner of Western Australia and incorporates eight local government areas... The region is about the size of New South Wales and over three times the size of Victoria."^v Consequently, for many Aboriginal people even if they are placed at the nearest regional prison, they may still be hundreds of kilometres from their 'country'.

^{vi} Office of the Inspector of Custodial Services, Report 25, Inspection of the Interim Arrangements at the Supreme Court following the Escape of Nine Prisoners from the Custody area on 10th June 2004. pp13-14

^{vii} Lowell, A (1998) Communication and Cultural Knowledge in Aboriginal Health Care, http://www.crcah.org.au/publications/downloads/Communication_and_Cultural.pdf

^{viii} Findings from NSW data (Full reference required)

^{ix} Office of the Inspector of Custodial Services, Report 35, Thematic Review of Health Services,p31

^x For example, Devitt and McMasters 1998 (Full reference required)

^{xi} Office of the Inspector of Custodial Services, Report 35, Thematic Review of Health Services, recommendation i), p56

^{xii} Office of the Inspector of Custodial Services, Report of an Announced Inspection of Eastern Goldfields Regional Prison, Report 34, p14

^{xiii} Office of the Inspector of Custodial Services, Report of an Announced Inspection of Greenough Regional Prison, Report 44, p19-20

^{xiv} The Indigenous imprisonment rate in Western Australia for 2006/07 was 3,500 per 100,000 and by far the highest indigenous rate of any Australian jurisdictions. In comparison, the non-Indigenous imprisonment rate in Western Australia was less than 220 per 100,000. See Figure 8.3 Indigenous and non-Indigenous Imprisonment rates, 2006/07, Report on Government Services, p 8.7 http://www.pc.gov.au/data/assets/pdf_file/0004/74668/chapter08.pdf

^{xv} Broadhurst et al, Journal of Research in Crime and Delinquency, "Aboriginal and NonAboriginal Recidivism in Western Australia: A Failure Rate Analysis" Vol 25 No1, February 1988, Sage Publications, Inc.

^{xvi} Nuffield, J. (Ed.) (1998) *Issues in urban corrections for Aboriginal people*, Ottawa: Department of Solicitor general Canada, Aboriginal Corrections Policy Unit, cited in: *The Prison Journal*, Canadian "Aboriginal Healing Lodges: A model for the United States?" 2003;83;67.
<http://tpj.sagepub.com/cgi/content/abstract/83/1/67>

^{xvii} Australian Institute of Criminology, Trends and Issues Paper ? (Full reference required)

^{xviii} Prisoners are punished for their crimes by their loss of liberty. While the concept of prisoner work being broadly reparative is highly valued, it is not intended to imply support for forced labour, nor is it intended to imply that it acts or should act as compensation for individual crimes.

^{xix} Office of the Inspector of Custodial Services, Report 30, Directed Review of the Management of Offenders in Custody, p.132

^{xx} This concept was developed in Report 30, Office of the Inspector of Custodial Services, Directed Review of the Management of Offenders in Custody, page 153 (full reference required)

^{xxi} Royal Commission Into Aboriginal Deaths in Custody, Recommendation 154, Report into the underlying Causes in Western Australia

^{xxii} The Department of Corrective Services currently notes that the role of the scheme is to provide peer support for Aboriginal juvenile detainees and adult Aboriginal prisoners throughout Western Australia, and provide advice to the Coordinators of the Aboriginal Visitors Scheme on more complex issues that may arise.^{xxii} First administered by the Aboriginal Affairs Planning Authority, the scheme was first directed to police custody and then prisons. It was later transferred to the Department of Corrective Services but it has struggled with small budgets that have restricted its capacity for training and to reach families and the community. In parallel but related developments during the latter part of the 1980s and early 1990s, unit management techniques were introduced into prisons in Western Australia with the role of Prison Officers 'enriched' (according to the term used at the time) by taking over the function of 'basic welfare', while Welfare Officers were simultaneously phased out of prisons. Under unit management, the regular role of Aboriginal Visitors was largely 'ring fenced' from basic welfare^{xxii}. They were still called in to talk to anyone who was distressed - particularly if there was a death in custody- and have done vital work in this regard. However, their routine visits gradually became that of "yarning" to Aboriginal prisoners and detainees. Subsequently, the budget was reduced to around \$500,000 per year.

In 1993, the Department (then known as the Ministry of Justice) submitted a proposal to the Commonwealth Youth Bureau for funding for a 'peer support program'. Subsequently successful, the funding was granted and in 1996 the Ministry of Justice implemented the program with 10 FTE (full-time equivalent) Prisoner Support Officer (PSO) positions to coordinate an immediate and on-site peer support service. A combination of this on-site peer support service, along with a number of other service improvements such the introduction of better systemic management of suicide prevention programs such as PRAG and ARMS, along with competition for the ear of prisoners from traditional services provided by Independent Visitors who visit monthly and take complaints for resolution with the local prison management, and Prison Chaplains who have traditionally provided a pastoral as well as a religious service, has largely marginalised the role of the AVS.

Despite the Department of Corrective Services conducting a series of reviews of the AVS, they have been left without clear authority or leadership, a narrowed function, and most importantly, without the necessary funding for training or to become more involved with Aboriginal families and communities. This must be remedied. At Aboriginal prisons the role of the AVS must be re-defined with improved funding and responsibility for community involvement. It should, also become independent of the Department of Corrective Services.