



RISDON PRISON COMPLEX TAMAR UNIT AND BEHAVIOUR MANAGEMENT PROGRAM

INVESTIGATION REPORT JUNE 2010

LETTER TO THE HOUSE OF ASSEMBLY AND THE LEGISLATIVE COUNCIL

To:

The Speaker of the House of Assembly

and

The President of the Legislative Council

Acting under s 30 of the *Ombudsman Act 1978*, I present to the Parliament a report into the management of the Tamar Unit in the Risdon Prison complex.

A handwritten signature in black ink, appearing to read 'Simon Allston', with a stylized, cursive script.

Simon Allston
Ombudsman

24 June 2010

TABLE OF ACRONYMS

BMP	Behavioural Management Program
RPC	Risdon Prison Complex
TPS	Tasmania Prison Service
IOM	Integrated Offender Management
ISOP	Interim Standard Operating Procedure
OPCAT	Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
ICCPR	International Covenant on Civil and Political Rights
UNSMR	United Nations Standard Minimum Rules for the Treatment of Prisoners
HMIP	Her Majesty's Inspectorate of Prisons (UK)
CSC	Close Supervision Centre
HRMU	High Risk Management Unit
SHU	Special Handling Unit

**RISDON PRISON COMPLEX
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TABLE OF CONTENTS

TABLE OF ACRONYMS	i
EXECUTIVE SUMMARY	
INTRODUCTION	
Background	8
The Investigation and Terms of Reference	9
Jurisdiction	9
Methodology	10
The Role of Secure Management Units	12
HISTORY AND DEVELOPMENT OF THE RISDON PRISON COMPLEX	
Background	14
Disciplinary Segregation	16
The Decision to Build a New Prison	17
Proposals for the New Prison	18
THE BEHAVIOUR MANAGEMENT PROGRAM	
The Genesis of the BMP at the Old Risdon Prison	22
The Original Intentions for the Tamar Unit	24
A Change of Plan and Philosophy	26
The First Version of the Operating Model	31
Components of the Model	32
The Hierarchy of Privileges and Sanctions	35
THE MODEL IN OPERATION	
The Transition to the New Prison Complex	37
Internal Review of the Operating Model	40
Therapeutic Components of the Model	42
THE LEGAL FRAMEWORK	
The Tasmanian Legislative Scheme	45
International and/or National Standards	49
Other Standards	53
Summary	56

EVALUATION OF INMATES' PERCEPTIONS

Generally	57
A. Placement in the Unit and on the BMP	
The Complaint	58
Discussion	60
Conclusion	63
B. Progression Through the Program	
The Complaint	64
Discussion	64
Conclusion	67
C. The Duration of a Placement on the Program	
The Complaint	67
Discussion	67
Conclusion	70
D. Inconsistent Application of the Model	
The Complaint	73
Discussion	75
Conclusion	77
E. The Conduct of Reviews	
The Complaint	78
Discussion	79
Conclusion	82
F. The Unnecessarily Restrictive Nature of Some Sanctions	
The Complaint	84
Discussion	85
Facilities in Other States	89
The HRMU at Goulburn	90
The Acacia and Melaleuca Units at Barwon Prison	91
The Special Handling Unit at Casuarina	93
Conclusion	94
G. The Lack of Programs and Stimulating Activity	
The Complaint	97
Discussion	97
Conclusion	99

CONCLUSION

A. Summary	102
B. Particular Issues	104
C. General Compliance	107

RECOMMENDATIONS	109
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ENDNOTE

APPENDICES

A.	Plan of the Risdon Prison Complex and schematic diagram of the men's medium and maximum security units.	114
B.	Hierarchy of Privileges and Sanctions	117
C.	Interim Standard Operating Procedure RPC1.24.2	121
D.	BMP Operating Model Version 3, June 2008	127
E.	Extract from <i>Corrective Services Act 2006</i> (Qld)	166
F.	Extract from <i>Crimes (Administration of Sentences) Act 1999</i> (NSW)	171
G.	Extract from <i>Corrections Act 1997</i> (Tas)	180
H.	Layout of cell at Goulburn Correctional Centre	184

EXECUTIVE SUMMARY

1. This is the report of an investigation into the management of the Tamar Unit (Tamar) at Risdon Prison in Tasmania. Tamar is an 8-cell high security unit which forms part of the maximum security precinct in the Prison complex. The unit is a high risk management unit used to house prisoners who are considered to pose a particularly high risk to correctional staff, to other prisoners or detainees, or to the maintenance of good order and security in the prison.
2. I commenced the investigation in September 2008, on my own motion. I did so because I had received a number of complaints and notifications during 2007 and 2008 which made me concerned about the conditions under which the prisoners in the unit were being held, and about the manner in which the unit's Behavioural Management Program (BMP) was being administered.
3. In the terms of reference which I established for the investigation, I indicated that the management of the unit and the BMP would be assessed against -
 - the requirements of the *Corrections Act 1997* and the *Corrections Regulations 2008*
 - international human rights standards, and
 - best practice standards of prison management.
4. The investigation has involved considerable research, and the conduct of many interviews. It has also led me to visit comparable units at the Goulburn Correctional Centre in NSW, at Barwon Prison in Victoria, and at Casuarina Prison in WA. I have also had the benefit of advice from the former Inspector of Custodial Services in WA, Professor Richard Harding.
5. The complaints and notifications that led me to commence the investigation fell into seven general categories. These were -
 - (a) that prisoners in the unit were not advised why they had been moved there and placed on the BMP;
 - (b) that they did not know what they had to do in order to progress through the program and to be returned to the mainstream population;
 - (c) that they did not know how long they would have to remain in Tamar and on the program;
 - (d) that the rules to which they were subject in the unit were being applied inconsistently, even arbitrarily;

- (e) that they were not afforded procedural fairness when having their status on the BMP reviewed;
 - (f) that some of the sanctions imposed were unnecessarily restrictive, particularly in relation to visits and telephone calls; and
 - (g) that they were not given anything stimulating or useful to do while on the program.
6. The information available to me also led me to believe that prisoners in the unit were being held under unduly restrictive conditions, with too much time in solitary confinement, and insufficient access to exercise, sunlight and fresh air. It also appeared that some prisoners were being held in the unit without any hope of release from such conditions.
 7. Overall, I was concerned that the conditions in Tamar might not be humane.
 8. I am satisfied that the State's prison system needs to incorporate a high risk management unit. There will always be prisoners who pose such a risk to others within the system, or to good order and security, that they need to be confined more closely than is possible in the mainstream prison environment.
 9. However, if that is to be done humanely, and if the State is to do more than pay lip-service to the principle spelt out in s 4(d) of the *Corrections Act* that "individuals are capable of change", the facilities in which such prisoners are held must be suitable for the purpose.
 10. Tamar has been occupied since the present Risdon Prison Complex (RPC) was commissioned at the end of 2006. It is the modern equivalent of Division 7 in the Old Risdon Prison which was effectively a high risk management unit. At the time of the transition to the new prison, it held a number of prisoners who had been actively involved in a prison siege which had taken place in May 2005.
 11. Whilst Division 7 was in operation, an operating model was developed for the Division which was the precursor of the BMP. This model included a system of rewarding inmates with privileges, and included personal development and rehabilitation programs. The purpose was to move prisoners towards reintegration into the mainstream prison population, and to rehabilitate. The model was only partly implemented.
 12. When planning was under way for the operation of the new RPC, there was no intention of using Tamar for its present purpose. Rather, the unit was intended to have a dual purpose. One of these purposes was the short term accommodation of prisoners who needed segregation for disciplinary reasons - a function now fulfilled by the Franklin unit. The other was to house prisoners with special needs (brain injuries,

intellectual difficulties, self harm issues, etc), who would be managed through therapeutic interventions.

13. As the transition to the new prison approached, concern arose as to how best to accommodate the prisoners in Division 7. The early intention of prison management had been to place these prisoners in the 18-bed Huon unit, but advice was received from an officer who had experience in the High Risk Management Unit in the Goulburn Correctional Centre in NSW that Huon was too open and too large for the purpose. Tamar ended up being used for these prisoners, by default.
14. However, compared with the high risk management units elsewhere that I have viewed, the physical environment in Tamar is not well suited to the use to which it is now being put. The units that I have seen elsewhere differ, but they all have much better opportunities for prisoners to associate, to have access to sunlight and fresh air, and to recreate. Tamar has only two yards, one considerably larger than the other, to be used by all prisoners, in rotation. The unit also has only a small, single internal common area. Because there are so few prisoners in the unit, because the prisoners are often on different stages in the BMP, and because there can often be management reasons for avoiding association between particular prisoners, many held in the unit experience virtually constant solitary incarceration whilst there. In any event, the out-of-cell time for prisoners in the unit at best varies from only three hours a day on the least restrictive stage in the BMP to one hour a day on the most restrictive. If their out-of-cell time on a particular day occurs later than the day before, they can be confined to their cell, alone, for in excess of 24 hours.
15. My investigation indicates that these circumstances have been made worse by deficiencies in the way in which the unit has been managed, and in particular in the way in which the BMP has been administered to date. As to this, I have found -
 - that there is no formal practice for informing prisoners of the reasons for their placement in the unit, and that the management of the unit does not comply with national or international standards in this regard.
 - that prisoners are not adequately informed about the rules and conditions which apply to them in the unit, and that this is not compliant with national standards, or s 29(p) of the *Corrections Act*.
 - that prisoners have been held in the unit for indeterminate periods of time, on the basis of perceived dangerousness, and that this is incompatible with national standards and standards observed in other jurisdictions.

- that the BMP has not always been applied consistently and objectively
 - that the monthly reviews of a prisoner's performance under the BMP are not carried out with procedural fairness, in that prisoners are not notified in advance of any perceived problem with their behaviour, are not therefore given a fair opportunity to respond, and are not given prior warning of a proposed sanction. There have even been cases of reviews without the prisoner being present.
 - that not only are prisoners in the unit locked down in solitary confinement for most of the time, but they have nothing constructive to do, since no programs or industry activities are available to them. The principal distraction is television. This circumstance is not humane, and does not meet standards adopted in the United Kingdom or standards promulgated by the Inspector of Custodial Services in WA, which in my view are indicative of proper practice.
16. I conclude that as long as Tamar continues to operate as it has been, there is cause to be concerned for the mental and emotional wellbeing of the prisoners accommodated there.
 17. However, I observe in the report that circumstances in Tamar appear to have improved since I commenced the investigation. There are no longer any long-term residents in the unit, and I no longer receive the kinds of complaints and notifications that led to the investigation being undertaken.
 18. I make no findings of wrongdoing against any person in the report. In my view, the deficiencies in the operation and management of Tamar have not arisen from bad intentions. I believe instead that they have resulted from a combination of factors, chief amongst which are poor planning, inadequate funding, and outmoded correctional attitudes.
 19. I have made 15 recommendations in the report. These are -

RECOMMENDATION 1

That consideration be given to including a purpose-built high risk and behavioural management unit in Stage D of the Prisons Infrastructure Redevelopment Project, with the unit being designed to provide the flexibility needed for adequate out of cell time, adequate exposure to sunlight and fresh air, access to programs and education and an appropriate level of association between prisoners.

RECOMMENDATION 2

That the *Corrections Act 1997* be amended to place controls around segregated detention whatever the reason for it - whether it be discipline, behavioural management, maintenance of good order, protection or problems arising from prison design. I recommend that consideration be given to including an independent review mechanism such as the one to be found in the *Crimes (Administration of Justice) Act 1999* (NSW).

RECOMMENDATION 3

That the Director of Corrective Services develop programs and activities specifically tailored to the requirements of the Tamar Unit, to ameliorate the effect upon the prisoners of the prolonged segregation which arises under the BMP, and to assist them to maintain good physical and mental health.

RECOMMENDATION 4

That the Director of Corrective Services review the Model and the operation of Tamar with the specific purpose of assessing whether it is practicable to increase the out of cell time provided to prisoners in the unit.

RECOMMENDATION 5

That the Model in its entirety be published to prisoners and staff and that handbooks be produced, to be freely available to all prisoners and staff, which explain in plain English the operation of the Model, expected behaviours and an indication of the duration of a placement should expected behaviours be maintained.

RECOMMENDATION 6

That Staff who work in the unit should be selected in accordance with the BMP's operating philosophy. They should receive specialised training in relation to the operation of the Model, its aims and objectives, and particularly in relation to the needs and expectations of the prisoners subject to it. These goals are not incompatible with some rotation of staff through the unit.

RECOMMENDATION 7

That there be adequate and formal induction processes both for prisoners who are accommodated in Tamar and for the correctional staff who work there. In the case of prisoners, each incoming prisoner should receive written and oral notification of the reason for their placement on the program, with a copy to be entered in that prisoner's file.

RECOMMENDATION 8

That a separate section be added to each prisoner's local case file at the time of his induction into the unit, which should include a documentary record of each significant event in the passage of the prisoner through the program. This includes decisions made in relation to the prisoners' movement up and down the stages.

RECOMMENDATION 9

That prisoners' case notes should include comments from all staff involved in the operation of the BMP and the management of the prisoners on it, not necessarily just correctional officers.

RECOMMENDATION 10

That procedural fairness be afforded to prisoners in the conduct of review proceedings by ensuring that prisoners are given prior written and oral notice of issues to be raised and relied upon, especially where the imposition of a sanction (including continuation on the prisoner's current stage in the program) is proposed.

RECOMMENDATION 11

That when a prisoner is first inducted to the unit, and whenever the prisoner changes from one stage of the BMP to another, the prisoner receive both written and oral notice of the time that they will be on the stage of the program to which they have been assigned if their behaviour is of the required standard, and of any particular behavioural or other requirements that they are expected to meet.

RECOMMENDATION 12

That if a prisoner has been on the BMP for a continuous period of nine months and it is still considered inappropriate to return that prisoner to the general population, alternative strategies for the management of that prisoner should be developed.

RECOMMENDATION 13

That Tamar not be used for the indefinite containment of prisoners on the ground that they are perceived to be dangerous.

RECOMMENDATION 14

That all prisoners housed in Tamar be referred regularly to Correctional Health Services for review and monitoring of their physical and mental health.

RECOMMENDATION 15

That compliance with Recommendations 6 to 14 be routinely audited by the Compliance Unit within the TPS and that, for the purposes of transparency and accountability, a copy of each audit report be provided to the Ombudsman.

INTRODUCTION

BACKGROUND

20. There are five correctional facilities in Tasmania with the main prison, Risdon, situated in the south of the state. There are also two reception prisons, one in Launceston and one in Hobart; the Mary Hutchinson Women's Prison, adjacent to Risdon Prison; and the Hayes Minimum Security Prison Farm in the Derwent Valley about 45 minutes drive from Hobart.
21. Risdon Prison is approximately 12 kilometres from the Hobart CBD and very close to the suburb of Risdon Vale. Sharing the site are:
 - (a) the Old Risdon Prison, which can house up to 170 prisoners and which has been recommissioned as the Ron Barwick Minimum Security Prison;
 - (b) the Mary Hutchinson Women's Prison, with a capacity to house 46 prisoners; and
 - (c) the new Risdon Prison Complex (RPC), which has men's medium and maximum security units and a capacity to house 297 prisoners.
22. There is a separate secure mental health unit located within the prison grounds and there are also various administration buildings. Attached to this report as Appendix A are a schematic diagram of the men's prison complex and a plan showing all facilities on the Risdon site, both of which have been taken from the Department of Justice's web site. The various facilities are marked on the plan.
23. Tamar is a high security unit within the maximum security precinct of the RPC. This unit is used to house prisoners or detainees who, because of inappropriate behaviours or attitudes, pose a high risk to the safety and security of staff, other prisoners/detainees or the good order and maintenance of the mainstream correctional environment.¹ Attached as Appendix A to this report is a plan of the prison complex and a schematic diagram of the men's medium and maximum security units. Tamar is marked on the attached schematic diagram.
24. The unit was first occupied when the RPC was commissioned in 2006, with a number of prisoners moving to Tamar from the old Divisions 7 and 8. The BMP has been designed and implemented to manage prisoners who pose such a high risk to safety and security and these prisoners, by and large, are housed in Tamar. Occasionally, if circumstances demand it, a prisoner may be placed in a unit other than

¹ *Operating Model for Risdon Prison Complex Behaviour Management Program*, Version 3.0 – June 2008, page 9.

Tamar and remain on the BMP while there, but this is the exception rather than the norm.

THE INVESTIGATION AND TERMS OF REFERENCE

25. During 2007 and 2008, I received a number of complaints and notifications about conditions within Tamar and the way in which the BMP was being implemented. These complaints came from prisoners, Official Visitors and other concerned parties, such as prisoners' relatives and friends. Matters of concern included:

- (a) the length of time that some prisoners had spent in Tamar;
- (b) the fact that some prisoners had allegedly been held there without being given information about when they might expect to return to the mainstream prison population; and
- (c) allegations that the BMP was being operated in an arbitrary and unfair manner.

26. I decided to initiate an investigation of my own motion pursuant to s.13 of the *Ombudsman Act 1978* into the manner in which the Tamar Unit and its associated Behaviour Management Program were being managed. I sent the relevant notices advising of the investigation under s.23 of the Act on 4 September 2008.

27. The Terms of Reference for the investigation were as follows:

To review the manner in which the Tamar Unit in the Risdon Prison Complex and its associated Behaviour Management Program are being managed. In particular the management of that Unit and the program will be reviewed against:

- *the requirements of the Corrections Act 1997 and the Corrections Regulations 2008;*
- *international human rights standards;*
- *best practice standards of prison management.*

JURISDICTION

28. The Department of Justice, of which Corrective Services and consequently Tasmania Prison Service (TPS) are parts, is a public authority as defined by s.4 of the *Ombudsman Act 1978*. I have

jurisdiction to investigate any administrative action taken by, or on behalf of, that public authority.²

29. Given the number and similarity of the concerns raised with my office, I chose to investigate the conditions within Tamar on my own motion as opposed to investigating each individual concern as a discrete complaint.

METHODOLOGY

30. In the course of the investigation, the following documents were obtained and reviewed:

- (a) *Corrections Act 1997 and Corrections Regulations 2008*;
- (b) *Standard Guidelines for Corrections in Australia* (Revised 2004);
- (c) relevant international instruments;
- (d) Tasmania Prison Service Operating Models and policy documents;
- (e) Directors Standing Orders and Standard Operating Procedures;
- (f) Tasmania Prison Service prisoner files; and
- (g) relevant literature and research on managing difficult prisoners and the effects of isolation.

31. In addition, the following tasks were undertaken:

- (a) a survey questionnaire was sent to all past and current Tamar residents;
- (b) all past and current prisoners willing to be interviewed were interviewed and those interviews were transcribed;
- (c) a number of site visits were conducted with Professor Richard Harding, the inaugural Inspector of Custodial Services for Western Australia from 2000 to 2008, who was engaged as a consultant;
- (d) several senior TPS staff and Integrated Offender Management staff were interviewed;

² Section 12 *Ombudsman Act 1978*.

- (e) senior Corrective Services managers were interviewed, including the Director of Corrective Services, Robert Williams, and the Director of Prisons, Graeme Barber;
 - (f) Dr John Crawshaw, who is the Chief Executive Officer, Statewide and Mental Health Services with the Department of Health and Human Services was also interviewed; and
 - (g) Comparable units in prison facilities in New South Wales, Victoria and Western Australia were visited.
32. Unfortunately, despite several talks to 'coal face' custodial staff in group settings, as well as attempts through various means to encourage their participation, no custodial officers who are regularly rostered in Tamar came forward to talk to my staff. This is disappointing because their perceptions and their views of the way that the unit is run would have been invaluable. Staff members who deal with the realities of applying the relevant operating models on a daily basis can provide an insight that no one else can and I regret that such an insight has not informed this report.
33. However, it was felt that any effort to coerce operational staff into speaking with my officers would be counterproductive and would not lead to candid and open interviews.
34. Although the review focused particularly upon the management of Tamar, this was only fully comprehensible in the light of the management of all the associated units that deal with prisoners who for one reason or another cannot be managed within the mainstream, or general prison population. These units include the Huon Unit and the Franklin Unit. Consequently, a key aspect of the methodology was to obtain and analyse Departmental documentation relating to the processes and criteria for admission to and management of each of these units.
35. My review team also obtained and analysed the Case Management files of present and past prisoners held at the Tamar Unit. The minutes of the Behaviour Management, Placement and Risk Assessment Panel were examined and reviewed. These relate to both admission to, and release from, Tamar. Relevant staff members involved in the proceedings of that panel were also interviewed. We also spoke with staff involved in the management of Tamar, as well as senior personnel involved in the policy development and strategic administration of the unit.
36. Responses to the surveys referred to at paragraph 31(a) above were analysed; 11 out of the 13 prisoners falling into the relevant category supplied answers to these surveys. Prisoners were also interviewed by two of my staff and their records of interview were transcribed in full. My staff also directly observed the proceedings of a Review Committee hearing held in Tamar.

37. Site visits were carried out on 13 and 14 November 2008 and my staff were accompanied on those occasions by Professor Richard Harding. Professor Harding has wide experience in inspecting not only prisons but closed units within prisons, such as the Special Handling Unit at the maximum-security Casuarina Prison near Perth in Western Australia. Professor Harding brought a level of expertise and a wide knowledge of penal issues to the review which he shared with my staff and which helped inform this report.

THE ROLE OF SECURE MANAGEMENT UNITS

38. Before exploring in more detail the intended and actual operation of Tamar, it is necessary to address the question of the place of such units within the modern prison system. Unfortunately, a small minority of prisoners within maximum security prisons is likely at any given time to require special arrangements for their control and management so as to maintain good order. This is desirable not only from the point of view of staff but also from the point of view of other prisoners.
39. Difficult prisoners have been a common problem in the correctional institutions of the developed world for many years. Professor Alison Liebling, Professor of Criminology and Criminal Justice at Cambridge University, has noted that labelling a prisoner as 'difficult', in the UK at least, normally occurs at a time when options for handling or management within the mainstream have been exhausted.³ She says that associated with the description 'difficult' is likely to be a history of discipline reports, violence or subversive activity and lengthy periods out of circulation.
40. These prisoners constitute a very small proportion of the prison population as a whole. The motivations of such disruptive prisoners are complex and not the subject of this inquiry, but it is generally accepted that such prisoners have to be managed in an environment removed from the mainstream, at least for a period of time.
41. Accepting all of the above as given, the question becomes how best to manage these difficult prisoners in an effective and humane way. Dr John Crawshaw, who has had extensive experience with secure management units in New Zealand and Australia, describes the challenges associated with running such units as follows:

How do you maintain control, how do you preserve the safety of the prison staff, how do you preserve the dignity of the individual prisoner, how do you preserve the capacity for that prisoner to actually learn new behaviours in a proactive sense as distinct from a negative sense,

³ Liebling, A (2001) *Policy and Practice in the management of disruptive prisoners: incentives and earned privileges, the Spurr Report and Close Supervision Centres*, London, Home Office

and how do you actually engage the prisoner to the extent that they can make changes in their behaviours?

42. Dr Andrew Coyle, a highly experienced and well regarded senior prison administrator as well as an accomplished scholar in the area of prisoner management, has written as follows:

There are at least two models for the management of violent and disruptive prisoners. The first is by placing them in isolated conditions, either on their own or with one or two other prisoners. Under this arrangement prisoners spend all day and night in their living accommodation. In the most extreme of these conditions prisoners have no access to any activity or external stimulation and have nothing at all to do. They may be allowed an hour of solitary recreation in an empty outdoor exercise cage. They are strip searched and shackled every time they leave their cell. In some jurisdictions prisoners can spend years in this kind of regime. This method of dealing with prisoners, however dangerous, is not good practice and often rises from an absence of proper management techniques.

A much more positive model is that of housing problem prisoners in small units of up to ten prisoners, based on the premise that it is possible to provide a positive regime for disruptive prisoners by confining them to "group isolation" rather than individual segregation. The principle upon which these units operate is that it should be possible for a professionally trained staff to develop a positive and active regime for even the most dangerous prisoners. The intention is that, within a secure perimeter, prisoners should be able to move relatively freely within the units and to have a normal prison routine. In such an environment prisoners will only be placed in isolation when all else fails and then only for a short period of time.⁴

43. As will be seen, Tamar is much closer to the first model than to the second, but it is important to consider the unit's operation in light of its history. I will therefore take some time in this report to consider the historical context within which Tamar came into being and the evolution over time of the intentions for the unit and of the way in which it has operated.

⁴ See *A Human Rights Approach to Prison Management: A Handbook for Prison Staff* (International Centre for Prison Studies, 2002, page 73).

HISTORY AND DEVELOPMENT OF THE RISDON PRISON COMPLEX⁵

BACKGROUND

44. The Risdon Prison Complex was commissioned at the end of 2006 and was purpose built to house Tasmania's medium and maximum security prisoners. Prior to this, prisoners were housed in the Old Risdon Prison, which has been refurbished to some extent and is now the Ron Barwick Minimum Security Prison.
45. The Old Risdon Prison was first occupied in November 1961 and was designed to replace the Campbell Street Gaol, much of which had been in use since its construction in 1821. Campbell Street had been a source of concern since at least 1908, primarily because of its perceived, and actual, lack of security. It was located within the city of Hobart with the Prison Governor's house on one of its boundaries and the Scots Church on another. It had low stone perimeter walls in some parts and only wooden fences crowned with wire in others. Escapes and the ingress of contraband were common.
46. Also of significant concern was the lack of rehabilitation and reformation, and segregation. Cells were small, not plumbed or heated and subject to vermin infestation, and first time prisoners and low level offenders were housed with more serious and hardened criminals. The conditions at Campbell Street were the subject of numerous reports and Royal Commissions between 1908 and 1956, with its demolition and replacement a recurring recommendation.
47. By the 1950s an increase in the number of prisoners, including prisoners under the age of 18, made issues of rehabilitation and segregation critical, and the design for a new facility was commissioned. It was to be located at East Risdon, away from the city, and initially was intended to house 250 prisoners.
48. A design for the prison, based on an American self-enclosed model, was presented to the Standing Parliamentary Committee on Public Works by Professor Brian Lewis of Melbourne University in 1956, and a serious commitment was given to building it. The new facility would be centrally heated, cells would be larger and each would have a hand basin, toilet and electric light; despite some concern that this might be seen to be making prisoners too comfortable.
49. Prisoner numbers continued to rise however, and it was feared that the new facility would not be able to house them all. Accordingly, approval was given in 1960 to increase the number it could accommodate by placing an extra wing in each division, effectively halving the proposed recreation areas.

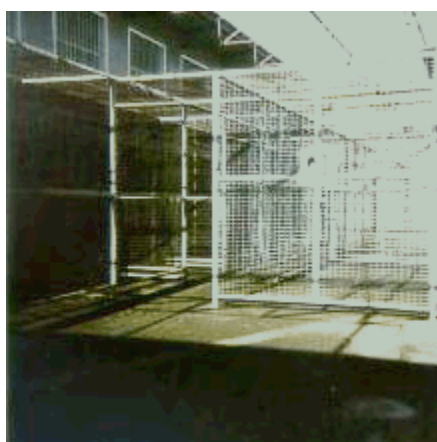
⁵ Much of the historical material included in this section of the report has been taken from Caroline Evans' book, "A Pink Palace – Risdon Prison, 1960-2004", published by the Department of Justice.

50. By the time the first prisoners were moved to Risdon from Campbell Street some advances had been made. In particular, a Classification Committee had been established to ensure that prisoners on remand and young prisoners were separated from more serious offenders although conditions in general remained comparatively harsh. The facility was largely run along military lines and discipline was tight. Cells in the main divisions were arranged in two tiers set around small bitumen yards that were essentially open to the elements and cold and wet in inclement weather. There were too many maximum security cells, adding to the problems associated with separating and managing groups of prisoners.
51. Though the then Governor, W. T. Loneragan, described the new facility as “the most modern in the world”, a Legislative Council Select Committee on Correctional Services and Sentencing (the Select Committee) reported in 1999 that “it was considered to be several decades out of date when it opened”.
52. The Select Committee was appointed by the Legislative Council in October 1997 to “inquire into and report upon the operation of Correctional Services and Sentencing in Tasmania, with particular reference to:
- (a) privatisation of prisons including design, financing, construction and administration;
 - (b) sentencing involving the deprivation of liberty of offenders;
 - (c) rehabilitation and parole of persons serving terms of imprisonment and allied matters; and
 - (d) matters incidental thereto.”
53. Hearings of the Select Committee were open to the public; it received 25 written submissions and took the oral evidence of 16 witnesses in Tasmania. In addition, the Committee interviewed a large number of witnesses and visited correctional facilities in other States. I will refer to some of the findings of the Select Committee in more detail later in this report.
54. The Select Committee reported that by 1999 the outdated, sub-standard conditions in the Old Risdon Prison were being aggravated by a lack of funding to provide for maintenance, equipment replacement and the increased number of personnel required to operate the inefficiently designed facility. The building itself was deteriorating. The Select Committee commented on the unnecessary strains being placed upon both staff and prisoners by inadequate facilities. Tension was rife and displays of prisoner unrest were common.
55. The Select Committee was of the view that conditions in most parts of the prison ranged from “inferior to appalling” and that “any attempt to

upgrade it to appropriate and acceptable standards and design would be unsuccessful and prohibitively expensive.”⁶ It concluded that the prison should be replaced and that it should be replaced with some urgency.

DISCIPLINARY SEGREGATION

56. Campbell Street had its House of Correction for the solitary confinement of recalcitrant prisoners. The Governor could order that such prisoners be placed in the House of Correction for up to 72 hours where they were fed only bread and water and were allowed only one hour’s exercise a day. Residents of the House of Correction had blankets but no beds.
57. The Old Risdon Prison had its Division S. This contained three confinement cells where prisoners presenting challenging behaviours and those subject to separation as punishment could be kept in the dark for between 24 and 72 hours, and where again they were fed only bread and water. Continuing problems with overcrowding and an increased need for segregation led to the construction of a new segregation area, N Division, commencing in 1965. Additional cells were added in 1974.



N Division – Risdon Prison

58. N Division attracted criticism from my predecessor, Jan O’Grady for its stark, confronting and soulless environment. Ms O’Grady described it as “an appalling environment” and who stated that she found it “difficult to believe that anyone incarcerated there could be considered as being treated with respect for human dignity.”⁷ The Select Committee expressed surprise that health authorities had not condemned the division’s cells as being unfit for human habitation.

⁶ Legislative Council Committee – Correctional Services and Sentencing Report 1999, p.32

⁷ Tasmanian Ombudsman, Report on an Inquiry into Risdon Prison - Risdon Prison Complex. Vol 2, June 2001 p.33

59. N Division would later become known as Division 8, and it and Division 7 continued to be used to house difficult prisoners until the new prison was commissioned in August 2006. These divisions maintained a degree of notoriety due to the airless and unlit conditions in some of the cells, the use of enclosed 'dog runs' for prisoners' only access to fresh air and exercise, as well as the inhumane manner in which interactions between custodial staff and the most challenging prisoners took place. In some cases, any movement of prisoners was controlled by custodial staff in full riot gear and the prisoner was moved through a series of gates that prevented any contact with staff whatsoever.
60. Though not the original intention, it became the fate of the Tamar Unit in the new prison to take over the role played by Division 7 in the old.

THE DECISION TO BUILD A NEW PRISON

61. A number of deaths in custody between 1999 and 2000 precipitated a major coronial inquest and a major investigation by the Ombudsman. These were finalised in 2001. Calls for prison reform began to be made in the popular press and by the Prison Reform Action Group, which had been formed in response to the deaths in custody. I believe that this scrutiny of the old prison contributed to the decision by government to build and commission a new, purpose built modern facility in which to house maximum and medium security prisoners.
62. The decision to construct a new prison at Risdon, largely in accord with the Select Committee's recommendations, had already been under consideration but it was finally made by Cabinet and announced by the then Attorney-General, The Honourable Peter Patmore MHA, on 10 April 2001.
63. Although the Select Committee had recommended two separate facilities – one in the south of the state and one in the north - the decision was made to construct a single new maximum and minimum security prison on the existing Risdon site, including a separate women's prison. The Old Risdon Prison was to be converted to a minimum security prison until better facilities for that purpose could be built.
64. The Select Committee had reported that one of the disadvantages of old Risdon's design was its small number of divisions, each containing a large number of prisoners, which precluded effective unit management. It had visited various campus style facilities in other states, including Port Phillip and Barwon Prisons and the Fulham Correctional Centre in Victoria, the Long Bay Correctional Facility in New South Wales, and the Arthur Gorrie Correctional Centre in Queensland. That style provides for separate self-contained accommodation units, linked by secure spines and surrounded by a

single perimeter fence, where prisoners of a similar security classification can be housed and managed.

65. The Select Committee was of the view that “Smaller cell divisions with unit management procedures not only makes control of the prisoners and educational, training and rehabilitation programs more effective, but also provides more incentive for prisoners to qualify for reclassification and privileges”.⁸

PROPOSALS FOR THE NEW PRISON

66. Following the announcement that a new prison was to be built, the Department of Justice implemented a Prisons Infrastructure Redevelopment Project consisting of three principal stages:
- (a) Stage A – submissions through the 2000/2001 budget process for the inclusion of the redevelopment of the Tasmanian prison system infrastructure in the Government’s Capital Investment Program, which resulted in funds being allocated to proceed to Stage B;
 - (b) Stage B – the development of a Business Case addressing various options, including:
 - (i) size and location, including consideration as to whether there should be a new facility in the north of the State and the redevelopment of Risdon Prison (the Select Committee’s recommendation) or one new major facility;
 - (ii) service delivery, including consideration of whether facilities should be operated privately or not; and
 - (iii) financing, whether private through a lease back arrangement or public through the Capital Investment Program; and
 - (c) Stage C – pre-construction and construction.
67. A Stage D is also planned, and is intended to include, amongst other things, additional minimum security units, an additional maximum security unit, a kitchen, a stores area, the balance of the education facility and workshops, a gymnasium and the demolition of the old prison.
68. As noted, the decision was made to redevelop the Risdon site. A new facility for medium and maximum prisoners was to be constructed and

⁸ Supra p.70

the Old Risdon used, at least in the short to medium term, as a minimum security prison.

69. The overall plan for the new prison had been finalised by mid 2003, though some changes in the layout of rooms and facilities within the complex were anticipated. The new, separate men's prison was initially to provide 283 accommodation beds, and specialist units to separate prisoners with special needs or behavioural issues from the mainstream population.⁹ The specialist units included:
- (a) a Behaviour Management Unit;
 - (b) protection beds;
 - (c) a Detention Unit;
 - (d) a Needs Assessment Unit; and
 - (e) crisis support beds.
70. It was proposed that there be two maximum units, each with 26 beds. It was anticipated that the new prison would be compliant with national best practice in relation to prisoner classification and the proportion of maximum to medium prisoners; in the future, it was suggested, the majority of prisoners would be classified as medium security.
71. Multi-purpose education and program spaces were to be included, with a program room in each maximum security cell block.
72. A model of the proposed prison was unveiled in July 2004 by the then Attorney-General, the Honourable Judy Jackson MHA, who said that the campus layout would "bring about a change in prison culture".¹⁰
73. Rehabilitation was to be as important as punishment in the operation of the new prison. As the then Attorney General, the Honourable Steven Kons MHA, told Parliament on 30 June 2006 in answer to questions from the Honourable Member for Lyons:

Mrs BUTLER - *I have a few questions here I would like to ask on this output. Attorney, we keep hearing about integrated offender management. Could you please outline what that actually means?*

Mr KONS - *Thank you, I can. In late 2006 the Prison Service will introduce a new management model known as integrated offender management. The IOM is a cooperative and coordinated approach to the management of offenders that supports a philosophy of*

⁹ Department of Justice Information Sheet 5, June 2003

¹⁰ ABC Tasmania, Local News Report 24 July 2004

reducing offending behaviour while ensuring the safety, security, health and welfare needs of inmates are addressed. The concept of integration with other agencies is critical and a through-care model is being introduced that supports integration within the Prison Service and its many partners, most notably with Community Corrections. A number of processes and tools are incorporated in the IOM system to facilitate the effective management of offenders. These include assessment, sentence planning, case management, programs of education and reintegration.

Mrs BUTLER - *Could you tell me how the new inmate classifications and contracts will work?*

Mr KONS - *A full review of the inmate classification system was recently completed and the new classification system has been approved. The new system is currently being scenario-tested using current population data to provide a guide to the number of inmates in each classification category that can be expected within the new prison facilities. The classification takes into account the issues prescribed by the Corrections Regulations 1998 and is designed to maximise public safety within prison facilities and provide incentives for inmates to progress to lower security classifications where they receive greater privileges and opportunities to participate in rehabilitation activities.*

The Prison Service, in line with contemporary correctional reintegration, aims to increase opportunities for rehabilitation and reintegration without compromising community safety. Therefore the new prison system operating model will provide a greater range of rehabilitation and accommodation options than are currently available and the inmate classification system has been updated to support those increased opportunities.

74. At the time of opening the prison on 28 August 2006, the then Premier, the Honourable Paul Lennon MHA, issued a media release in which he is quoted as having said that the new facilities provided Tasmania with the opportunity to further reduce crime rates:

If we are truly to make an impact on crime rates in Tasmania, we must break the cycle of crime. The new prison complex finally provides us with an acceptable environment in which to incarcerate people who have been sentenced by the courts to prison.

While they will be punished by their incarceration, we are also providing the resources and the facilities to begin the process of rehabilitation, so that when they come out of prison – as the vast majority of inmates do – they will be less inclined to commit other crimes.

75. As will be further discussed later in this report, the decision to build and commission the new prison engendered a change in the philosophy of Corrective Services as to the manner in which prisoners and detainees should be managed, with a move away from the harsh regimes maintained in places such as Divisions 7 and 8 to an approach which recognised:
- (a) prisoners' criminogenic needs¹¹; and
 - (b) the value of strategies and interventions designed to address those needs and effect a positive change to the behaviours that had put prisoners in prison in the first place.

¹¹ Criminogenic refers to factors which have been identified as predictive or productive of crime and/or associated recidivism.

THE BEHAVIOUR MANAGEMENT PROGRAM

THE GENESIS OF THE BMP AT THE OLD RISDON PRISON

76. In November 2002 the Director of Prisons and Prison Services senior management discussed the establishment of a high security unit to be located in Division 7. A multidisciplinary working party was convened to prepare a proposed operating model for this unit and their report was completed in March 2003. The model proposed was one that would provide a highly secure and safe environment, with opportunities for the reintegration of prisoners into the general prison population through the provision of quality personal development and rehabilitation programs.¹²
77. The proposed operating model was in many ways the precursor to the BMP and was based on individually tailored programs designed to address:
- (a) specific behavioural requirements of prisoners based on a points system whereby points could be accumulated and qualify the prisoner for certain privileges; and
 - (b) associated behaviours that had led to prisoners' incarceration and placement in the unit, for example drug or alcohol addiction.¹³
78. The proposed model also set out clear guidelines and criteria in relation to a prisoner's eligibility to be placed in the unit, as well as what was required before that prisoner could leave the unit and return to the general prison population.
79. The unit was to be known as the Progressive Reintegration Unit (PRU) and would require competent staffing and individual prisoner assessment, induction and discharge processes. It would also require all Prison Services staff to be treated with respect by prisoners and require prisoners to be treated fairly, consistently and in a transparent manner in accordance with their individual needs, sound correctional practice and departmental protocols and values.
80. The proposed model recommended that a PRU Placement Panel be established. The working party believed that assessment for entry into the PRU should only occur after attempts had been made to address the prisoner's behaviour, but if that behaviour continued to be a cause for concern, the prisoner was to be counselled by a Senior Custodial Officer who could make a recommendation to the Placement Panel for an assessment. If such a recommendation was made, there followed

¹² Risdon Prison Division 7, Proposed Operating Model, Working Party Report (Draft), March 2003, p5

¹³ *ibid*, p11

an assessment period of no longer than 14 days during which the prisoner was to be housed in the Separation Unit. If it was determined that the prisoner was to be accommodated in the PRU, the Panel was to determine the length of time the prisoner was to spend there.

81. It was further proposed that the panel reconvene to consider further placement of the prisoner no later than 14 days prior to the expiration of the prisoner's initial time in the PRU. Prisoners were to be allocated Contact Officers to assist and support them when they appeared before the panel and were to be encouraged to complete an application for release setting out any evidence the prisoner relied on as a basis for being returned to the mainstream population. The panel would then decide whether the prisoner should be released from the unit, or be subject to a further placement.
82. Many of the recommendations contained in the working party's report and the development of staffing models were based on the assumption that a psychologist would be available to provide significant support to the PRU. In the event however, the TPS psychologist who had been involved in the development of the PRU's operating model left the Service at the end of January 2003. The working party was of the view that the appointment of a psychologist was vital to the success of the unit and that the appointment of a second psychologist would be justified.
83. A second psychologist had not been appointed by the time the report was published however, and for the purposes of the report, comments in relation to program delivery were made on the premise that no psychological support was immediately available. It was recommended that program delivery occur in two phases:
 - (a) Phase 1 would address prisoners' specific behavioural requirements, examine the factors leading to a prisoner being placed in the PRU and the need for the prisoner to be accommodated there; and
 - (b) Phase 2 would address associated behaviour, such as drug and/or alcohol addiction, with programs to be considered and developed with a psychologist, if and when one was appointed.
84. Both phases would involve individual counselling. Even in the absence of a psychologist the working party assumed that there were suitably qualified members of staff to deliver the two phases but noted that if this was not the case, it would be necessary to provide relevant staff training or contract external services as required. However, the working party once again stressed the need for a psychologist to have significant input into the operating model.
85. The working party made a further recommendation that a staff member be allocated to act as coordinator for the PRU, with sole responsibility

for the delivery of programs to the unit and to act as a constant and dedicated resource for staff and prisoners.

86. This operating model was only partly implemented in Division 7; the new procedures in relation to the custodial model were put in place, including improved decision-making, accountability and record keeping processes, but the intervention and support components were not.

THE ORIGINAL INTENTIONS FOR THE TAMAR UNIT

87. By 2004, preparations were underway for the transition from the old prison to the new. An Organisational Development Program had been implemented and a Custodial Operating Model Project had commenced. These involved the development of proposed models for the operation of the new prison as a whole, as well as models for its separate units.
88. Operating models for all the units in the RPC were developed as the new prison was being built so that the prison could commence operating as soon as it was commissioned. The keystone was the application of an Integrated Offender Management (IOM) model as an umbrella under which all the operating models would work.
89. The manager of the Integrated Offender Management Unit described the framework as a “risk needs responsivity rehabilitation” model whereby the prisoners’ risk of re-offending is assessed, their criminogenic needs identified, responsivity needs are assessed (for example, learning styles, intellectual abilities, literacy and numeracy) and programs put in place to facilitate rehabilitation and reintegration. The unit is responsible for providing offender intervention programs, educational programs and therapeutic services.
90. The then Manager, Custodial Services, Gary Hancl, started working in the Organisational Development Program in 2003/2004. In late 2004, the officer in charge of the Custodial Operating Model Project left the Service and Mr Hancl took over that role while maintaining a presence in relation to organisational development. As I have already noted in paragraph 69 above, a number of specialist units were to be developed, including a Behaviour Management Unit. According to Mr Hancl, a number of those units “were very new philosophies for this organisation, and that’s how [he] came to be doing the Behaviour Management Program”.
91. When Mr Hancl took over the Operating Model Project, he developed a Prison Service Facility Usage Plan, which basically set out the philosophies behind each unit and which was intended to be “something to develop the operating models on”. The usage plan was completed in January 2006 and, according to Mr Hancl, endorsed by the TPS Senior Management Team.

92. The usage plan provided for Tamar to serve a dual purpose as a short term detention unit as well as the home of the BMP.
93. As a detention unit, it was proposed that Tamar would provide short-term accommodation for prisoners segregated from the general population for disciplinary reasons, the role filled by Division 8 in the Old Risdon Prison. Accommodation in the detention unit was to be strictly regulated and used only as a last resort for disciplinary sanctions. In the event Tamar was never used for this purpose but rather the Franklin Unit, which is conjoined to Tamar, is the unit that is and has been used to house prisoners undergoing disciplinary segregation.
94. In relation to Tamar's role in the BMP, the intention was that there be a major therapeutic component to the program which would include specialist and targeted case management run by a multidisciplinary, specialist team. It was to be based on a model of 'therapeutic community' and would provide prisoners with incentives and rewards for behavioural improvement. It also included appropriate governance structures that supported considered decision-making when it came to determining which prisoners should enter the program and how long they should stay; and it provided for proper discharge planning and post-discharge monitoring and support. This model was developed prior to the completion and commissioning of the RPC.
95. Corrective Services through its senior management initially contemplated that Tamar would not merely warehouse difficult to manage prisoners, as had been the case to a large extent in Divisions 7 and 8 of the Old Risdon Prison. It would also offer therapeutic guidance and assistance to enable those prisoners to attain a standard of behaviour that would make it safe and prudent to move them back into mainstream.
96. It was originally envisaged that Tamar would house special needs prisoners (those with brain injuries, intellectual disabilities, self-harm issues or other behavioural problems), who would require a high degree of intervention in order to be assessed, stabilised and accommodated in the system. It was not intended that the unit would house prisoners who posed a risk to the security and good order of the prison.
97. As Mr Hancl suggested, there has been a change in the vision and philosophy of the TPS in recent years, with a conscious move away from a containment and control model to a more contemporary model that recognises prisoners' criminogenic needs and their potential to change. As discussed above (paragraph 76 ff), this move began in 2002 with the development of the operating model for Division 7 of the Old Risdon Prison, which was a collaborative effort between TPS, Forensic Mental Health Services and the Correctional Health Service.

98. The process of developing the BMP Operating Model for Tamar was commenced with input from the TPS Senior Psychologist, Dr Kay Cuellar, TPS senior custodial staff and, as will be discussed further later in this report, a senior officer on secondment from the NSW Prison Service. A worldwide literature search was conducted, operating protocols for Western Australia's Acacia High Security Unit and New South Wales' High Risk Management Unit at Goulburn were considered, and Mr Hancl and Ms Cuellar visited the Charlotte Unit at the Port Phillip Prison in Victoria.
99. Mr Hancl was instrumental in this process and in working towards a completed model was not seeking to set standards merely for the handling of difficult prisoners and segregating them, but for implementing interventions to address problem behaviours.
100. It was also Dr Cuellar's understanding that the unit would not necessarily house prisoners posing a significant risk to the system, but rather those who were "suffering the consequences of their inability to manage their own behaviour ... including self harming." It was intended that there would be therapeutic inputs in the form of individual assessments, identification of problem behaviours and targeting and assisting prisoners to address their own behaviour and what might be contributing to it, rather than just a reward based containment model. The idea was that prisoners with persistent disciplinary and behavioural problems would be assisted to stabilise their behaviours and re-engage with the mainstream population where possible.
101. Mr Hancl told my officers that he had tried to adopt a more therapeutic model for Tamar where prisoners were "brought in, properly assessed, properly treated, properly discharged and supported back in the community, being the mainstream [prison] environment." It was to be more than "just housing people and segregating them but actually providing interventions."
102. The intention for Tamar and the BMP was quite clearly to provide a degree of therapeutic intervention that focused on addressing problem behaviours, including their underlying causes, and which would assist prisoners to modify those behaviours in a positive way. Because the operating model was in development prior to the Tamar Unit actually being completed and occupied it was predictable and understandable that the finished model might require some amendment.

A CHANGE OF PLAN AND PHILOSOPHY

103. A detailed business plan had been prepared by Corrections and submitted in 2005, but the funding approved by Treasury fell substantially short of the amount estimated to be required under the business plan to operate the new prison and staff it appropriately. This imposed severe restrictions on Corrections' ability to establish the

therapeutic environment originally intended for Tamar, particularly in relation to staffing. Inadequate funding seems to have been an ongoing impediment, and I will come back to the question of resourcing later in this report.

104. In addition, as the transition from the old prison to the new loomed but before the final operating model had been settled, difficulties with the infrastructure became apparent, particularly when it came to determining where prisoners then accommodated in Divisions 7 and 8 should be placed. Division 7 was used to house prisoners who posed an ongoing and significant risk to other prisoners, staff and the facility itself, while Division 8 was used for 'local sanctions'.
105. I note here that some of the prisoners then housed in Division 7 had been actively involved in a siege at the prison in May 2005, when 19 prisoners barricaded themselves in the reception area, holding a custodial officer hostage. The siege lasted for 33 hours and the prisoners referred to were moved to Division 7 as soon as it was over. They were still there at the time Tamar was commissioned 18 months later.
106. When moving into the new prison, original plans had to be adapted to translate the high security segregation of Division 7 to the buildings available. The physical structure could not be altered, there was no other facility that could accommodate the prisoners in question and a solution needed to be found quickly.
107. According to the Director of Prisons, the new prison was based on the Queensland campus model. The old prison had six mainstream divisions as well as Divisions 7 and 8, and the new facility did not provide many options for accommodating the group of prisoners under discussion. The Director acknowledged that, in retrospect, there had been a level of naivety when plans for the new prison were being considered.
108. Prisons based on the same model had recently been constructed in Queensland, but there are other facilities in that State that can be used to house and manage high risk prisoners. Tasmania, on the other hand, has a limited number of facilities and there are very few options for the placement of these difficult prisoners. The Director attributes the naivety mentioned, at least in part, to the fact that nobody in Tasmania had the requisite expertise in prison modeling and construction and heavy reliance had had to be placed on outside consultants.
109. In particular, the architects of the new prison were based in Queensland, as were the consultants used in the planning stages of the project. Those consultants had been involved in a number of similar projects and were therefore familiar with the architecture, the costing and so forth. A decision was made that if a Queensland campus style prison were to be built, it would be sensible to use

Queensland consultants. For reasons that will be discussed later in the report, this was not perhaps the best approach.

110. According to the Director, plans were altered during the pre-construction and construction phase (Stage C) of the Prisons Infrastructure Redevelopment Project, some of them very considerably, as a result of financial concerns and restraints. The designs of some units were altered significantly, and while the Director had been consulted about some of these changes some had been ordered by the Steering Committee without reference to him. (Surprisingly, he was not a member of the Steering Committee.) It was only when the commissioning of the prison approached that potential shortcomings of the new facility became apparent and practical problems that needed to be urgently addressed came to light.
111. Requests were made of correctional services in other States seeking an experienced manager to provide preliminary advice in relation to the sort of unit that might be needed, and to assist in the establishment of such a unit and the management of the transition process. New South Wales responded and John Salway, an experienced correctional officer and trainer, was seconded to the Tasmanian Prison Service for three months from May 2006.
112. Mr Salway came from the Goulburn Correctional Centre in NSW where he had worked both in its mainstream high security prison and its High Risk Management Unit. His role was to help establish a high risk behaviour unit, initially in Division 7 but with a view to it being moved to the new prison once it had been commissioned. Mr Salway had input into the operating model being developed by Mr Hancl and others. As noted, that model had drawn on protocols in other facilities, including those in NSW with which Mr Salway was familiar.
113. Though building was not complete, by reference to the plans it had initially been thought by the TPS that Huon might be a suitable unit in the new prison for housing the prisoners from Division 7. But Huon is comprised of 17 maximum security cells and 18 beds (one of the cells being a 'buddy cell' with two beds) located next to the Mersey Unit, and Mr Salway's advice was that it was too open and too large. Tamar was nominated almost by default, there being no other unit more suitable. According to Greg Partridge, the Assistant Director of Prisons:

If it was possible to change it, we would have changed it because it wasn't what we wanted, it wasn't set up in the way ... it didn't have the individual exercise yards that you need, it didn't have the correct layouts and all the rest of it, but we were stuck with what we had, we had to do it, so that was why it went to where it went.

114. Accordingly, the focus of the proposed operating model shifted, though it still maintained an integral therapeutic component. Therapeutic Services staff realised at the time that there would most likely be

difficulty resourcing a high level of therapeutic intervention for BMP prisoners, but felt that such a component had to be included in the model. However, according to Mr Salway:

I think the primary goal of the behaviour management was for security. To really protect the rest of the system from a small group of people who were capable of causing a great deal of damage and security breaches within a system. So therapeutically, therapeutics was always there on offer, but it wasn't necessarily a therapeutic unit.

115. When contributing to the development of the operating model and the establishment of a behavioural management unit, Mr Salway said that he had sought to implement a system that gave prisoners the opportunity to “at least have a pathway for their movement through the unit” and that “put a robust circumstance together to be able to assess whether somebody was able to go back into a mainstream environment.”
116. Clear goals and guidelines had to be set for prisoners who found themselves in the unit, and central to Mr Salway’s concept of the manner in which those prisoners should be managed was a three tiered Hierarchy of Privileges and Sanctions, with Stages A, B and C. The three stages had to be worked through by prisoners placed in the unit before they could be released back to the mainstream prison. (A similar hierarchy is used at the Goulburn Correctional Facility, though there it has nine stages, with three levels at each stage.) The Hierarchy was adopted and remains in operation in Tamar to this day.
117. Stage A is the most restrictive. On this stage, amongst other restrictions:
 - (a) visits are confined to one non-contact visit per week for convicted prisoners and up to three non-contact visits for detainees;
 - (b) no association with another prisoner is allowed;
 - (c) prisoners are locked in their cells for 23 hours each day;
 - (d) prisoners are cuffed with their hands behind their backs for all movements;
 - (e) access to canteen¹⁴ is restricted; and
 - (f) prisoners are allowed a radio in their cells but no other electrical items, such as televisions, personal media players and hot water jugs.

¹⁴ A store from which prisoners are able to purchase such things as tobacco, toiletries and snack food.

118. Prisoners on Stage C, the least restrictive, are still kept in a comparatively strict environment. They are still locked in their cells for no less than 21 hours each day. They are however, allowed limited association with other prisoners, they are eligible for employment, their access to the canteen is greater and they are allowed televisions. (A copy of the Hierarchy of Privileges and Sanctions is included as Appendix B to this report.)
119. It was originally envisaged that Stage C prisoners would be moved out of Tamar into Huon. The reasons for this were:
- (a) to remove those prisoners who had attained Stage C status away from those prisoners still on the lower levels and perhaps still exhibiting unacceptable behaviours; and
 - (b) to place those prisoners in a less restrictive environment where the isolation and discipline of the operating model could be negated to a degree before their return to the mainstream.
120. However, as has been noted, the operating model for the BMP, indeed the operating models for all units at the RPC, had been prepared before construction of the physical facilities had been completed and no one involved in the development of the models knew exactly how the various units would evolve once populated. In the event, after the commissioning of the new prison, Huon in practice became a multi-purpose unit for prisoners "assessed by the General Manager as requiring higher levels of correctional supervision and control than the general mainstream environment can provide".¹⁵
121. The environment in Huon was thought by Mr Salway, when he inspected it in operation, to be more restrictive than Tamar and he considered it would not have been reasonable to house Stage C prisoners there. On the other hand, if Huon were not used to accommodate the prisoners it now does, Mr Salway said:
- We would have much more restrictive environments in other areas because we just couldn't deal with the inmates who were causing trouble and also the inmates who were very ... who needed high protection status.*
122. For these reasons, prisoners subject to the BMP are required to complete all stages of the program in Tamar, and this has been the case since the new prison was commissioned.
123. An early version of the BMP operating model was in effect at the time prisoners were received into Tamar in November 2006. The actual implementation of the BMP over time will be discussed later in this report.

¹⁵ Huon Operating Model Version 1.2, November 2006

124. As I have already indicated, Therapeutic Services staff anticipated that therapeutic interventions would be limited; they were aware when the model was being developed that resourcing issues would make it difficult to provide such interventions for BMP prisoners. However, it was felt that the provision of such services had to be included in the model so as not to resile from a best practice approach.

THE FIRST VERSION OF THE OPERATING MODEL

125. The first document published was the *Interim Standard Operating Procedure RPC1.24.2: Placement in Behaviour Management Program, Tamar/Huon Unit* which was issued on 23 October 2006 (the ISOP). The ISOP is included as Appendix C to this report.
126. S 6(3) of the *Corrections Act 1997* empowers the Director of Corrective Services, and therefore his delegate the Director of Prisons, to make standing orders for the management and security of prisons and for the welfare, protection and discipline of prisoners and detainees. Standing Orders, generally speaking, are primarily for the use of Correctional Officers and staff and contain guidelines and procedures to be implemented in specific situations to ensure that those situations are managed appropriately and consistently.
127. The ISOP set out in considerable detail the numerous steps through the system that prisoners sent to the Tamar Unit would need to work through before returning to the mainstream, and in doing so anticipated and reflected the contents of the first version of the Operating Model, *Operating Model for Risdon Prison Complex Behaviour Management Program Version 1.1*, which was issued in November 2006. The ISOP communicated to correctional staff the procedures to be used when applying the model.
128. The operating philosophy and principles of the model are contained in paragraph 2.3, which includes the following statement:

*The philosophy underpinning the behaviour management program is one of modifying behaviour through the use of a continuum of privileges (that reward pro-social attitudes and behaviours) and sanctions (that result in loss of privileges for inappropriate attitudes and behaviours). **This approach is supported, where necessary and appropriate, by targeted therapeutic interventions aimed at facilitating cognitive and attitudinal change** [my emphasis]. These may be in addition to interventions that specifically target criminogenic needs.*

129. The stated purpose of the BMP was to:

safely, securely and humanely accommodate prisoners/detainees who, because of inappropriate attitudes and behaviours, pose a high risk to the safety and security of staff, other prisoners/detainees or the good order and maintenance of the mainstream correctional environment. The aim is to assist prisoners/detainees to return to general population by eliminating/minimising the conditions that required them to be placed in the program. (Para 2.5.1)

130. Placement in the program was not a punishment and where possible the environment was to be positive, though it was recognised that prisoners in Tamar would be subject to more restrictive management regimes, with fewer privileges, than mainstream prisoners (paragraph 2.5.2). The BMP was a placement of last resort, only to be considered when all other less restrictive options had been exhausted (paragraph 4).
131. The operating model has been amended twice since November 2006, once in August 2007 and again in June 2008, and the circumstances of these amendments is discussed in detail in paragraph 173 ff of this report.

COMPONENTS OF THE MODEL

132. The Operating Model recognised the high risk that participants in the program were likely to pose to the security of the prison and the maximum security unit in which they were housed, and clearly set out the security standards that were to be applied. These were rigorous, as would be expected, but were intended to operate in a constructive environment where the emphasis was to be on providing rewards for positive behaviour so that a prisoner could move back into the mainstream environment as quickly as possible.
133. The security arrangements - the components of the model dealing with containment and control - were clearly dealt with and set out in such a way as to afford a degree of transparency of process and accountability. This in itself was a distinct improvement on practices that had been in place in previous years whereby there had been a level of arbitrariness and a lack of due process when placing prisoners into the old Division 7.
134. The model built upon the concept of fair governance that had been developed in the Proposed Operating Model for Division 7. It set out the administrative structures to be used in relation to placement on the program, and established:
 - (a) the BMP Placement Committee, the members of which were to be the Assistant Director of Prisons, the Manager Offender

Services, and the Senior Psychologist, Therapeutic Services Unit; and

- (b) the BMP Case Management Team comprised of the Manager of Correctional Case Management, the Manager of Maximum Security Accommodation and Special Needs Unit, and a psychologist attached to Therapeutic Services.
135. The process for admission of a prisoner to the BMP provided for the Correctional Manager, Maximum and Medium, to refer a prisoner who it was thought should be placed on the program to the BMP Placement Committee. The referral had to be supported by documentation which contained: the reason for the referral; relevant incident and conduct reports; a detailed prisoner profile from the Prison Service Intelligence Unit; the prisoner's current Sentence Management Plan; if applicable the prisoner's pre-sentence Report and any mental health status report; a medical report; and any other material that supported the proposed placement.
136. The BMP Placement Committee was then required to conduct an assessment of the proposed placement and collect any additional information it considered necessary. The Committee then reported to the Director of Prisons with a recommendation either supporting the referral or not.
137. The final decision as to whether a prisoner was admitted to the program however, rested solely with the Director. If the referral was approved, the Director was to provide that approval in writing to the committee, and in addition, to outline any conditions which might apply to the placement. The model also required the Director to fully document the reasons for his decision and to communicate that decision and the reasons for it to the Director of Corrective Services.
138. The only other function of the committee was to prepare reports to the Director of Prisons every three months, addressing the management and progress of prisoners on the BMP and whether they needed to remain on the program. The committee was required to ensure that copies of its reports were placed on prisoners' local case files
139. The functions of the BMP Case Management Team included:
- (a) undertaking appropriate assessments and preparing a case management plan for new admissions to the program, including:
 - (i) ensuring that clinical assessments aimed at identifying any psychological problems, therapeutic needs and behavioural issues were conducted and taken into account when preparing the plan;

- (ii) obtaining a mental health assessment from Correctional Health Services and taking that into account when preparing the plan; and
 - (iii) developing an individualised security risk profile for the subject prisoner;
- (b) ensuring that the plan itself:
 - (i) addressed identified risks to the correctional system;
 - (ii) identified problematic behaviours and facilitated remedial action to address those behaviours; and
 - (iii) identified educational, recreational and personal development programs that could be accessed while the prisoner remained in the BMP; and
- (c) ensuring that all eligible prisoners received a Tier 2 Assessment¹⁶;

within seven days of the placement being made

140. The Case Management Team was also required to:

- (a) review each prisoner's placement on the program and their progress and privileges on a weekly basis; and
- (b) make recommendations for the discharge of prisoners from the BMP and prepare fully documented management strategies for the return of prisoners to the mainstream prison population.

141. On arrival in the unit, prisoners were to receive a local induction into the program and the unit by a correctional officer and have their initial needs met. A correctional officer to case manage a new admission to the BMP was to be appointed within 24 hours of a placement, and correctional officers were required to liaise with the case management team and support prisoners to meet the objectives of their case management plans. Comprehensive case notes were required to be kept of each prisoner's ongoing behaviour and attitude and of 'meaningful interactions' between prisoners and staff.

¹⁶ A Tier 2 Assessment is designed to analyse the basic social needs of prisoners. Amongst other things, the assessment identifies the existence or otherwise of issues related to such things as disabilities and drugs and alcohol, and is also used to elicit information to guide training and employment while in prison, and information in relation to financial obligations and family relationships.

THE HIERARCHY OF PRIVILEGES AND SANCTIONS

142. As I have already noted, central to Mr Salway's concept of how prisoners in the BMP should be managed was a three tiered Hierarchy of Privileges and Sanctions, Stages A, B and C. This is described in the model as:

a three-stage process that supports a continuum of privileges along which a prisoner/detainee moves according to their behaviour. Positive behaviour and attitude see a prisoner/detainee move forward in the program and gain additional privileges, while negative behaviours and attitudes result in a regression through the program and a resulting lack of privileges.

143. The original therapeutic goals are also referred to:

Where possible, the program also involves prisoners/detainees being assessed from a therapeutic perspective and undergoing targeted therapeutic interventions aimed at addressing the attitudes and behaviours that saw them enter the BMP in the first place. The overall aim is to have prisoners/detainees return/transfer to a mainstream accommodation area as soon as possible.
(Para 2.2)

144. However, as I have said, the therapeutic aspects of the model have not in the main been implemented.
145. The hierarchy is appended to the model and lists the three stages and the restrictions that apply to each.
146. All prisoners admitted to Tamar and the program commence on Stage A, with their progress being monitored on a monthly basis. Sustained positive behaviour will see a prisoner move to Stage B and ultimately to Stage C. Prisoners displaying negative behaviours will either not be advanced or will be regressed depending on what stage they have reached at the time.
147. The following principles, amongst others, were to underpin the operation of the BMP:
- (a) rewards and sanctions were to be applied transparently, with the highest level of integrity;
 - (b) staff were accountable for establishing and maintaining *positive culture and operations* in the BMP;
 - (c) the *selection of appropriate staff who are willing to be involved in pro-social modelling* as role models for behavioural change was seen as a critical success factor;

- (d) prisoners were to be provided with feedback in relation to their behaviour and given the opportunity to correct any negative behaviours before a sanction was imposed; and
 - (e) 'dynamic security' was to be implemented, where ongoing communication between staff and prisoners about individual and group behaviour, including written communications, helps *anticipate future prisoner/detainee behaviour*.
148. I have highlighted these five principles from the list of nine contained in the model because, as will be discussed in more detail later in this report, many of the concerns raised with me and my staff by prisoners and Official Visitors related to:
- (a) a perceived level of subjectivity on the part of correctional staff as to the type and seriousness of behaviour that warranted regression;
 - (b) inconsistency between members of staff and management personnel when implementing the model; and
 - (c) a lack of notice to prisoners as to what 'charges' they might be required to meet at their monthly reviews.
149. As I have already noted, at the time the model was prepared it was envisaged that Stages A and B would be completed in Tamar and Stage C in Huon. The Model also provided for prisoners to be reviewed by the Correctional Supervisor, Tamar and Huon every 28 days to monitor their compliance with the relevant Stages.
150. The Correctional Supervisor was also required to provide detailed reports in relation to the progress of prisoners on the BMP to the Correctional Manager, Maximum Accommodation and Special Needs Units, with copies to be placed on the local case files and delivered to the General Manager of the Prison. In addition, it was the job of the Correctional Supervisor to facilitate the transfer to Huon of prisoners who had progressed to Stage C.

THE MODEL IN OPERATION

THE TRANSITION TO THE NEW PRISON COMPLEX

151. The first prisoners to occupy Tamar were relocated from the old prison in October 2006. As earlier mentioned, these included a number who had been held in Division 7 since their involvement in the siege at the prison in May 2005. Prior to the move, those prisoners were counselled in preparation for the transfer. It was held out to them that, after a relatively short time (three to six months was the period that was reportedly mentioned), they should be able to move from the Tamar Unit, where they would initially be placed, to the mainstream Derwent maximum-security unit.
152. In other words, it was hoped and anticipated on all sides that the move to the new prison would facilitate a 'new broom' approach to the management of this difficult cohort of prisoners. The discourse was around the notion of behaviour management whilst held in Tamar, leading to behaviour modification that would enable a move back to mainstream.
153. Prior to the commissioning of the new prison, there had been considerable discussion between Corrections and prisoners as to the intended new models that would apply with a view to providing:
 - (a) more industry and increased opportunities for employment;
 - (b) more program intervention;
 - (c) more educational opportunities; and
 - (d) in relation to Tamar, a therapeutic environment of behaviour management.
154. In the event however, the shortfall in funding referred to at paragraph 103 above meant that many of these intended initiatives could not be implemented and this led to a level of frustration amongst members of the prison population.
155. According to the Director, this frustration contributed to a testing by prisoners "of the infrastructure and the fabric of the new prison to its full extent". A significant amount of damage was caused to the facility and further shortcomings in its design and construction were exposed. For example, the Queensland template provided for windows to be made of glass and these were simply smashed by prisoners. All had to be replaced with polycarbon at considerable expense.
156. By early 2007, the Manager who had overseen the transition from the old prison to the new had left the Tasmanian Prison Service and

several officers acted in the role of General Manager, Risdon Prison Complex until a suitable full time appointment could be made.

157. The heavy and imposing environment of Division 7 was not, at least initially, maintained in Tamar. For one thing, the unit itself is structurally more open, with no caged runs, and prisoners are able to more freely associate with each other, if permitted to do so.
158. Some of the prisoners interviewed by my officers said that after three months had passed from the date of their move to Tamar, they had been advised that they could not be returned to the mainstream population as promised because of continuing 'security issues'. It would seem that these issues included not only the testing behaviour of prisoners referred to above but also concerns raised by staff and unions in relation to the new models of prisoner management, and ongoing industrial action.
159. However, the prisoners in Tamar had done nothing which deserved further punishment and were told, as one prisoner put it, "we have to reward your behaviour – this regime doesn't reward your behaviour" so they let us out all day and undone all the doors and we was all out together".
160. A former high needs support counsellor told my officers that in the period following the commissioning of Tamar there had been an air of informality about the place which was non-threatening and which she thought worked well for some of the prisoners. Prisoners had access to video games and sporting equipment, and were no longer shackled and escorted by officers in masks when moved; something that the former counsellor thought had been as unpleasant for the officers as it had been for the prisoners. Therapeutic Services officers visited the unit on a weekly basis and the former counsellor saw Tamar as a total change "in environment and mindset".
161. This is supported by an email from a senior custodial officer to the then Manager of RPC, in which he described seeing prisoners and staff playing board and card games together in the common area, and reported that particular prisoners had consistently demonstrated appropriate behaviours. He was sufficiently impressed by the overall standard of the prisoners' behaviour to feel that he could unequivocally recommend that they each be returned to the mainstream. For reasons that do not emerge from the available documentation, this recommendation was not acted upon.
162. In June 2007, Mr Salway was appointed General Manager of the complex, again on secondment from NSW Corrections, but this time for a period of up to two years. As has been noted, Mr Salway had had some input into the development of the operating model for Tamar and his initial observations of the unit on his return indicated to him that it was not operating in accordance with the model, or at the optimum level of security.

163. In particular, the level of association between prisoners did not comply with the model, which anticipated a maximum of two prisoners associating together at any one time, with two correctional officers present at the same time. Mr Salway was concerned that this freedom of association posed a risk, particularly to custodial officers.
164. Shortly after Mr Salway was seconded as General Manager, Jo Maxfield was appointed as the Complex's Manager of Maximum Security. The two toured the units together, and at Tamar noted the lack of routines and the number of prisoners out of their cells. Ms Maxfield described Tamar at the time as something of a "free for all" with all prisoners apparently on Stage C. Ms Maxfield had familiarised herself with the Operating Model and could see that the unit was not compliant with it at that time.
165. Following discussions between him and Ms Maxfield, Mr Salway spoke to the Tamar prisoners. He advised them that he would honour the arrangements that had been made and maintain the status quo so long as all prisoners continued to be of good behaviour – which they had been to that time – but ensured that they understood that the Unit was not operating in accordance with the behavioural management model.
166. Mr Salway further advised the prisoners that if a major security incident occurred requiring another prisoner or other prisoners to be moved to Tamar, management of the unit would revert to the operating model. This he said, was because any new prisoner would be placed on Stage A which would "change the dynamics and the timings for people out of cell".
167. According to Mr Salway the prisoners agreed to this, though in reality they had little or no alternative.
168. In the event, new prisoners were introduced to the unit which caused the operating model to be strictly implemented. This in turn caused some of the prisoners already there to be placed on a more restrictive regime than that to which they had become accustomed. In some cases, privileges were restricted and items of property removed.
169. Official Visitors reported to me in September and October 2007 that the withdrawal of privileges was causing visible distress to some prisoners, and that this withdrawal and the removal of property, in the absence of any particular precipitating event, was being viewed as unwarranted punishment. They reported an increased and continuing tension throughout the unit.
170. According to Mr Salway, "[the prisoners] obviously weren't happy, some went to a more restrictive regime not necessarily of their making but they certainly understood that we had to move backwards if circumstances dictated".

171. The abrupt implementation of the Model was the foundation for a significant measure of unrest, distrust and frustration on the part of prisoners housed in Tamar which endured for a considerable time after the implementation of the model and which, to an extent, continues to endure. Prisoners who had experienced the conditions in Division 7 came to feel that nothing had changed with the move to the new prison. As one former resident of both Division 7 and Tamar said in interview:

Yeah, get us down there, like – it sounds like it's the go but there was no real difference to Seven really, just a different – different –

Q: A different room?

A: Yeah. It's cleaner.

INTERNAL REVIEW OF THE OPERATING MODEL

172. The operating model was reviewed in 2007, and Version 1.2 was issued in August 2007. The model was not drastically altered, it still reflected the original intention that Stage C was to be completed in Huon (which had never been the case in practice) but the Behaviour Management Placement Committee had a change of name. It became the Behaviour Management Placement and Risk Assessment Committee and its membership was expanded to include the General Manager, RPC. At the time, that was Mr Salway.
173. In 2008, John Blue was the Senior Operational Review Officer within the Department of Justice whose responsibility it was to report to the Secretary on the operations of the Risdon Prison Complex as a whole. In February and March 2008 Mr Blue reviewed the operating model of the BMP and compliance with the ISOP and reported the results on 6 March 2008. It was partly as a consequence of his review that the operating model was amended again, resulting in the current model, Version 3.0, June 2008, which can be found in Appendix D to this report.
174. Mr Blue found numerous disparities between what was supposed to happen according to the operating model then in force and the ISOP and what was actually happening on the ground. He noted that Mr Salway and Ms Maxfield were referring to Version 1.0 of the model which, at the time of the review, had been superseded (although as noted, the second version did not represent any great departure from the original).
175. One of the major disparities between the requirements of the model and what had been occurring in practice was the failure of the BMP Case Management Team (to be renamed the BMP Committee) to meet

the reporting and review requirements of the Model and ISOP. The team was required by the first version of the model to review every prisoner's placement, progress and privileges on a weekly basis and by the second version, on a monthly basis.

176. Mr Blue found that reviews had occurred on a monthly basis between October 2007 and January 2008, but could find no record of any reviews taking place prior to 30 October 2007. This was a significant failure to comply with the reporting and review mechanisms built in to the model.
177. Other areas of non-compliance with the model and ISOP identified by Mr Blue included non-compliance in relation to:
 - (a) the preparation of case management plans;
 - (b) access to prisoners by Therapeutic Services;
 - (c) the management of the Hierarchy of Privileges and Sanctions;
 - (e) the development of security risk profiles;
 - (f) the completion of Stage C in Huon;
 - (g) plans for discharge from the BMP; and
 - (h) the actual discharge of prisoners from the BMP.
178. Many of the amendments made to the operating model following Mr Blue's review were not designed to ensure compliance with the original model, but rather to make the model compliant with what had actually been happening. For example:
 - (a) the requirements that any current mental health report and current medical report accompany the referral of a prisoner to the BMP were deleted;
 - (b) an individualised security risk profile was no longer required to be developed to inform the level of security required when interacting with and moving a particular prisoner; and
 - (c) prisoners were no longer required to be informed of their rights, responsibilities and privileges while on the program, of how the program operates (including how they can progress through the stages) or of the BMP rules as part of their case management induction.
179. On a more positive note, Mr Blue also recommended in his report that a process be established to review placements in the BMP and that a group be convened, to include the Director of Corrective Services and the Director of Prisons, to meet bi-annually to ensure that placements

were for the minimum period of time and subject to the minimum restrictions required to ensure the safety and security of the prison and the prisoner.

180. Mr Blue also spoke to Mr Hancl about the possible inclusion in the Context and Philosophy section of the model of some of the criteria adopted by Her Majesty's Inspectorate of Prisons (UK) for assessing conditions in prison and the treatment of prisoners contained in the third edition of its publication *Expectations*, issued in August 2006. Those criteria are based on the Healthy Prisons Model developed since 1995 by the World Health Organisation and will be discussed in more detail later in this report.
181. This resulted in additions to the principles contained in the model, to the effect that:
 - (a) rewards and sanctions are to be applied on the basis of behaviour over a period of time rather than as a consequence of individual acts;
 - (b) there is to be sufficient difference between the privileges associated with the different stages to encourage responsible behaviour and compliance with case management aims;
 - (c) the regime for prisoners on Stage A is to provide sufficient opportunity and support to demonstrate improvements in behaviour;
 - (d) where a sanction is likely to be applied, the prisoner is to be warned in writing beforehand and given the opportunity to modify his behaviour;
 - (e) prisoners can appeal against decisions relating to their movement into and through the BMP and are helped to do so; and
 - (f) the BMP is monitored by senior managers to ensure fairness and encourage responsible behaviour.

THERAPEUTIC COMPONENTS OF THE MODEL

182. It has been acknowledged by all of the members of the TPS who have been spoken to in the course of this review that in practice, there is effectively no implementation of the therapeutic components of the operating model. Tamar prisoners have some limited contact with a high needs counsellor and have limited access to educational programs, but that is all. The main reason put forward for this has been inadequate resourcing of Therapeutic Services within the prison as a whole.

183. Dr Cuellar, the manager of Therapeutic Services, told my staff that her resources were such that she was bound to prioritise them so as to allocate them to 'at risk' and SASH (suicide and self-harm) prisoners, particularly in the Mersey crisis care unit. (It should be noted that at about the time the new prison was commissioned, Ms Cuellar said, unsuccessful attempts were made to recruit a dedicated psychologist to work with BMP prisoners but no applications for the position were received.)

184. As has been noted already however, Mr Salway's focus was on security, and the protection of the system from a small group of people capable of breaching security and causing a great deal of damage. He acknowledged that it had been intended that therapeutic programs would be offered but that Tamar was not necessarily a therapeutic unit.

I was never under the impression that there was a major therapeutic approach in Tamar. Certainly from a programs point of view, you can individually target programs to inmates' criminogenic needs, which is probably one of the disappointing aspects of the running of Tamar, from my perspective, is that the lack of resources that can be applied in a program sense. If there's a need for therapeutic intervention, there is therapeutic staff that are available, both counsellors and psychologists and one particular counsellor, her focus has been on Tamar for quite a while.

185. Ms Maxfield, told my staff that the BMP is not a therapeutic model per se but that therapeutics and programs were supposed to be provided. Her view was that Therapeutic Services is so short staffed that it cannot spend an appropriate amount of time in Tamar or have a qualified person in there consistently. She was of the view however, that if comprehensive therapeutic programs were available, Tamar could accommodate those programs.

186. Another reason suggested for the lack of therapeutic interventions is a belief amongst some custodial staff that such interventions pander to the prisoners and are therefore not necessary or desirable. My staff were told that, at one stage at least, the relationship between some custodial officers and Therapeutic Services staff was very difficult indeed, with Therapeutic Services staff being reluctant to go into Tamar and other high security units because they were being bullied and badly treated by a small number of custodial staff. This was confirmed by a senior correctional officer, who also said however, that cultural change was now being encouraged and this was having a positive influence on the relationship between custodial and non-custodial staff.

187. Non-custodial staff told us that the situation has greatly improved since a training initiative had been implemented that saw maximum security staff spending three days doing a course on ethical behaviours, bullying and successful methods of working with prisoners.

188. Most senior staff that were interviewed expressed disappointment with the fact that the therapeutic interventions intended for Tamar and the BMP are not taking place.
189. I acknowledge that a small proportion of difficult prisoners do require a strict containment and control model for the protection of staff, prisoners and the institution. However, a model that does not provide any interventions which assist prisoners to address both their inappropriate behaviour and the underlying reasons for it is not affording them the opportunity to change in a positive way, and to ultimately have the ability to lead a law-abiding life.¹⁷
190. In the absence of any meaningful therapeutic component, there is a strong argument that the Program is not about behaviour management but is rather all about discipline.

¹⁷ See Standard Minimum Rules for the Treatment of Prisoners, Rule 58.

THE LEGAL FRAMEWORK

THE TASMANIAN LEGISLATIVE SCHEME

191. The *Corrections Act (Tas) 1997* (the Act) confers significant powers on the Director of Corrective Services, who is responsible for:
- (a) the care and direction of all prisons, prisoners and detainees;
 - (b) the control of all prisons; and
 - (c) the order and control of all prisoners and detainees (s 6(1)).
192. In practice, these powers have been delegated to the Director of Prisons (the Director), and in exercising them the Director is required to have proper regard to a set of guiding principles which are contained in s 4 of the Act. These guiding principles are:
- a) *the community is entitled to an appropriate level of protection from illegal behaviour by people subject to this Act;*
 - (b) *people who are subject to this Act retain their normal rights and responsibilities as citizens, except as these are limited in accordance with law;*
 - (c) *services and procedures should be fair, equitable and have due regard to personal dignity and individuality, as far as is consistent with the need for appropriate levels of security and control;*
 - (d) *individuals are capable of change;*
 - (e) *people subject to this Act continue to be members of the community and should be assisted to become socially responsible. Whilst their liberty is restricted to various degrees, demonstrated social responsibility should lead to less intrusive control and intervention.*
193. In addition, s 29 of the Act contains what is effectively a charter of rights for prisoners and detainees, and reads as follows:
- 29. *Rights of prisoners and detainees***
- (1) *Every prisoner and detainee has the following rights:*

- (a) *if not ordinarily engaged in outdoor work, the right to be in the open air for at least an hour each day if the facilities of the prison are suitable for allowing the prisoner or detainee to be in the open air;*
- (b) *the right to be provided with food that is adequate to maintain the health and well-being of the prisoner or detainee;*
- (c) *the right to be provided with special dietary food where the Director is satisfied that such food is necessary for medical reasons or on account of the prisoner's or detainee's religious beliefs or because the prisoner or detainee is a vegetarian;*
- (d) *the right to be provided with clothing that is suitable for the climate and for any work which the prisoner or detainee is required to do and adequate to maintain the health of the prisoner or detainee;*
- (e) *if not serving a sentence of imprisonment, the right to wear suitable clothing owned by the detainee;*
- (f) *the right to have access to reasonable medical care and treatment necessary for the preservation of health;*
- (g) *if intellectually disabled or mentally ill, the right to have reasonable access within the prison or, with the Director's approval, outside the prison to such special care and treatment as a medical officer considers necessary or desirable in the circumstances;*
- (h) *the right to have access to reasonable dental treatment necessary for the preservation of dental health;*
- (i) *the right to practise a religion of the prisoner's choice and, if consistent with prison security and good prison management, to join with other prisoners or detainees in practising that religion and to possess such articles as are necessary for the practice of that religion;*
- (j) *in the case of a prisoner, the right to receive at least one visit each week of at least 30 minutes*

duration and such other visits as the Director determines;

- (k) in the case of a detainee, the right to receive at least 3 visits each week and such other visits as the Director determines;*
- (l) the right to send letters to, and receive letters from, the Minister, the Director, an official visitor, the Ombudsman or an officer of the Ombudsman without those letters being opened by prison staff;*
- (m) the right to send and receive other letters uncensored by prison staff;*
- (n) the right to advise next of kin, or a person with whom the prisoner or detainee has had a longstanding relationship, of imprisonment as soon as possible after the prisoner or detainee is admitted to prison;*
- (o) the right to have access to legal advice or to apply for legal aid;*
- (p) the right to be provided with information about the rules and conditions which will govern the prisoner's or detainee's behaviour in custody.*

194. The charter contained in the Tasmanian Act is largely drawn from the charter contained in s 47 of the Victorian *Corrections Act 1986*. Tasmania and Victoria are the only States to have charters of rights enshrined in legislation.

195. Whilst the sentiment behind the inclusion of a charter is admirable, it is thought by some that there are inherent problems with the section and with a prisoner's ability to enforce any of the rights contained within it. For example, Dr Matthew Groves, formerly Legal Policy Officer to the Victorian Bar and now an Associate Professor of Law at Monash University has said:

Unlike the various guidelines and model rules on the treatment and rights of prisoners ... these statutory charters clearly form part of the law of Victoria and Tasmania. Yet they retain many of the problems that attend guidelines and model rules. Most of the rights granted to prisoners are framed in very vague terms; in addition, both charters lack either a mechanism by which the rights granted to prisoners may be enforced, or some form of alternative remedy, such as an action in damages, by which prisoners may seek redress for a

breach of their statutory rights. Accordingly, the practical value of the various statutory rights granted to prisoners is doubtful.

In my view, the imprecise nature of the rights contained in the Victorian and Tasmanian charters, coupled with the absence of any means by which those rights may be enforced, detracts significantly from the value of the rights purportedly granted to prisoners. More particularly, the creation of prisoners' rights, the enjoyment of which is conditional upon the approval of prison officials, represents no significant advance for prisoners. It is worth noting that the Victorian charter of prisoners' rights, which has been in operation for well over a decade, has not been invoked successfully in any legal action by a prisoner.¹⁸

196. However, while the latter comment might be correct, the Victorian Supreme Court has recognised the importance of prisoner's rights and the place of the charter. As Cummins J has observed:

The statutory rights of prisoners are set out in s.47 Corrections Act 1986. Those rights are additional to prisoners' rights at common law or under other legislation (s.47(2)). These rights are important and are to be secured and implemented. They are not to be deflected, avoided or ignored.¹⁹

197. The fact that no specific enforcement mechanism is included in the Act does not, in my view, mean that a Tasmanian prisoner could not maintain a civil action based on breach of statutory duty. At the time of writing this report, proceedings brought by a former Tamar resident in which such a breach of duty (amongst other things) is alleged are before the Supreme Court of Tasmania. Those proceedings are still in the interlocutory stage and it remains to be seen what view the Court takes of the charter of rights contained in s 29. However, the views of Cummins J that I have quoted are hardly controversial.
198. Best practice also requires that provisions which enable severe and unusual restrictions upon prisoners' conditions be spelt out in the applicable legislation. Unless this is done, legitimacy and accountability tend to get lost.
199. The Act does not contain any guidelines as to the circumstances in which extra restrictions may be imposed upon prisoners. Under the section heading "Powers and Duties of Director", the Director is empowered by s 6(2) to "make Standing Orders for the management and security of prisons and for the welfare, protection and discipline of

¹⁸ Groves, M, *International Law and Australian Prisoners*, (2001), University of NSW Law Journal 11

¹⁹ *Knight v Minister for Corrections* [2003] VSC 412 (7 October 2003), para 9

prisoners and detainees". This effectively amounts to an almost unfettered discretion on the part of the Director when it comes to the conditions of incarceration applicable to particular categories of prisoners, including those who are deemed difficult to manage. The only check is that the power to make standing orders is to be exercised having "proper regard" to the guiding principles - whatever that might mean.

200. By contrast, in several other Australian jurisdictions the processes for housing prisoners in segregation are clearly set out in the governing legislation, making the processes clear and transparent. For example, the Queensland *Corrective Services Act 2006* has a comprehensive scheme for placing prisoners on maximum security orders. The scheme provides for regular medical review of prisoners in segregation, clear parameters for consecutive orders and reviewing orders, as well as providing avenues for prisoners to appeal (see Appendix E).
201. In New South Wales, the *Crimes (Administration of Sentences) Act 1999* creates quite an elaborate structure for the "segregated custody of inmates" which provides for review by the Commissioner of Corrective Services, for reports to the Minister and finally for review by an independent Serious Offenders Review Council as to the continuation of the particular custodial arrangements (see Appendix F).
202. It should be noted that in contrast to the standing order approach taken in relation to the control and management of prisoners generally, the formal discipline provisions of the Tasmanian Act are clear and explicit. Ss 57 to 61 create a code that enables a prisoner to know precisely what he is alleged to have done and where he stands within the disciplinary process, including his right to appeal from a disciplinary officer to the Director. The sections are contained in Appendix G to this report. In principle, the Director's decision is an administrative action that could be subject of review by the Ombudsman.
203. The approach adopted by other jurisdictions raises questions about the structure and appropriateness of the *Corrections Act* itself and whether or not it should provide more by way of checks and balances. I will return to this aspect of the review later in this report.

INTERNATIONAL AND/OR NATIONAL STANDARDS

204. Australia signed the *Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (OPCAT) on 19 May 2009 but has yet to ratify it. The protocol is designed to strengthen the protections for prisoners against such treatment and punishment by requiring State Parties to take effective preventative measures and to afford those deprived of their liberty full respect for their human rights.

205. In order to achieve its aims, OPCAT requires the establishment of a system of regular visits by independent national and international bodies to all places where persons are deprived of their liberty. As will be seen later in this report, the signing of OPCAT by the United Kingdom has led to the development of a set of criteria against which prisons are assessed for compliance (see paragraph 215 ff).
206. There are however, a number of other international instruments to which Australia is signatory that are relevant to the incarceration of citizens in prisons. However, none have been implemented in this country by legislation and they therefore have no direct effect in Australian domestic law.
207. On the other hand, international law is a source for the development of the common law and courts will not impute to a legislature any intention to abrogate or curtail fundamental rights or freedoms unless such an intention is set out in unambiguous language. Courts also favour a construction, in the case of ambiguity in a statute, which accords with Australia's obligations under a treaty.²⁰
208. Human rights instruments such as the *International Covenant on Civil and Political Rights* (the ICCPR) have provisions relevant to prisoners, and Australia has acceded to the Optional Protocol to the ICCPR, which enables prisoners to complain to the United Nations Human Rights Committee about breaches of the ICCPR. The Covenant provides, amongst other things, that:
- (a) all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person (Article 10(1));
 - (b) prisons shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation (Article 10(3)); and
 - (c) torture and cruel, inhuman or degrading treatment is prohibited (Article 7).
209. It should be noted however, that Australia has lodged a reservation to Article 10 of the ICCPR to the effect that while it broadly accepts the principles contained, it does so "without prejudice to laws and lawful arrangements, of the type now in force in Australia, for the preservation of custodial discipline in penal establishments". In the view of Associate Professor Groves, this reservation could extend to many facets of prison control and management including the use of restraints and the placement of prisoners in administrative segregation.²¹

²⁰ For a discussion of these principles and a list of authorities, see *Garland v Chief Executive, Department of Corrective Services* [2006] QSC 245 at para [99]

²¹ Op. cit. para 62 p 25

210. One of the most extensive international instruments dealing with the treatment of prisoners is the United Nations' *Standard Minimum Rules for the Treatment of Prisoners* (the UNSMR). In addition, in 1998 the United Nations General Assembly adopted a *Body of Principles for all Persons Under Any Form of Detention or Imprisonment* (the Principles).
211. However, neither the UNSMR nor the Principles have even the status of treaties. In reality they are not much more than non-binding model rules and guidelines. The UNSMR formed the basis for *The Standard Guidelines for Corrections in Australia (2004)* (the Standard Guidelines), the preface to which makes their own standing clear:

The guidelines and accompanying principles constitute outcomes or goals to be achieved by correctional services rather than a set of absolute standards or laws to be enforced. They represent a statement of national intent, around which each Australian State and Territory jurisdiction must continue to develop its own range of relevant legislation, policy and performance standards that can be expected to be amended from time to time to reflect "best practice" and community demands at the state and territory level.

212. Whilst the Standard Guidelines do not have the force of law within Australia, they have been acceded to by all correctional ministers and administrators and should be regarded as constituting a *de facto* minimum acceptable standard for corrections. The Standard Guidelines contain guidelines for community corrections as well as for prisons, and of relevance to this review are the following Standard Guidelines for Prisons:

- 1.27 *Prison should provide for the personal safety of staff and prisoners by ensuring a prison environment that protects the physical, psychological and emotional wellbeing of individuals.*
- 1.30 *Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and a well ordered prison.*
- 1.38 *The security classification of prisoners should be based on an objective assessment of dangerousness and a risk management strategy that takes into consideration the nature of their crime, the risk of escape and their behaviour in custody.*
- 1.45 *Consistent with the security and good order of the prison, interaction between staff and prisoners should promote dignity and respect.*

1.46 *The behaviour required of prisoners should be made clear and be available on reception in a prisoners' written code of conduct that is clear and concise.*

1.63 *Any instruments of restraint are to be used in a timely, appropriate and legal manner for the minimum time necessary. Instruments of restraint should be:*

- ☐ *used only where the restraint of a prisoner is strictly necessary to maintain the security of the prisoner or prevent injury to any person;*
- ☐ *of the least restrictive type appropriate;*
- ☐ *applied for the minimum time necessary to control the prisoner; and*
- ☐ *removed during medical tests and procedures, provided this meets security and management requirements.*

1.77 *Prisoners placed in segregation for the security and good order of the prison are to be managed under the least restrictive conditions consistent with the reasons for their placement.*

1.78 *A record should be made of the reasons(s) for segregation and the regime under which access to facilities and privileges is determined.*

1.79 *The prisoner should be informed verbally and in writing of the reason(s) for the segregation and the period of the segregation placement.*

1.80 *Every prisoner who is placed in segregation for management or administrative reasons should be visited daily by a member of the prison management and as frequently as practicable (preferably daily) by a representative of the medical officer. The medical officer or their representative should advise the officer in charge of the prison if they consider the termination or alteration of the segregation is necessary on grounds of physical or mental health.*

213. These provisions can be seen as, in effect, creating a balanced code with which the operation of special management units such as the Tamar Unit should be compliant.

OTHER STANDARDS

214. A concept that is gaining considerable recognition in other Australian jurisdictions, particularly Victoria, Queensland and the Australian Capital Territory, is that of the 'healthy prison'. This concept was first articulated by the World Health Organisation and is now gaining increasing acceptance as the aspirational standard to be applied in all custodial environments. The four key tests of a healthy prison are:

- (a) safety – prisoners, even the most vulnerable, are held safely;
- (b) respect – prisoners are treated with respect for their human dignity;
- (c) purposeful activity – prisoners are able, and expected, to engage in activity that is likely to benefit them; and
- (d) resettlement – prisoners are prepared for release into the community, and helped to reduce the likelihood of re-offending.²²

215. The concept has been adopted by Her Majesty's Inspectorate of Prisons (UK) (HMIP). OPCAT came into effect in the United Kingdom in June 2006, and HMIP developed detailed criteria for the inspection of prisons by reference to international human rights standards based on the four tests referred to above. Those criteria are contained in the publication, *Expectations* to which reference has already been made. The third edition was released in August 2006 and much of it was adapted by Queensland Corrective Services when preparing its *Healthy Prisons Handbook* published in November 2007.

216. The criteria developed by HMIP for incentives and earned privileges schemes, such as the BMP and its Hierarchy of Privileges and Sanctions, generally require such schemes to be:

*well publicised, designed to improve behaviour and ... applied fairly, transparently and consistently within and between establishments, with regular reviews.*²³

217. At Mr Blue's suggestion, some of the UK criteria relevant to incentives and earned privileges were included in the revised version of the BMP Operating Model (see paragraphs 180 and 181 above). In addition to the criteria put forward by Mr Blue, other relevant criteria include:

- (a) staff and prisoners are clear about the scheme and its criteria for promotion and demotion;
- (b) the scheme is operated consistently and fairly across the prison;

²² Queensland Corrective Services Healthy Prisons Handbook, November 2007, 2

²³ Expectations, Her Majesty's Inspectorate of Prisons, Third Edition August 2006, 147

- (c) the availability of accommodation does not restrict a prisoner's progress or access to privileges under the scheme; and
 - (d) prisoners do not experience the double jeopardy of receiving a disciplinary award and being placed on a basic regime.²⁴
218. Criteria in relation to rules generally, amongst other things, require that:
- (a) local rules are published prominently throughout all residential and communal areas;
 - (b) rules and routines are applied openly, fairly and consistently with no discrimination;
 - (c) staff use only the level of authority necessary to ensure a prisoner's compliance with the rules and when rules are breached, staff take time to explain how and why to the prisoner concerned; and
 - (d) when decisions are conveyed to prisoners, appeal arrangements are explained and made available.
219. HMIP has also developed criteria for prisoners in segregation which have largely been adopted by Queensland Corrective Services. They include that:
- (a) prisoners are informed of the reason for their segregation in writing, taking into account their ability to read English;
 - (b) prisoners are held in segregation for the shortest possible period and active plans to return prisoners to their normal locations are made at the earliest opportunity;
 - (c) a prisoner's segregation is reviewed within 72 hours and then fortnightly by a multi-disciplinary review group, chaired by the Governor; and
 - (d) prisoners are provided with activities to occupy them in their cells and if segregation continues beyond 30 days a care plan is put into place to prevent psychological deterioration.²⁵
220. The Office of the West Australian Inspector of Custodial Services has developed its own *Code of Inspection Standards for Adult Custodial Services*, published in April 2007 (the WA Code). The WA Code does not specifically refer to the healthy prison concept but underlying many of the standards it contains are the Standard Guidelines and the UNSMR, and other international instruments.

²⁴ Ibid, 147-149

²⁵ Ibid, 144-146

221. Like *Expectations* and the healthy prison model, the WA Code contains criteria for assessing all aspects of a prison's operation from reception to release. It recognises that there are some prisoners who may require "more security and closer management than can be provided in normal maximum security prison regimes" and for whom there should be available special high security management regimes. "To the maximum extent practicable, such prisoners should be managed safely, be provided with constructive activities, and be prepared for their release via a return to normal disciplinary regimes".²⁶
222. The specific criteria for high security management schemes in Western Australia require such regimes to:
- (a) be reserved for those prisoners unable to be safely managed in mainstream maximum security regimes, such as prisoners who have a high risk of escape, have been convicted of gross violence or who have been assessed as reasonably posing a significant risk of violence that cannot be properly managed within a normal prison regime;
 - (b) provide a constructive, dynamic and non-alienating environment that actively engages with prisoners, meaning that:
 - (i) isolation, restrictive movement controls and sensory deprivation must not be used for extended periods beyond specific punishments; and
 - (ii) care should be taken to ensure prisoners' mental health and well being through the provision of a suitable range of constructive activities, work, education and visits;
 - (c) ensure that prisoners are treated with decency and dignity within as comprehensive a range of activities as possible, by noting that:
 - (i) there should be guidelines to ensure that prisoners are still treated with decency and respect for their innate humanity;
 - (ii) prisoners should be able to access as many aspects of normal prison regimes as practicable, subject to the safety of the prisoner and others; and
 - (iii) there should be the opportunity for work and other activities such as education and recreation;
 - (d) prioritise safety and the prevention of suicide and self harm;

²⁶ Code of Inspection Standards for Adult Custodial Services, Version One, 19 April 2007, 30

- (e) address prisoners' individual needs, including mental health and sentence management needs – each prisoner should have an individual plan reviewed regularly and at least every six months, which is given to the prisoner and which sets out the conditions and behavioural requirements for prisoners to exit the unit;
- (f) minimise the period during which prisoners remain in segregation; and
- (g) provide multi-disciplinary case management through regular reviews by professionally trained staff, which requires effective monitoring with enhanced levels of internal and external scrutiny.²⁷

SUMMARY

223. As I have noted at paragraphs 193 to 197 above, the *Tasmanian Corrections Act 1997* contains a charter of prisoners' rights but no clearly defined statutory mechanism for the enforcement of those rights. None of the international instruments to which Australia is a signatory have been brought in to domestic law by legislation and the Standard Guidelines have no legal effect. Likewise, the "healthy prisons" concept is not a binding model for the management of prisons and criteria developed in other jurisdictions have no direct application in Tasmania.
224. Nonetheless, all those instruments, guidelines and standards reflect current thinking as to what constitutes best practice in the management of prisons and prisoners, and provide useful benchmarks against which the current operation of Tamar and the BMP can be assessed.

²⁷ Ibid, 30 - 31

EVALUATION OF PRISONERS' PERCEPTIONS

GENERALLY

225. My attention was first drawn to conditions in the Tamar Unit when I started to receive the reports from Official Visitors of general unrest and frustration referred to in paragraph 169 above. At about the same time, my staff also started to receive telephone calls from prisoners in the unit on the secure line to my office on the prison's Arunta telephone system, particularly from those prisoners who had been moved to Tamar from Division 7 and who had therefore been resident there for nearly 12 months.
226. These reports and telephone calls initially related to the sudden implementation of the operating model by Mr Salway after his arrival. As I have already noted, this had the effect of imposing a stricter regime than the one those prisoners had become used to, for reasons not apparently associated with their conduct and behaviour.
227. Over time, common threads began to emerge from the concerns that were referred to my office by prisoners, Official Visitors and others, with a number of recurring themes evident. I determined not to treat those concerns as individual complaints because elements of commonality suggested to me that there may be broader systemic issues which should be considered.
228. The complaints and concerns raised by prisoners, Official Visitors and others fell into seven general categories, namely that:
- (a) prisoners were not advised why they had been moved to Tamar and placed on the BMP;
 - (b) they did not know what they had to do in order to progress through the program and be returned to the mainstream population;
 - (c) they did not know how long they would have to remain in Tamar and on the program;
 - (d) the 'rules' were being applied inconsistently, even arbitrarily;
 - (e) prisoners were not afforded procedural fairness when having their Stage on the Hierarchy reviewed;
 - (f) some of the sanctions imposed were unnecessarily restrictive, particularly in relation to visits and telephone calls; and
 - (g) they were not given any opportunity, not least a sufficient opportunity to do anything stimulating or useful while on the program.

229. These categories of complaint were all repeated by the prisoners interviewed during this review.

A. PLACEMENT IN THE UNIT AND ON THE BMP

The Complaint

230. Criteria for admission to the BMP are contained in Article 4 of the Operating Model and are as follows:

Only prisoners/detainees who:

- *pose a high risk to the safety and security of staff, other prisoners/detainees or the good order and maintenance [of] the mainstream correctional environment; and*
- *require correctional supervision and control of a higher level than can be safely provided in the mainstream correctional environment ; and*
- *have shown, through their attitude and/or behaviour that they cannot be safely managed elsewhere in the mainstream environment*

are eligible for placement within the BMP.

*The BMP is a placement of last-resort, and should only be considered as an option after other, less restrictive options have been exhausted. Where, as a result of clinical assessment, it is believed that a prisoner/detainee is likely to benefit from a **program of intensive therapeutic intervention** [my emphasis], placement within Tamar should be considered.*

231. Ordinarily the BMP Panel will review the admission and discharge of prisoners to and from the program on referral from a facility manager or the General Manager, and make recommendations to the Director. He makes the final decision.
232. However, the model allows for emergency situations. In the event of a potential risk to the good order and maintenance of the facility, the General Manager of the prison complex has a discretion to place a prisoner in Tamar pending a referral to the panel. A placement by the General Manager in those circumstances does not constitute a formal admission to the BMP and a decision in this regard is required to be made within 10 business days of the placement (Article 5).

233. All of the prisoners interviewed, other than those who had been moved directly from Division 7 to Tamar, said that they had not been formally told why they were being placed in the unit.
234. Four of those prisoners, Prisoners B, C, E and L, had been moved to Tamar following their alleged involvement in an incident in one of the maximum security units which occurred on 21 August 2008 when another prisoner had been injured. While it might be reasonable to conclude that those prisoners well knew why they were being moved, all three said that they had not been formally told of the reason. One of them, Prisoner L, commented:

I figured, like we have come back for an incident that happened down in [another unit] but they didn't fill us in, they just had the Riot Squad come and get us, drag us out and put us straight over here.

235. Prisoner H, a former resident of the unit, said that he had spent three and a half months in Tamar for an alleged assault and for allegedly standing over other prisoners – both of which allegations he denied – but had not been told that was the reason for his placement in the unit until he had been there for several weeks. He described his removal to Tamar in the following terms:

[They] called me up in medium and said, "We're placing you in Tamar" and I said, "Well, why?" And they said, "We've got intel on you, we'll come back and talk to you about it".

236. Prisoner H maintained that the first he heard of the allegations against him was at his first review, which he said was seven weeks after he had been moved to Tamar:

I said, "Well why am I here, no one's come and seen me", they said, 'Oh you're here for two assaults, [prisoner's first name], and you're in here for standing over people at the canteen', and I said, "No, I wasn't doing that", and they said, "Oh well we looked into it and yes, you was".

237. Prisoner A had been placed in the Franklin Unit for 14 days for abusing an officer and had been moved from there to Tamar:

And they told me that within a week I was going to Huon on an "on" stage or back down Derwent South ... And they just left me in the cell and never said nothing to me.

238. Prisoner A said that he subsequently ascertained that he was being accommodated in Tamar for his own protection when he received a letter from the Director of Prisons advising him of that. He said that he had only received the letter from the Director after he had complained that no one would tell him why he was there.

239. One senior prison officer who spoke to my staff was of the view that Prisoners B, C E and L would have known very well why they were being moved to Tamar such that formal explanation was unnecessary. The Director of Prisons said much the same thing, and this seemed to be the general view adopted by correctional managers.
240. Having said that however, the Director did not dispute that there needs to be a clear, concise and documented process associated with the placement of a prisoner on the program and in the unit. His only reservation in this regard related to the literacy issues faced by many prisoners, and his position was that the process should involve a combination of documentation and face to face dialogue.
241. Mr Williams, the Director of Corrective Services, agreed. He said that while it had been announced in 2009 that the Department of Education would be providing three literacy coordinators to the prison to coordinate a team of volunteers, and that literacy and numeracy screening is now routine for prisoners entering the system, inductions into the unit did require discussion with the prisoner as well as the provision of documentation.

Discussion

242. My staff viewed the files in relation to Prisoners B, C, E and L. The case notes for each of them record that they had been placed on report and charged with various prison offences following the incident on 21 August 2008, and moved to Tamar by order of the General Manager. Tamar's then correctional manager had recorded the circumstances of the move to Tamar in the notes of BMU Inmate Reviews conducted in relation to the four prisoners on 4 September 2008. The review notes confirm that their placement had not at that time been confirmed by the BMP Placement and Risk Assessment Committee.
243. Prisoners B, C and L had all been accommodated in Tamar on earlier occasions, and in the section of the notes for the Review which record the General Manager's comments, Mr Salway had written for B and C "Placed back in Tamar" and nothing more. For Prisoners E and L he had written "Placed in Tamar due to behaviour and dangerousness".
244. I note that the review of 4 September 2009 took place in the absence of the subject prisoners, according to the notes "due to staff shortages and illness", and there is no indication of any of the above having been communicated to them at any other time.
245. The case notes in relation to Prisoner H record that he was moved from a medium security unit to Tamar on 13 June 2008 but no reason for the move is recorded. There is however, an entry for 17 June 2006 to the effect that Prisoner H had asked a correctional officer when he was to be seen "regarding his charges", which might suggest he had

knowledge of the reason for his relocation, although this is by no means a necessary conclusion.

246. In this regard, when asked in interview whether he had been charged with any prison offences at the time of his move to Tamar, Prisoner H said that he did not think he had. He perceived he was being placed in Tamar for punishment but said that the alleged standing over and assaults had not been discussed with him prior to his placement there.
247. Despite Prisoner H's assertion that his status was not reviewed until several weeks after his move to Tamar, the file contains the notes of a BMU Inmate Review which took place on 25 June 2008, less than two weeks later. Those notes indicate that the prisoner had by then not been formally placed on the BMP as Mr Salway had noted that the prisoner was "To be placed in front of BMPanel [sic] for inclusion on the program". I therefore assume that he was accommodated in Tamar by order of the General Manager but this is not at all clear from the file.
248. The notes record that the prisoner had commented that he "Does not involve himself with standover tactics. Nor was he involved in any assaults". There are further notes indicating that the prisoner had been made aware that intelligence had been gathered about him, and that he had offered an explanation in this regard. Apart from the discrepancy in relation to the time after placement that Prisoner H's first review took place, his version of events is largely supported by the review notes and there is nothing in the file material available to me to suggest that he was told at any time prior to that review specifically why he was being rehoused.
249. In fact the only mention of the alleged standing over and assaults that I am able to find is contained in the review notes referred to above. Prisoner H was moved from Tamar to Huon on 22 August 2008 and a management plan dated 4 September 2008 was prepared in anticipation of his discharge back into the mainstream population. It was said in that document that he had been placed in Tamar and Huon "for the safety, security and good order of the Institution" without condescending to any further detail.
250. In practice, the Director writes to a prisoner following a decision to place him on the BMP, to formally communicate that decision and the reasons for it. However, this is done after the fact of the placement, and the letters are not always as informative as they might be. For example, Prisoners C and E, who had been involved in the incident on 21 August 2008, were written to by the Director on the following day and advised:

Due to your involvement in the ... incident in ... on the 21 August 2008 and to uphold the safety and good order of the Prison, you will be placed in the Tamar Unit whilst the matter is under investigation.

251. Then on the 5 September 2009, the Director wrote to them and advised:

On 26 August 2008 the Behaviour Management Placement & Risk Assessment Panel met to review and assess your current behaviour and placement within the Tasmanian Prison Service.

Their recommendation is that you be placed on the Behaviour Management Program and that you be accommodated in the Tamar Unit. I agree with this recommendation.

252. A letter in the same vague terms as the above was found on one other prisoner's file but not on the others, so it is not possible to entirely gainsay their assertions that they did not know why they were being placed in Tamar.
253. I interpolate here that the general standard of TPS record keeping, particularly the lack of proper documentation in relation to decisions made, causes me some concern. There are several files held by TPS for each prisoner, each with varying information kept in it, but in many instances it has been difficult for my officers to discern what chain of events might have occurred, who made a particular decision about a prisoner and why. Prisoner H's file is an example of this.
254. Some information (such as a prisoner's past criminal convictions or a judge's sentencing comments) is kept securely so that TPS staff who have no need to view it do not have access to it. This is understandable and to be commended. However, it should be readily ascertainable from TPS records when a decision has been made, the reasons for the decision and who has made it, particularly where those decisions relate to a prisoner's privileges and place of accommodation.
255. In this regard, Prisoner G's local case file was audited by a correctional supervisor in August 2008 with the following results:
- (a) of the six items supposed to be in Section 1 of the file, only three were present;
 - (b) in Section 2, both required items were present;
 - (c) there should have been four items present in Section 3, but two were noted as missing; and
 - (d) two items were also missing from Section 4.
256. I understand that many of the Director's Standing Orders and Standard Operating Procedures are currently being revisited and redrafted and that clear requirements as to necessary paperwork and documentation are being addressed in the new procedures. I suspect that some kind

of education or training model will need to be implemented as these procedures are formally issued by the Director, in order to ensure that all TPS staff are committed to, and aware of, the need for comprehensive and clear recording of incidents and any ensuing decisions.

257. In any event, it is interesting, and concerning, to note that the Model has no requirement that a prisoner be informed of the reasons for being placed on the BMP and housed in Tamar. A facility manager who wishes to refer a prisoner to Tamar is required to give a memorandum to the BMP Panel setting out the reasons for wanting the referral and any supporting documentation, before the panel can make a recommendation to the Director, but there is nothing that requires the prisoner concerned to be notified in any way. If the panel recommends that a prisoner be placed on the BMP and the Director accepts that recommendation, the prisoner can be relocated immediately with no warning or explanation. This is what several prisoners interviewed said had happened to them.
258. Article 6.2 of the Model contains the procedures for the reception and induction of prisoners to the unit and the program. It requires that a prisoner introduced to the unit be briefed in relation to a number of matters which I will refer to in detail later in this report, but the reason for his placement is not amongst them. This is unsatisfactory.

Conclusion

259. The complaint made by prisoners that they are not formally told of the reason for their placement in Tamar and on the BMP at the time of that placement is largely substantiated on the material available to me.
260. The Tasmanian legislation has no provision which is relevant to this particular prisoner complaint. It should be noted however, that while Tamar is not strictly a punishment unit, Franklin fulfils that role, prisoners accommodated there are nonetheless in effective segregation. For example, as one prisoner put it, "you can be on Stage C but you still exercise alone because everyone else is on Stage A". Another pointed out that he might attain Stage C but security issues would nonetheless prevent him from associating with anyone else. It is therefore appropriate to have regard to national, international and other standards and guidelines relating to segregation when assessing the operation of the unit.
261. The Standard Guidelines provide that prisoners placed in segregation should be informed verbally and in writing of the reasons for segregation and the period of segregation (1.79), and that a record be kept of the reasons for segregation and the regime under which access to facilities and privileges is to be determined. (1.78). The HMIP criteria also require that a prisoner placed in segregation be informed of the reason for that placement in writing, taking into account their

ability to read English. That this should occur is correctly recognised by the Director.

262. The failure to formally advise prisoners of the reason(s) for their placement at the time of their induction into the unit and the BMP is therefore not compliant with national and international standards or best practice. (Nor for that matter is it consonant with basic fairness.) The effects of this non compliance will be discussed further in the next chapter.

B. PROGRESSION THROUGH THE PROGRAM

The Complaint

263. A recurring complaint received by my office from prisoners housed in Tamar over time and from Official Visitors, and repeated by all prisoners interviewed as part of this review, was that they did not know what they needed to do in order to progress through the system and get back to the mainstream population.

Discussion

264. The Operating Model provides at item 6.3 that all prisoners placed on the program commence on Stage A and are required to work through the two remaining stages, “on the basis of positive attitudes and behaviour”, before they are eligible for return to the mainstream.
265. Item 6.2 of the model, which contains the procedures for the reception and induction of prisoners into the unit and the program, requires at 6.2.1 that the incoming prisoner be made aware:
- (c) *Of how the BMP operates, including how they can progress through the program on the basis of positive attitude and behaviour, while regress [sic] through the program on the basis of negative attitudes and behaviour; and*
 - (d) *Of the BMP rules, which must be clearly displayed for the reference of prisoners/detainees and staff, and the expected standard of behaviour.*
266. The model is silent however, as to:
- (a) what constitutes positive (or for that matter, negative) attitudes and behaviours and who makes determinations in this regard; and
 - (b) how long a prisoner is required to display those attitudes and behaviours on each stage of the program before he becomes

eligible to advance to the next stage, and ultimately to return to the mainstream population.

267. The model does require that the need for a prisoner to remain on the program be the subject of monthly reports by the BMP Panel to the Director. It also requires the Director of Corrective Services, the Director of Prisons and the Assistant Director of Prisons to meet and review all placements in the BMU every six months (Item 6.10) but otherwise gives no guidance in relation to the duration of placements.

268. Prisoners interviewed as part of this review almost universally said that they had not been told when they arrived in Tamar what would be required of them to advance from their initial Stage A rating. For example:

(a) Prisoner A said that no one, no managers or senior officers, had spoken to him about how to move through the stages when he arrived in Tamar and that the first detailed information he had received about the expectations for him had been given at his first monthly review, some weeks later;

(b) Prisoner D said the same thing, adding that he had been *shown the rules on a piece of paper* at his first review but a copy had not been provided to him;

(c) Prisoner L also said much the same thing – *They show you a bit of paper and that's about it. You don't really – they'll let you hold it or sit down and read it,*

(d) Prisoner C said that the first time he had been placed in Tamar, he had not been told anything about the system by managers or officers but rather had gleaned what was required of him from other prisoners in the unit: and

(e) according to Prisoner G, he had been told nothing about the various stages for two months after his placement in the unit, and when information was eventually forthcoming it had been provided only verbally and in very general terms.

269. The Assistant Director of Prisons denied any suggestion that prisoners were not made aware of what they needed to do in order to pass through the program:

It's very clear when they get in there you know, what they need to do. It's outlined to them, there's documentation shown to them, you know, "this is what you need to do".

270. Ms Maxfield told my staff that prisoners are inducted into the unit upon arrival, though it would seem that this induction is delivered verbally, and while incoming prisoners might be shown some documentation, none is apparently given to them. She said that prisoners talk about

their behaviours with staff and the things they need to do are explained to them.

271. Mr Salway said that prisoners coming into the unit were initially interviewed by the supervisor or the Maximum Manager, and that if their arrival at the unit coincided with a review, they would be given relevant information at the review. He was adamant that prisoners were made aware of the Hierarchy upon entry to the unit and the program. Mr Salway further said however, that:

I've had many conversations with inmates regarding this process and have heard later that they don't understand it, so I'm sometimes at a loss to understand why people made comments that are patently not true.

272. Several members of staff referred to the fact that, demonstrably, some prisoners had indeed worked their way through the system and back into mainstream, indicating that they must have understood what was expected of them to achieve that result.
273. Ms Maxfield also said that a copy of the Hierarchy of Privileges and Sanctions was placed on each cell door in the unit. While this is true, it transpires that the copy document is located behind the prisoner's identity sheet which is kept in a plastic box attached to the outside of the cell door. Ms Maxfield said that it was so located in order that staff could access it, and prisoners "only have to ask and they're given it". It was not clear however, that prisoners were made aware of this.
274. When asked why prisoners were not given a guidebook or any other written induction material, Mr Salway said:

Yes, look historically, I've never seen one of those particular documents done in a high security unit. In quite a lot of cases, inmates in those areas are highly manipulative and they like to use those kind of things for their own benefit rather than yours. It's very difficult to have an all encompassing document sometimes that explains everything to the nth degree.

275. Mr Williams was of the view that both prisoners and staff should be given the same information about the operation of the model, and indeed the model itself requires that the BMP rules be "clearly displayed for the benefit of prisoners/detainees and staff". The current practice of placing a single page copy of the Hierarchy of Privileges and Sanctions behind another document on the side of the cell door that is often not accessible to the prisoner clearly fails to satisfy the requirements of the operating model.

Conclusion

276. The verbal induction of prisoners into the unit and the program and the failure to provide each with a written outline of the behaviour expected of them is clearly not compliant with the Standard Guidelines, which require the behaviour required of prisoners to be made clear and to be made available on reception in a written prisoners' code of conduct that is clear and concise (Guideline 1.46).
277. Not only is the Hierarchy not really published to prisoners at all, it constitutes only a part of the operating model, albeit probably the part of most immediate significance to the prisoners. The information contained in the rest of the model, which regulates and controls completely the prisoners' conditions of detention, should also be made available to prisoners but on the evidence, it is not.
278. S 29(p) of the Tasmanian Act confers a right upon prisoners to be provided with information about the rules and conditions which will govern their behaviour in custody. I have noted already that it has been suggested that there are shortcomings in relation to the ability of a prisoner to enforce the charter of rights contained in s 29, but nonetheless that charter forms part of the law of Tasmania. It is incumbent upon Corrective Services to comply with it and to honour and observe the rights it confers, and it should do so in more than a merely technical sense.
279. Mr Salway's response in relation to the provision of a guidebook indicates a lack of awareness of the relevant guidelines and standards. As will be discussed at greater length in the next chapter, it is my view that copies of the operating model should be made available to both staff and prisoners and there should be a form of plain English *User's Guide to the BMP*.

c. THE DURATION OF A PLACEMENT ON THE PROGRAM

The Complaint

280. Another recurring theme in complaints to my office was that prisoners did not know how long they would have to remain on the program and/or in Tamar. This was of particular concern to some of the prisoners who had come from the old Division 7 and who had spent a considerable amount of time in Tamar, but was raised by several other prisoners as well.

Discussion

281. As I have already noted at paragraph 266(b) above, the BMP operating model contains no information or guidelines as to how long a prisoner is required to display particular attitudes and behaviours on each stage

of the program before he becomes eligible to advance to the next stage, and ultimately to return to the mainstream population.

282. Fundamentally, the experience for a Stage A Tamar prisoner is no different to that of a Franklin Unit punishment prisoner. The only difference, arguably, is that the Tamar Stage A prisoner is disadvantaged in that he has no prospective notion of how long he will remain in that situation, whilst the punishment prisoner will know of the finite sentence he has received. The Act provides safeguards for prisoners undergoing punishment, safeguards that are transparent and preferable to the standing order approach which obtains in relation to placement in Tamar.
283. What the model does provide is that discharge from the program is dependent upon the prisoner maintaining “sustained performance on Stage C”. It further provides that:

Although the aim is to have prisoners/detainees return/transfer to a mainstream accommodation area as soon as possible, it is acknowledged that some prisoners/detainees admitted to the BMP will remain there for a considerable time or, in some cases, for the duration of their custodial sentence. Factors impacting on the length of stay will be the degree to which an individual is able to achieve demonstrable changes in attitudes and behaviour or any significant change to the assessed security risks.²⁸

284. From what my staff were told by prisoners and officers alike, it would seem that, as a general proposition, a prisoner will spend at least six months in Tamar in any one placement, although there are instances of some prisoners moving through the program in a much shorter time and of others remaining in the unit considerably longer. Prisoner C, who was undergoing his second placement in Tamar when interviewed, told my staff:

The minimum to stay here is six months anyway, like before you get through the stages, now I've worked it out.

It's one month for Stage A to Stage B, two months for Stage B to Stage C and then three months from Stage C to get back to the yards.

285. There is nothing in the material gathered by my staff to suggest that prisoners are given any indication at the time of their reception into the program and the unit of how long they will spend there but when interviewed for this review, Mr Salway confirmed that, in the ordinary course:

²⁸ Version 3.0., 7

the expectation would be that with good behaviour you will move from Stage A to Stage B at the end of the first review period, that you will probably stay on Stage B for a couple of months, a couple of review periods, and that you would then move to Stage C and that you would stay there for at least three review periods. And then if your behaviour has been fine, then the review team would be able to be in a position to recommend you out of Tamar.

286. According to Mr Salway however, that scenario only applied if the prisoner's behavioural issues did not include a "level of dangerousness issue" and there was "no great historical issue". Mr Salway described two distinct considerations as being applicable to the advancement of prisoners in a restricted environment such as Tamar:

- (a) the first of these is the prisoner's current behaviour, which is the subject of monthly review; and
- (b) the other is the 'level of dangerousness' that a prisoner may pose, not just by reference to their current behaviour but also their behaviour in the prison system historically, and any security issues he might have engendered.

287. Interviews with senior TPS staff indicated that any prisoner subject to the BMP has to prove over time that his current behaviour is stable enough to be able to move him back into the mainstream prison. Some prisoners, my staff were told, have been regularly reviewed and have progressed through the stages on several occasions, only to regress as they approach the point of being recommended for transfer back to the general population because they haven't exhibited the requisite behavioural stability.

288. The monthly reviews however, do not have regard to the level of dangerousness a prisoner might pose, nor to historical issues of security. Those are matters, Mr Salway said, for the Behaviour Management Placement and Risk Assessment Committee to consider. The committee might receive a recommendation that a prisoner move on based on his behaviour whilst in Tamar, but it is then for the committee and the Director of Prisons to determine whether the prisoner's level of dangerousness overrides his otherwise good behaviour.

289. When asked how a prisoner in the unit who had otherwise behaved in accordance with expectations and had been on Stage C for an extended period could overcome a perceived level of dangerousness, Mr Salway said:

Essentially, it's time ... Someone earns a particular badge of level of dangerousness and the system would require a certain level of time, of consistent behaviour where before that level of dangerousness would be

considered, but again, that does not rest with the review team. That rests with the Behaviour Management Panel for consideration and Mr Barber's final say so.

290. As one prisoner put it, "some prisoners are simply stuck with their reputations and that's that."
291. It seems to me that to keep a prisoner in the Tamar unit for the full period of his sentence, or to have him satisfactorily work his way through the various stages but to then not allow him to move on is antithetical to the concept of a behaviour management program based on incentives and earned privileges. Yet at the time this review commenced, there was one prisoner in Tamar who had essentially been in a restricted, managed environment (Division 7 then Tamar) for over three years.
292. The Assistant Director, Mr Partridge, confirmed that levels of risk or dangerousness are relevant factors when considering whether to move a prisoner out of Tamar or not. He noted that prisoners who are placed on the program generally pose a degree of risk to either the TPS, certain facilities within the TPS, or to other individuals, and these factors must necessarily be considered when a decision is being made about where a prisoner should be accommodated. To some degree this presents a conundrum, where the needs and rights of staff and other prisoners generally must be balanced against the needs of the particular prisoner concerned. The Assistant Director was adamant however, that:

At the end of the day if an individual can demonstrate and show consistent behaviour that warrants that individual moving out of the BMP program, they need to move out.

293. I agree with Mr Partridge in this regard. Were it otherwise, there would be no incentive for a prisoner whose risk assessment remained unacceptably high to cooperate with the program, the program would not address the issues relevant to that prisoner or his needs, and its purpose would therefore be defeated.

Conclusion

294. 'Level of dangerousness' as a concept is indistinct, and it concerns me that a subjective assessment of a prisoner's 'level of dangerousness' on the part of the panel and the Director - but ultimately the Director alone - is sufficient to warrant that prisoner remaining subject to the strictures of the BMP, even though in all other respects he might have complied with the requirements of the program. In addition, the 'level of dangerousness' is often largely referable to past rather than current behaviours - what is 'known' by the panel and the Director of a prisoner, and not what he is currently doing - but nonetheless it can determine the current conditions of the prisoner's incarceration.

295. To repose such significant power in the hands of the Director in my view demonstrates an antiquated and paternalistic approach to prison management which is at odds with contemporary standards of best practice. The discretion retained by the Director to maintain prisoners on the BMP and in Tamar because of a perceived “level of dangerousness” when they are otherwise compliant with the program’s requirements has the capacity to undermine the program by demonstrating to prisoners that compliance does not necessarily lead to advancement.
296. Systems based on incentives and earned privileges have operated in the United Kingdom since 1995 through units known as Close Supervision Centres (CSCs). An independent assessment of the CSC system was commissioned in 2000 and conducted by a team of researchers including criminologists, forensic psychiatrists and an economist. Those researchers argued that the underlying principle of prisoner progression through a variety of incentives and earned privileges had serious shortcomings when it came to the management of some disruptive prisoners, and in particular found that:

There were two major flaws in the application of IEP (Incentives & Earned Privileges) to this population:

- (i) the assumption of a ‘rational choice’ model and instrumental reasoning on the part of these prisoners; and*
- (ii) the notion that compliance and progression could be equated with suitability for return to the mainstream of some of the particularly high-risk prisoners.²⁹*

297. The researchers found that some prisoners were effectively gaining nothing from their cooperation with the system because their compliant behaviour could not be rewarded if their risk assessment remained unacceptably high.³⁰ This is a similar situation to the one in which a small percentage of long-term Tamar residents have found themselves.
298. The authors of the CSC Report suggested a number of possible changes to the system in order to more appropriately deal with disruptive prisoners, particularly those who continue to pose an unacceptably high risk. Key elements of a different approach would be:
- (a) a comprehensive assessment process, including psychological or psychiatric assessment;

²⁹ Clare, E and Bottomley, K (2001) *Evaluation of Close Supervision Centres* London: Home Office, p87

³⁰ Ibid., p88

- (b) the establishment of differential regimes, with a more appropriate set of operating principles and practices, with safe and humane conditions; and
 - (c) the long-term containment of high-risk prisoners.
299. The same limitations and consequent concerns arise about the long-term placement of prisoners on the BMP in Tamar. The fact that at least one prisoner was in the unit and on the BMP for three years without progressing through to a return to the mainstream environment suggests that the program is not an appropriate way to manage all prisoners with behavioural or security issues, or a high risk assessment.
300. There is also the question of the effect on the prisoner who works through the program but finds he is not advanced. Prisoner D described his circumstances as follows:
- Yeah, if I stick by the regime, the current regime in there, which I have that many times it isn't funny. The only trouble I get into is when I come up to that date to get out and I'm rejected that's when I'm – me attitude changes and I go into – I spiral out of control because I'm so focused on going and all of a sudden it's "no".*
301. My office has received telephone calls from particular Tamar prisoners complaining that they have completed sufficient time on a certain stage to either move up a level or be moved back to the general prison population, but they claim they are then provoked until they 'misbehave' or some other reason is found not to move them out of the unit. I am unable to comment on the accuracy of these complaints, but that this is the perception on the part of some prisoners is a concern.
302. The BMP and Tamar are not appropriate where the only issue is one of general dangerousness. I agree with the authors of the CSC Report that prisoners with a level of dangerousness require a different approach. In my view, in instances where a prisoner has been on the program for more than, for example, nine months, strategies should be put in place to address the underlying behavioural issues of that prisoner and to implement an individually tailored program to assist him to modify his behaviour, or at least to avoid having to subject him to such a restrictive regime for the balance of his sentence.
303. I have already noted that at least for some prisoners, placement in Tamar effectively amounts to segregation. The Standard Guidelines require a segregated prisoner to be advised in writing of the period of segregation; HMIP's criteria require that prisoners should only be held in segregation for the shortest possible period and that active plans to return them to their normal location are made at the earliest opportunity; and the WA Code requires the period during which prisoners are segregated to be minimised.

304. Whilst I appreciate that it may not be possible to say with complete precision how long it will take an individual prisoner to progress through the three stages of the program at the time of his induction into Tamar, it should be possible to give that prisoner a clear indication of how long he will remain on the program if he is continuously compliant with its behavioural requirements. This is especially so as staff and management, as well as prisoners who have previously been subject to the regime in the unit, have an understanding of the duration of a placement and the time spent at each stage. In addition, I see no reason why this information cannot be supplied to prisoners in writing.
305. The Director acknowledged that the program is not appropriate for 'level of dangerousness' prisoners, but said that "they have been pigeon holed there because there has been nothing else". I appreciate the limited options presently available to the prison administration for managing such prisoners, but it remains the fact that the very nature of the program dictates that the amount of time a prisoner remains on it should be finite. It is not appropriate for Tamar to be used to accommodate prisoners exhibiting a "level of dangerousness" if that means they will remain on the program for an indefinite period.

D. INCONSISTENT APPLICATION OF THE MODEL

The Complaint

306. All of the prisoners interviewed claimed that there was inconsistency in the application of the rules applicable within the unit. The rules seemed to vary, according to the prisoners, depending on which senior officer was in charge at any given time. As Prisoner B put it:

There are too many managers walking in and out of here changing things all the time.

A lot change a lot of – they put rules in place and they break them their self, management does, and officers.

307. Examples given included:
- (a) unannounced changes to walk-times (i.e. the one hour a day that each prisoner has in one of the external yards);
 - (b) changes to the yard available for exercise (there are two yards in Tamar - one much smaller than the other;
 - (c) conflicting decisions as to whether or not prisoners would be allowed to walk with a companion or alone; and

- (d) inconsistency as to whether or not a prisoner's out-of-cell time of one hour includes the time necessary to clean out his cell each day.

308. It must be understood that matters which may appear trivial to someone who is free take on a much greater significance to someone in the confined circumstances of these prisoners, and even minor changes to expectations and routines can have an impact.

Most of the officers that were hands on were all right, but the ones that were – a couple of the ones that were sitting in the box that just come through would sort of sit back in the box and say, "No, you can't do this today or you can't do this", where a couple of days earlier you probably could, that sort of gets to you a bit.

309. Prisoners also told my staff that petty infractions were treated out of all proportion, again with an overlay of officer inconsistency. Analysis of the case management files and the officers' entries lent some credence to this. Many examples were noted of what appeared to be subjective comments such as that a particular prisoner had made "veiled threats" or "spoke inappropriately to staff" or was "demanding".

310. As will be discussed further in this report, the notes made by officers in a prisoner's file are heavily relied on when it comes to reviewing that prisoner's stage in the program and comments such as the above, in the absence of any objective context, have the ability to adversely affect a prisoner's progress. On the other hand, as Ms Maxfield told my staff:

It's difficult, like trying to get [officers] to write, some of them are too scared to write a case note because of the repercussions you might get from that inmate.

311. The Director expressed a level of frustration with the standard of some of the entries by officers in prisoners' case notes:

I get very frustrated when I go into case notes and all I see is "today Pete had good day or a bad day". What happened? What went wrong? Did he have a visit that didn't occur? Is there some follow up that we need to do? I get very frustrated with that.

312. Mr Williams said that some officers do a very good job of putting case notes together, backing up their observations with relevant facts, but he acknowledged that others did not.

313. Two or three prisoners made the point that it was not sufficient merely to do what you were told, you were also expected to look happy whilst doing it; in other words, behaviour management involved not merely

compliance but actively cooperating or seeming cheerful about the required standard of behaviour.

314. Several prisoners also said that they were treated differently by officers dependant upon which stage of the program they were on. As Prisoner C put it when asked whether prisoners on Stage A were treated differently, my officers having been told by others that this was the case:

Yeah, yeah, because they – you're behind the door, like your behind the thing and there's no way you can – they know there's no way you can do anything. Whereas if you're on Stage C or something, yeah, it's just they won't say nothing to you.

315. At the same time, Prisoner C pointed out that:

Like there's heaps of good officers here who work here. Well the majority of them are alright, but obviously you get the occasional one that will come in and ... Yeah, stand out alright.

Discussion

316. When it was suggested to Ms Maxfield that some officers expected not only compliant behaviour but that prisoners also display a happy face, she agreed that this does happen though clearly it should not. She said that there had been an incident in another maximum security unit only a short time prior to my staff interviewing her that had required her to take an officer to task over the inappropriate manner with which he had dealt with a prisoner.

317. Mr Partridge confirmed that while managers and supervisors were aware of the requirements of the operating model:

Individuals from time to time may interpret, you know, one behaviour differently but that happens in all facilities with all staff. You know, an infraction at HRP may be dealt with differently than exactly the same infraction down at Mary Hutchinson Women's Prison. It depends upon that, the individual interpretation.

318. Ms Maxfield acknowledged that there was something of a dichotomy in the culture and attitude of custodial officers, with some being focused almost exclusively on security and others more interested in interacting constructively with prisoners. This division was not dependant on the age or experience of the officers. While the culture was changing in other units Ms Maxfield said, it wasn't necessarily with officers working in Tamar.

319. Ms Maxfield was of the view that what was required was a 'static crew', that is a team of officers specifically trained to meet the specialised needs of prisoners housed in Tamar, and specialist shift supervisors. This, she said, would ensure that only officers who were ready and able to interact with prisoners fairly, appropriately and consistently would actually be interacting with them, and would bring consistency to the operation of the unit and the model.
320. Included in the principles enunciated in paragraph 2.3 of the operating model is the following:

In recognition of the fact that positive role modelling and the application of rewards and sanctions fairly and consistently play a major role in supporting behavioural change in prisoners/detainees, the selection of appropriate staff who are willing to be actively involved in pro-social modelling is a critical success factor for the BMP.

321. Thus it would seem that the authors of the model and Ms Maxfield are of like mind on the subject of specialist staff. Ms Maxfield's preference would be for the Maximum Manager to be able to specifically select a team of custodial officers who exhibit an interest in working in a particular unit and to choose staff who are keen to interact with prisoners in a positive way. However, this is not what occurs now and the staff who work in Tamar are drawn from the general maximum security staff pool.
322. The Director said that inconsistent staff responses and standards posed the most significant problem to be addressed, not only in Tamar but across the entire maximum security environment. According to Mr Barber:

Today the staff will comply with the rules and abide by the rules, tomorrow they will come in and if they don't want the in your face argument, they won't. They won't comply with the rules and they will let things happen that shouldn't happen or they won't do things they should do. So I totally agree that if you were able to have a standard, a fair and straight forward standard that staff would rigidly stick to, that would be half the problem beaten.

323. Theoretically, the Director supported the idea of specialist staff; he said he had seen such a model operating in other areas and was confident that if recruits could be hand picked, specially trained and given good support and follow up, it could work successfully. However, he had significant reservations about implementing such a structure at the RPC.

324. In expressing these reservations, the Director referred to the fact that an agreement has been reached between prison management and the two unions representing correctional officers that there will be a fully rotational shift roster at the prison in order to manage sick leave, overtime and other human resources issues. The Director also expressed some concern about the possibility of staff burnout if the only prisoners with whom they interact are the prison's most difficult, most demanding and most dangerous. Management had at one time adopted a form of fixed roster for officers working in the old Divisions 7 and 8, he said, and burnout and a high level of sick leave had resulted.

325. Dr Crawshaw expressed the view that the key to such programs as the BMP operating successfully was consistency:

Everyone has to be very clear what it is they are going for, so consistency of staff and consistency around what it is that you are [doing].

326. Dr Crawshaw has experience of similar units in New Zealand where staffing was an issue. There were not always a sufficient number of officers on permanent roster to the secure units, and staff would therefore rotate through. A significant problem arose when casual staff came into the units, who "would from time to time unpick our programs".

327. At the same time, Dr Crawshaw acknowledged the extremely challenging nature of the work, and said that some rotation of staff was necessary. Indeed, Dr Crawshaw would not recommend anyone staying on a permanent roster in a unit like Tamar for any more than 12 to 18 months, not only for their own wellbeing but to "break up institutionalised cliques and behaviours" and introduce "fresh blood". He referred to a body of literature which supported this view.

328. It was a matter, Dr Crawshaw said, of how staff are rotated, and care should be taken not to rotate all at once. He agreed with the approach that has been adopted in the high risk management units at Barwon Prison in Victoria and at Casuarina Prison in Western Australia, where staff are rotated out of the unit every two years or so on a 'one in one out basis', such that officers are not exposed to the rigours of the environment for too long, but 'corporate knowledge' is retained. Dr Crawshaw said that the maintenance of a positive culture in a unit such as Tamar "come(s) down to induction and training [and] not making all the changes at once".

Conclusion

329. The environment in Tamar is no doubt a challenging one, for staff as well as prisoners. On visits to the unit, my staff observed differences between officers in the way they interacted with prisoners and responded to their needs. Some officers were clearly more empathetic

than others. Some were in close contact with the prisoners while others did not move from the officers' station.

330. As is discussed in more detail below, the comments and conclusions of the officers on the ground, as recorded in the prisoners' notes, largely inform the decisions of the Review Panel. Consistency and objectivity when recording comments are therefore vital if the program is indeed to be a program of behavioural management rather than just discipline. I am satisfied that consistency and objectivity are not always present in the current operation of the program and that this adversely impacts upon its integrity.
331. The unit is a specialised one and, in my view, requires staff who have aptitude for the work and have had training for the purpose. It also needs, at any one time, a core group of staff who have considerable experience working in such an environment. I agree with Ms Maxfield and the authors of the model that staff who work in the unit should be chosen from officers who are prepared to become actively involved in the program and who understand its aims and objectives, but who also understand the needs of, and the challenges associated with, managing the prisoners who are its subjects; officers who are willing to play a constructive role rather than remain merely turnkeys.
332. It is clear that there needs to be some rotation of staff, but I agree with Dr Crawshaw that such rotation needs to be carefully managed to ensure not only the health and wellbeing of correctional officers, but also the consistent operation of the model and the unit.

E. THE CONDUCT OF REVIEWS

The Complaint

333. The operating model requires the BMP Case Management Committee to meet at least once each week to review and manage the placement of prisoners in the program. In practice, it is intended that each prisoner resident in Tamar be actively reviewed on a monthly basis. Members of the committee meet with each prisoner individually and the prisoner's status within the program is determined for the following month.
334. Prisoners interviewed told my staff that they did not have an opportunity to participate in the review process. Prisoner L described what happens on a review from his perspective:

Like they've already made their minds up before they come down. They've got it written on a bit of paper, your contract system, like if you've gone up or you've gone – you stay on Level A or Level B.

335. Prisoner L said that the Committee relied solely on the case notes made by officers and that prisoners were not given the opportunity to respond to their contents. Rather the members of the committee:

Just come in and tell you, "You've got bad case notes, you're not going home."

They rely on [the case notes] so we don't even – if we have played up, we can't sit down and explain like, "This is why I buggered up." They've just got the officers point of view so more or less we've got no say in it.

336. Prisoner C said much the same thing:

Well they just list – they just go off what people write in the book there. They don't go off what we have to say, like we don't even get a say in it, like what they go is with it.

337. Prisoner L also made the point that prisoners did not receive any feedback on their behaviour between reviews, such that they did not know whether their behaviour was good, bad or indifferent until the next review meeting. Other prisoners confirmed that they were not aware which aspects of their conduct and behaviour were to be discussed as part of the review until they actually met with the committee members.

Discussion

338. As I have already noted, there is some inconsistency amongst officers in relation to their interactions with prisoners and their responses to prisoner's behaviour, with some entering inappropriately subjective comments about that behaviour in the prisoners' case notes. Prisoner C, like the other prisoners interviewed, was aware of the possible consequences of this, given the heavy reliance placed on the case notes by the committee:

If someone could, like not even like us, and they say – one of the officers could not like us and say – ah well, you know put something down here just because we told them to piss off, or get out of our face. Because they don't like us, we don't like them.

339. It would also seem that there are occasions when a prisoner's status is reviewed and his stage on the program for the next month determined without that prisoner even being present. I have already noted that this was the case with the initial reviews of the prisoners moved to Tamar following the incident in another maximum unit in August 2008, but other examples of this were found in prisoner files. For example, Prisoner A's file indicates that a review was conducted "without inmate present due to staff shortages and illness."

340. Some of the prisoners interviewed also said that occasionally reviews were postponed because of staff shortages, which meant that in some instances, their movement to the next stage had been delayed.
341. Much of what the prisoners told my staff was confirmed by management, and it seems to me that in most instances, prisoners are not included or involved in the process. To describe the monthly meeting between members of the committee and a prisoner as a review is something of a misnomer. Under the current practice, it is more the occasion upon which a decision already made about a prisoner is communicated to him. Prisoners are not made aware of the basis for that decision or given any opportunity to respond prior to the meeting.
342. The committee, which consists of the Manager Maximum Security, the prisoner's case manager, the Area Supervisor, a senior correctional officer and a representative of Therapeutic Services and the General Manager meet regularly to consider the progress of each prisoner housed in Tamar. The committee decides whether a particular prisoner will advance to the next stage, remain where he is or be regressed. If the committee forms the view that a prisoner is ready to be returned to the mainstream population, it makes a recommendation to that effect to the BMP Panel.
343. A form has been developed for use in the review process. The first page contains the prisoner's details, the date of his last review and a 'Unit Report'. The latter is completed by the unit supervisor and contains the following information:
- (a) general comments;
 - (b) comments on the nature of the prisoner's interactions with staff;
 - (c) whether the prisoner has complied with directions;
 - (d) the standard of the prisoner's cell and personal hygiene;
 - (e) whether the prisoner has displayed any difficult behaviour;
 - (f) whether there has been any recent significant change in the prisoner's behaviour; and
 - (g) comments on the nature of the prisoner's associations with other prisoners.
344. The material available to me does not suggest that prisoners are made aware at the time of their induction that these are the criteria against which they will be assessed.
345. These unit reports provide another opportunity for subjective comment (which is apparently often seized) and many of the comments on the

forms made available to my staff are more limited than those on a school report card, with the comments mainly short, general and superficial. This part of the form is completed by the supervisor prior to the committee meeting to discuss the prisoner's progress.

346. Ms Maxfield described the ensuing process as follows:

Everyone will talk about each inmate, where they're at. We'll read the case notes. Also the supervisors will have filled out the first page before it comes to us and we're basically guided by them as well where there has been any reports or issues. We'll talk about their time in there and whether they should move forward or backwards and that sort of thing.

347. A determination is then made as to whether the prisoner will move up or not, and as to what behavioural goals should be set. The decision in relation to the prisoner's level in the program is, according to Ms Maxfield, based solely on the prisoner's behaviour and interactions over the preceding month, although there had been occasions when, to assist a prisoner to move through the program, reviews had been conducted on a fortnightly basis. Mr Salway said that the case notes were taken into account, but added that the supervisor of Tamar was also present to provide information.

348. At some stage prior to meeting with the prisoner, the balance of the form is completed. Its remaining contents include:

- (a) comments from Therapeutic Services' staff (although this section is not always completed, again because of staff absence or illness);
- (b) the committee's recommendation;
- (c) target behaviours for the particular prisoner;
- (d) comments from the unit's correctional manager; and
- (e) when a recommendation is to be made, comments from the Senior Psychologist and the prison's General Manager.

349. Having made a decision, Ms Maxfield said:

We go down and speak to the inmate, tell them what type of month they've had, is there anything they want to discuss with us, tell them what we think their goals are, you know, to continue with their positive behaviours and try to enforce the good stuff more than the bad stuff.

350. The last part of the form is an Inmate Acknowledgement which the prisoner is asked to sign at the end of the meeting. Comments are

optional. Members of my staff were present as observers during one set of meetings which proceeded much as described by Ms Maxfield: sections of their notes were pointed out to prisoners, they were told what decision had been made and their target behaviours were read out to them. They were then asked to sign the acknowledgement.

351. Some of the prisoners were asked if there was anything they wanted to say, but entries in the notes were not specifically put to them. When one attempted to argue against an alleged episode of bad behaviour which was being relied on to maintain him on Stage A, he was merely reminded of the committee's decision.
352. When it was suggested to Ms Maxfield that decisions were made prior to the meeting with the prisoner and without notice to the prisoner she was adamant that what prisoners had to say was taken into account. She referred to an occasion when the committee had determined that a prisoner was not to progress and she had spoken to the prisoner, taken into account his point of view and moved him forward on a two week trial basis. This however, would seem to be an exceptional circumstance.

Conclusion

353. Because of its effect on individual freedom, a review process of the kind required by the BMP must afford procedural fairness. At minimum, this means that a prisoner must:
 - (a) be made aware of any particular behaviours or incidents that the Committee proposes to rely on in determining his status within the program when it is proposed to downgrade that status or to leave it unchanged: and
 - (b) be given ample opportunity, and assistance, to respond.
354. The model recognises the need for procedural fairness by requiring prisoners to be warned in writing beforehand if a sanction is proposed to be applied and given the opportunity to modify their behaviour. As I have noted at paragraph 181(d), this requirement was included in the model following Mr Blue's internal review and is one of the dot points which constitute the operating philosophy of the BMP, contained in paragraph 2.3 of the model. In full, the requirement is that:

Prisoners/detainees are provided with feedback in relation to their behaviour and given the opportunity to adjust any negative behaviour before a sanction is applied. Where a sanction is likely to be applied to a prisoner/detainee, they are to be warned in writing before hand and given the opportunity to modify their behaviour.

355. That prisoners are not notified, in advance of a review, of any problem behaviours and given the opportunity to respond, nor warned before

hand of a proposed sanction, is not only suggested by the comments of the prisoners, but borne out by the comments of management and staff. All indications are that decisions about a prisoner's progression through the program are made without any input from the prisoner affected. Decisions are based on the often inappropriately subjective views of supervisors and officers and, as Ms Maxfield said, prisoners are "told what type of month they've had."

356. There might be some exceptions to this apparent rule, but the material available to me suggests that prisoners have very little or no ability to effect any change to a decision of the committee once made.
357. The regular reviews are of great significance to the prisoners housed in Tamar, as they determine the conditions of their incarceration for at least the next month, and potentially longer if a review does not take place or is postponed. It is not sufficient to rely solely on the recorded opinions of individual officers and supervisors in relation to a prisoner's behaviour as being conclusive. Given the rigour of the regime, especially for prisoners on Stage A, it is also not acceptable that:
- (a) prisoners are not given notice of the issues that are to be used as the basis for maintaining or downgrading their status within the program and the opportunity to comment on them;
 - (b) reviews can be conducted and a prisoner's progress through the program can be stalled without the prisoner being present; and
 - (c) a review does not take place at all, for whatever reason.
358. A more balanced procedure needs to be developed, which provides prisoners with an opportunity to actively contribute to outcomes. Where rules have been breached or behaviours have been inappropriate, this should be communicated to the prisoner concerned, who should then be able to respond. Where necessary, prisoners should be given assistance in answering charges of bad behaviour. It would also be appropriate for the review procedure itself to be regularly reviewed.
359. It has also been suggested by Dr Crawshaw, and to an extent by the Director, that reviews should occur more frequently than they presently do. The Director said that it was not possible for some prisoners to maintain a settled standard of behaviour over a period of months, particularly prisoners with mental health issues. These prisoners:
- ... just cannot behave like a small school child for three months solid. Just cannot do it. Let's get the reviews done, let's do it weekly or fortnightly and let's support.*
360. There had been instances, the Director said, when goals had been reached but not rewarded, and this constituted one of the program's biggest failures.

361. In Dr Crawshaw's view, the most positive rewards for good behaviour are those that are intermittent and not dependant for their granting on a fixed interval.

The best way to try and change behaviour is to actually find other more pro-social behaviours and substitute [them] and reward the emergence of pro-social behaviours and where possible not attend to the asocial or antisocial behaviours. The more you pay attention to the antisocial behaviours the more, conversely, you are actually rewarding the appearance of those behaviours because you are giving attention to them.

362. The system in New Zealand with which Dr Crawshaw is familiar is a three tier system, as is the BMP, in use in secure mental health facilities, with the difference that there are different levels within each tier. Programs are structured such that no matter what tier a person is on, positive behaviours can be rewarded and negative behaviours sanctioned. People thus become more alert to the consequences of their actions, and when their behaviour is appropriate, feel that they are moving forward. Dr Crawshaw could see no reason why such a system could not be translated to the prison environment, and indeed a similar system is used at the Goulburn Correctional Centre.
363. There is much to be said for this approach but for reasons that will be discussed later in this report, it is questionable whether it could effectively be achieved in the physical environment of Tamar.

F. THE UNNECESSARILY RESTRICTIVE NATURE OF SOME SANCTIONS

The Complaint

364. As has been noted earlier in this report, the regime in Tamar, especially for prisoners on Stages A and B of the program, is highly restrictive. For example, prisoners on Stage A are handcuffed with their hands behind their backs for all movements both inside and outside the unit and prisoners on higher stages are handcuffed with their hands in front for all movements outside the unit. Some prisoners on Stage A had decided not to continue with visits because they felt humiliated by having their families see them with their hands manacled behind them.
365. The number of visits a prisoner may have and the number of telephone calls he can make are also limited by the stage that he is on, and prisoners on all three stages have only limited out of cell time. Even prisoners on Stage C are only permitted three hours out of their cells each day.

366. For some prisoners, limited access to the telephone system gives rise to a particular sense of grievance or of unfair treatment. Calls can only be made during the prisoner's walk time in the enclosed yard, which means the availability of the person they wish to call at that time is crucial. This adds to the frustration experienced when walk times are changed without notice, as well as lessening the time available for active exercise.

Discussion

367. I am of the view that some of the security measures adopted as part of the Program are either unnecessary or excessive. In this regard, I refer to:
- (a) the Standard Guidelines, which require that prisoners placed in segregation for the good order of the prison be managed under the least restrictive conditions consistent with the reason for their placement (Guideline 1.77) and
 - (b) the Western Australian Inspector's Code which provides that isolation, restrictive movement controls and sensory deprivation must not be used with prisoners in high security management schemes for extended periods beyond specific punishments (see paragraph 222(b)(i) above).
368. Given the importance to prisoners of the little contact they are able to have with families and loved ones it seems to me that the altering of walk times, which can effectively prevent some of that contact taking place, is something that could be avoided by more active management. It also seems to me that requiring prisoners on Stage A to be manacled during visits, especially non-contact visits, should not ordinarily be necessary for the order of the unit.
369. Of particular concern to me, in this day and age, is the limited amount of time prisoners accommodated in the unit are allowed out of their cells.
370. In this regard, there is an important distinction to be drawn between out of cell time and time in the open air. For example, s 29(1)(a) of the *Corrections Act 1997* provides that prisoners not engaged in outside work are to be in the open air for at least one hour a day - if the facilities are suitable to allow this to occur – but there is no legislative provision relating to out of cell time. On the other hand, HMIP's criteria for time out of cells require generally that prisoners spend at least 10 hours out of their cells on weekdays (except in exceptional circumstances) while also providing that prisoners, including those in health services and segregation, are given the opportunity for at least one hour of exercise in the open air every day.
371. In relation to open air and exercise, Dr Coyle, citing the UNSMR, has said:

*The minimum recommended time in the fresh air is one hour each day. During this period prisoners should be able to walk about in relatively large areas and should also, if at all possible, be able to see natural growth and vegetation. The practice ... of placing ... prisoners into small walled yards which are in effect cells without roofs for an hour each day does not satisfy the obligation to give the opportunity to exercise in the open air.*³¹

372. The exercise yards in Tamar are at best marginal by the above criteria.



The larger of the two exercise yards in Tamar

373. Both Mr Salway and Ms Maxfield said that the physical design of the unit made it difficult to allow any more time out of cells than is provided for in the model. Ms Maxfield was of the view that prisoners should be able to be out of their cells all day but that this was not possible in Tamar for a variety of reasons, not the least being the unit's size and 'association issues' between particular prisoners. These association issues pose continuing difficulties when it comes to accommodation options, not just in Tamar but in all the prison's maximum security units. Ms Maxfield gave the following example:

Prisoner N came into custody the other day so they tried to send him to me. So I said, "Right. Can't go to B. Can't go to A because Prisoner E and Prisoner G are there. Can't go to Tamar. You wouldn't put him in Tamar anyway because he doesn't meet it. Can't go to Huon because Prisoner B is in there because he's asked for a break, so you've him there and Prisoner O there. He doesn't fit Mersey so I can't have him. You're going to have to keep him".

³¹ Op. cit. at note 1, above, page 47.

374. Tamar has eight cells, four of which are located at the eastern end of the unit and have controlled access to the smaller of the secure open-air yards with security camera. They are separated from a further four cells by an internal partition and doorway. These additional cells have controlled access to a communal dining and lounge area with a television and security camera.



Cells at the eastern end of the unit and entrance to smaller yard.

375. The second secure open-air yard, much larger than the one already referred to and again with a security camera, is accessible from the communal dayroom, as are a non-contact visit booth and a servery. It also has two consultant/interview rooms facing onto the day room and shares an interview room with the Franklin Unit with which it is conjoined. The officer station is enclosed for added security. Passageways within the unit also have security cameras.



Common area, showing doors to interview rooms

376. Access to Tamar is via the RPC secure walkway, which is controlled from within the unit between 7:00 am and 5:00 pm each day. After hours access/egress is controlled from the operations movement

control station located in the central operations building of the prison or the Master Control Room³². There are no custodial officers present in the unit at lunchtimes or after hours as all prisoners are locked in their cells during these times.



A typical Tamar cell

377. What strikes one on entering the unit is its comparative smallness. The cells are compact, the open areas are limited and the exercise areas are grim and featureless. Ms Maxfield said, when referring to the program and the physical structure of the Unit:

I feel let down by that building, but we don't have anywhere else for them. That building was actually more for, I think it was more for disabilities, can't remember exactly what it was built for but this is just not good, the building that it's in.

I mean, yes it's nice and modern, it has air conditioning and it has all that, but it's not big enough to be able to have them out. Once you have it full, you can't have them out all day.

378. Mr Salway said about the Unit:

It was set up more towards a therapeutic community from an architectural point of view. That is, inmates who can pretty much associate in all the spaces. Given that we only have two yards and one common area, it's ... and what we need from a security point of view to protect staff from any more than two inmates in the one place at the one time, we have to juggle the spaces and part of that juggling is to restrict inmates their time out of cell and to tie

³² Description of unit taken largely from the Operating Model, p. 9.

time out of cell to the behaviour management levels, which is not ideal.

379. Both Ms Maxfield and Mr Salway referred to the facilities for housing difficult prisoners at the Goulburn Correctional Centre in NSW (where Mr Salway has worked and of which Ms Maxfield has some knowledge) as being the preference for such units. The Goulburn design, as described by Mr Salway and Ms Maxfield and confirmed on my visit to that facility, provides for a yard at the rear of each cell so that prisoners have access to an open area at all times from unlock in the morning to lock down at night. This arrangement, Mr Salway said, means that:

... you could then rationalise the other spaces in a kind of rotating basis so that you can allow association with somebody else in the yard, but when you go back to your cell, you still have access to a yard – and sometimes even a shared yard – on the back of cells.

380. The Director did not share the regard held by Mr Salway and Ms Maxfield for the Goulburn facility and its operating model. He favoured the facility at Barwon Prison in Victoria, which he said is more open, and has bigger internal exercise areas and day rooms, all of which provide more options in relation to such things as out of cell time. In his view, Barwon provided a higher level of security than usual, with restrictions on movements and access, but also provided a more relaxed environment. He expressed the view that, in the main, Barwon had better case management and interaction between prisoners and staff than at Goulburn.

Facilities in Other States

381. As I have already indicated, I have had the benefit of visiting the High Risk Management Unit (HRMU) at Goulburn, the Special Handling Unit (SHU) at Casuarina Prison in Western Australia and the Acacia and Melaleuca units at the maximum security prison at Barwon. The purpose of visiting these facilities was to view the physical structures of the units used in other jurisdictions for the restrictive containment of the most difficult and dangerous prisoners, and to see how these units operate. Each has its own operating model, but all are based to a greater or lesser extent on behaviour modification and/or management through the application of incentives and earned privileges.
382. Fortunately, Tasmania does not, or does not yet have the sort of prisoner that these interstate units are used to hold. Those in such units have been described as ‘the worst of the worst’; prisoners whose behaviour within the prison system or whose crimes and notoriety, coupled with the significant continuing risk they pose to others, mean that they will serve their entire sentence, and in some cases live out the rest of their lives, without leaving their high security environment.

383. Goulburn's HRMU houses such prisoners as Ivan Milat who committed the Belanglo State Forest backpacker murders, the political assassin Ngo Canh Phuong and multiple murderer Michael Kanaan. Acacia is home to Julian Knight, perpetrator of the Hoddle Street Massacre, and Hugo Rich (formerly Olaf Dietrich) a convicted armed robber and murderer. It is also where Carl Williams, the 'gangland' murderer was imprisoned until recently slain. The SHU houses serial violent sex offender, Paul Keating.
384. In addition, Tasmania does not have the same problems as other States with 'bikie' and ethnic gangs, members of which form a substantial percentage of the populations in the three prisons referred to and whose management poses significant challenges. Association issues in Tasmania can be mainly attributed to a division between the north and south of the State, and genuinely psychopathic prisoners are rare, though not unheard of.
385. However, while a prisoner's placement in one of the high risk management units referred to might be of long duration (though that is not always the case, especially in the SHU) the regimes to which they are subject, their conditions of confinement in terms of the restrictions placed upon them, their movements, and their interactions with others are all similar. The big difference, with the exception of Melaleuca, is that they were purpose-built for the function they fulfil and they are able to maintain a higher than usual level of security and control with a less restrictive day to day environment than is the case with Tamar. Though not purpose-built, the architecture of Melaleuca achieves the same result.
386. For the sake of completeness, I now describe the three interstate high risk management units in more detail.

The HRMU at Goulburn

387. The Goulburn Correctional Centre is situated on the outskirts of the township of Goulburn, and is a mix of the very old and the comparatively new. The main prison building dates from the 19th century, a Jeremy Bentham design with radiating double storey cell blocks. Each block has a separate yard enclosed by steel bars where prisoners are able to associate and walk with others.
388. The HRMU is a 75 bed high security unit and is completely separate from the main prison. It sits outside the old stone perimeter wall of the main prison inside a wall of its own. It is a sealed unit. Access is through a large locked double gate leading to an open area around the unit which is separated from the external wall by the 'rocky road'; a path of deep, stone gravel designed to impede the progress of any prisoner who might have been able to breach the unit.
389. As might be expected, all persons entering the prison are required to pass through a metal detector, but those entering the HRMU, including

correctional officers, are again scanned for metal objects. The same procedure is applied at Tamar.

390. On entering the unit, one comes first to the central control area, where officers monitor the numerous security cameras. There are two spines leading from the central area and cell blocks are located at the end of each. There is a hallway around which the cells are located, with an officers' station at its core. The cells themselves are separated from the hallway by walls with large transparent sections and security doors. Each cell contains a secure day room, the cell itself and a caged outdoor area open to the sky. Cells are either single or double, and in the latter case the two occupants share the day room but have separate cells and outdoor areas. Appendix H is a rough representation, not to scale, of the layout of a double cell.
391. Doors between the day room and the cell itself, and from there to the outdoor area, are opened in the morning and remain opened until evening lockdown. Thus, even if a prisoner does not leave his cell, he still has access to sunlight and fresh air. Prisoners in double cells are able to freely associate with the prisoner in the adjacent cell, and officers are able to monitor what happens in the day room. Those who have reached the appropriate level have access to programs and to other outside areas, including a running track.
392. Associations between prisoners are carefully managed. No more than two prisoners are able to associate at any one time; the associations are carefully chosen and monitored, and the combinations of prisoners who live together in double cells change constantly. Prisoners also do not live in the same cell for long before being moved.
393. Movements within the unit are strictly controlled. Prisoners have their hands and feet shackled when they are being moved, and are accompanied by at least four officers. A prisoner is never left in the company of a single officer.

Barwon Prison

394. As with the HRMU at Goulburn, the Acacia unit is something of a 'prison within a prison'. Unlike Goulburn however, the whole facility at Barwon is comparatively new, at 20 years old. It is located on the Western Plains near Lara, 70 kilometres from the city of Melbourne.
395. The Acacia unit was designed to serve the function previously fulfilled by Jika Jika at Pentridge Gaol, a highly secure, high technology unit which was closed following the deaths of several prisoners in a fire in 1987. In its turn, Jika Jika replaced the old H Division. Acacia accommodates prisoners with a history of escaping and others deemed to be a high security risk, including prisoners convicted of major crimes, such as 'gangland' crimes, and those remanded on or convicted of terrorism related offences. It is also used for the short term (up to 30

days) placement of prisoners segregated from the mainstream population for the good order, management and security of the prison.

396. Acacia is Victoria's high security unit but there are also two management units, Banksia at Barwon and Charlotte at the Port Phillip Prison. Banksia and Charlotte house prisoners separated from the mainstream for good order reasons, including prisoners suspected of prison offences where an investigation is pending, and those with placement issues. Both can accommodate long-term management prisoners.
397. By early 2007, all three of these units were operating at full capacity and the inability to transfer prisoners involved in serious incidents within the prison system was creating tension in other maximum security facilities. As a result, the Grevillea Unit at Barwon was redeveloped and is now the Melaleuca Unit. It has 27 beds and is used as an additional high security and management unit. Melaleuca, while being able to accommodate prisoners with the highest security rating, also offers an enhanced physical environment and more opportunities in terms of programs and activities.
398. Acacia has 23 beds and an additional observation cell which is used only for the very short term detention of prisoners whose behaviour is posing a risk to themselves. The observation cell has only minimal furnishings, all hanging points have been removed and a camera allows officers to monitor the progress and condition of any prisoner placed there.
399. Security on entering the prison itself is very high, and not dissimilar to that at the HRMU at Goulburn. Before moving through the metal detector, entrants must surrender mobile 'phones and any other possessions. Shoes and belts are removed before passing through the detector and, having done so, entrants are again scanned with a wand and are also required to turn out their pockets. A similar process is followed once more when entering Acacia; shoes and belts are removed, entrants pass through a detector and undergo a second scanning with a wand. They are also subjected to a 'pat down' search.
400. Acacia is divided into four internal units: Unit 1 contains six cells; Unit 2 contains 10 cells; Unit 3 contains four cells; and Unit 4 four cells. The internal units all have their own exercise areas:
 - (a) Units 1 and 2 have a dayroom and two exercise yards;
 - (b) Unit 3 has a dayroom and grassed outdoor area; and
 - (c) the cells in Unit 4 are of similar design to those at Goulburn described above.
401. The dayrooms in Units 1 and 2 are large and clear walled so that prisoners in the dayroom can see out and be seen at all times. On one

side of the dayrooms are the cells; on the other are the exercise yards. Though high walled and offering no view of the environment outside the unit, the yards are nonetheless open to the sun and air. The grassed area in Unit 3 is large enough to contain a running track.

402. Most prisoners in the unit have a minimum of six hours each day out of their cells. If they are subject to a loss of privileges, this might be reduced to no less than two hours out of cell.
403. Associations between prisoners are closely managed here also. No more than three prisoners are allowed to associate at any one time, except that all of the prisoners in Unit 4 will usually be allowed out together. That unit is used as a 'step-down' facility, preparing prisoners for release into the mainstream prison environment.
404. Melaleuca is structured differently, but like Acacia has a number of yards and outdoor areas where prisoners are able to spend time out of their cells, in association with others or on their own. There are 17 separate areas where prisoners can be held out of cell, allowing a great deal of flexibility. As with Acacia, prisoners will usually spend six hours a day out of their cells.

The Special Handling Unit at Casuarina

405. Casuarina is a maximum security prison located 35 kilometres south of Perth. It sits on approximately 35 hectares surrounded by two high razor wire fences. Inside the perimeter are a number of separate enclosures containing single and double storey buildings.
406. The prison has three specialist units: the Special Handling Unit (SHU); the Multi-Purpose Unit (MPU) and the Special Purpose Unit (SPU). The SPU is used to accommodate prisoners who need protection, particularly former prison and police officers. The MPU is used for the segregation of prisoners for reasons of 'behaviour modification'. Placement in the MPU is for a finite period on short term regimes only, no longer than seven days. If the regime in the MPU has not had the desired effect within that time, the prisoner is moved to the SHU.
407. The SHU is used to house prisoners who need to be moved out of the mainstream population, including prisoners undergoing punishment, and prisoners who have committed – or who have demonstrated an intention to commit – serious offences and who are considered to pose a threat to the prison system. The types of offences that will result in the movement of a prisoner to the SHU include:
 - Abduction and hostage taking
 - Serious incidents of violence within the prison system
 - Possession of firearms, ammunition or explosives

- Incitement or conspiracy to kill or seriously injure a staff member or another prisoner
 - Escape or attempted escape with violence
 - Serious threats to the good order of a prison
408. The SHU has 16 beds in two separate wings of eight beds each; the E (east) Wing and the W (west) Wing. The wings are separated by a wall which runs northward from a central officers' station which has windows overlooking both wings. Each wing has a common area with television, a well equipped kitchen and an exercise yard of approximately 10 square metres containing a good range of exercise equipment.
409. Prisoners in the SHU spend their day out of cell. They are able to use the common area, the kitchen and the enclosed exercise yard, which is open to the sun while affording some shade, and where plants can be grown.
410. All SHU prisoners are actively case managed, with a view to rehabilitation; they have an 'exit plan'. A medical worker and a psychologist attend the unit every day. Prisoners in the unit have access to education, but no industry. The regime is comparatively relaxed and has been for approximately two years. Prior to that, it was more restrictive but a number of behavioural problems, including self-harm and violence led to a reconsideration of the way in which the unit should be run and there have been no instances of self-harm in the last 18 months.
411. The unit is staffed by specialised staff who choose to work there. They rotate back and forth between the SHU, but are moved out into mainstream after two such rotations; that is, after two years. Moving staff out is gradual and only one new officer is introduced at any one time to enable them to be trained by existing staff.

Conclusion

412. Though the operating models for the various interstate units referred to have their similarities with the BMP, there are also significant differences. The increased options available for out of cell time, protective segregation and so on mean that while movements within the units remain tightly controlled, a prisoner's day is not subject to the same strictures as is the case with prisoners in Tamar. This is because the units are designed for the function they serve, and for the sort of prisoners they house. To a very high degree, the models under which they operate are driven by the available infrastructure. The same is true for Tamar.
413. It seems to me to be clear enough that the physical characteristics of Tamar contribute significantly to the security components adopted in

the operating model under which it is run. The custodial processes involved in moving prisoners around the unit and the limited times during which they are out of their cells are in large part felt necessary because of the unit's architecture.

414. It also seems clear enough that insufficient thought was given to the requirements of a unit such as Tamar and for conducting a program such as the BMP at the time the design of the prison was under consideration. Units serving the function that Tamar does should ideally be designed with their purpose in mind, and there were several existing models to choose from at the time the RPC was designed and built. What happened however, was that second best was taken from the plan after the event. If the space was adequate, the regime could be a lot less restrictive than it currently is without compromising security.
415. I note in this regard that HMIP criteria in relation to segregation include criterion 23, which requires that the design and build of a segregation unit be suitable for its purpose and offer well maintained facilities. Tamar complies only with the second limb of this criterion.
416. At interview, the Director agreed that Tamar was not the right location for a behaviour management program, but pointed out that there is nowhere else within the Tasmanian prison system to hold and manage the types of prisoner held there. More than that, he emphasised that the mainland states have much larger prison systems, enabling prison management to move prisoners around the system to address behavioural issues. Tasmania has essentially one prison, and therefore no flexibility.
417. This problem becomes acutely obvious in relation to prisoners who require protection. Many of these prisoners are presently held at the Hobart Reception Prison, adjacent to the Magistrates' Court in Hobart, where the facilities are totally inadequate for long-term accommodation.
418. This lack of flexibility may be assuaged to a degree by arrangements which are currently under negotiation between prison authorities in Australia, whereby it will be possible for prisoners to be moved between jurisdictions for prison management purposes. But the problem will not be solved. It will not always be practical, appropriate or humane to simply remove a problem prisoner from the system and transport him to another state.
419. Acknowledging then that a unit such as Tamar is a necessary part of the prison's infrastructure, the question as to what can now be done to address its existing deficiencies is a difficult one to answer. Amendment of the model may offer a partial solution, but the real solution in my view, would be to start from scratch and build a new unit.

420. I am only too conscious of the resourcing issues this would involve, and that it might not be achievable in the short term. I remain convinced however, that it is the only way to attain compliance with relevant standards and international best practice.
421. In this regard, I note that Stage D of the Prisons Infrastructure Redevelopment Project is yet to be completed. As noted at paragraph 67 above, Stage D includes, amongst other things, the construction of minimum security units and a further maximum security unit and I understand that some funding will be available in the 2010/11 and 2011/12 financials year with construction to commence in the financial year following. As was the case with the development of the new prison, the amount of funding that will be available over the whole stage is considerably less than estimates of the amount necessary to complete the project as planned.
422. The plan in relation to the proposed new maximum security unit, as I understand it, was originally for a unit of 52 to 56 beds divided into two 'pods' each containing the same number of beds. Again the plan was based on the Queensland model.
423. According to the Director, current prisoner numbers are comparatively low, and certainly less than had been projected. (This was confirmed by Mr Williams.) That being the case, a further maximum unit of 52 beds might not be the preferred option. At interview the Director stated that he could see no reason why the proposed new unit could not be reconfigured to provide for one pod of 30 mainstream maximum beds, with two smaller pods of 10 to 12 beds specially designed to cater for dangerous, non-compliant or difficult to manage prisoners. The reason for suggesting smaller secure pods for those prisoners is that compatibility of occupants is more readily achieved in smaller units.
424. Even were there to be a sudden increase in the number of prisoners coming into the system, the Director was of the view that TPS would cope. He advised me that there is at present one full unit of 28 beds in the medium security precinct that is not being used and that there is still good capacity in the minimum security prison and the at the Hayes Prison Farm.
425. If the new unit were to be constructed as suggested by the Director, the long periods of segregation which are currently the norm in Tamar would no longer be necessary. Purpose-built pods would allow for a greater degree of association and out of cell time than the design of Tamar permits, and the Director envisaged that the environment in the sort of unit he suggests would be more like the environment that existed in Tamar prior to the arrival of Mr Salway and the dramatic implementation of the model. It would still be a high security area, but there would be fewer restrictions on daily life.
426. Added benefits of adopting the Director's suggestion would be that Tamar could revert to the therapeutic community model it was originally

intended to operate under, and the Mersey Unit could become the protection unit that it was intended to be.

427. There is great merit in the Director's suggestion and if it was adopted many of the concerns arising from this review would be addressed. However this would still mean that the BMP would continue to operate in Tamar for at least another two years.

G. THE LACK OF PROGRAMS AND STIMULATING ACTIVITY

The Complaint

428. All prisoners interviewed by my staff said that the regime in Tamar is boring and 'soul destroying'. Certainly for those at Stage A, there is almost literally nothing to do whilst in cell other than watch television. Those with greater out-of-cell time, such as those on Stage C, have opportunities to play board games (if another prisoner is available to play them with) but otherwise very little opportunity to do anything stimulating or useful.

Discussion

429. The operating model provides that the maximum security structured day applies to Tamar and paragraph 7 of the model contains a table setting out that structured day. The table includes wake up time, shift handover, unit cleaning duties, lunch lock down and exercise times and otherwise refers to such things as:

- diabetic clinic;
- prisoner processing for court; and
- Hobart and Launceston Video links;

giving the times during which these are to take place. Such things do not happen regularly however, and no alternative activity is provided for in the various time slots.

430. A day in the life of a Tamar prisoner was described by one of those prisoners as follows. The day starts at 7.30am, when the milk for breakfast is delivered to prisoners in their cells, the breakfast pack containing cereal and bread is delivered with dinner the day before.
431. If the prisoner is on Stage C he is likely to be let out for his three hours of exercise between 8.00am and 11.00am, during which time he has to allocate 20 minutes to cleaning his cell. The balance of the time is most likely spent in one of the exercise yards, one of which has inbuilt chin-up bars, where the prisoner can use the telephone and depending

on association issues and contract levels of other prisoners, may be able to exercise with someone else.

432. Prisoners on Stage A have one hour of out-of-cell time and no association with other prisoners. Those on Stage B have two hours and are allowed to associate with one other prisoner at a time. Stage A prisoners have cleaning materials passed through the hatch in the cell door so that they can clean and mop their cell outside of their exercise time.
433. The prisoner returns to his cell after his allotted exercise period and is locked down for the rest of the day. It is not uncommon for a prisoner to exercise in the morning on one day and then not be let out for exercise again until the following afternoon at 1.00pm, meaning that he is locked in his cell for a continuous period of 26 hours. Staff shortages and training exercises may also interfere with exercise times and can result in the unit being locked down for the entire day.
434. Lunch is delivered at 11.30am and usually consists of cold food such as sandwiches. In-cell time is most often spent watching television, or playing video games if the prisoner is at a contract stage which allows him to have a games console. If a prisoner is taking part in an education program, he may work on that in his cell. He may have five to ten minutes out of cell per week to talk to the High Needs Counsellor. In general, the boredom is extremely oppressive, with nothing to stimulate the prisoners other than hours and hours of television.
435. Dinner is delivered at 4.30pm and, being a hot meal, has to be eaten at that time if the prisoners want it to be warm. There is a period of fifteen hours between the afternoon meal and breakfast and prisoners have complained of being so hungry that it interferes with their sleep. After dinner, prisoners remain in their cells until the next day, again with nothing to do but watch television.
436. Mr Salway and Ms Maxfield acknowledged that there were no programs or industry available to prisoners in Tamar. Mr Salway referred to the desirability of having programs which might be individually targeted to prisoners' criminogenic needs, but blamed a lack of resources for there being no such programs available to Tamar residents. He said:

... probably one of the disappointing aspects of running Tamar, is that the lack of resources that can be applied in a program sense.

437. Mr Salway was referring in particular to human resources. The sorts of programs he was alluding to are very intensive and usually involve one program officer to each prisoner, focused as they are on the individual prisoner's needs. He said that the Integrated Offender Management Unit was not adequately resourced to provide such programs.

438. Ms Maxfield expressed her disappointment about the lack of specialised programs too, but also referred to programs and activities in a broader sense, where the architecture's influence over the manner in which the unit operates is once more a factor. It means that group programs and activities cannot be offered and options for education and training are limited.
439. According to Ms Maxfield, improvements are continually being made to the delivery of educational programs for prisoners in the unit but the availability of such programs remains limited at the present time.
440. As noted above, prisoners spend a considerable amount of time in their cells, where all there is by way of distraction is television. Prisoner B described the situation:

There's nothing to do. All sitting in our cells, it's not good for your head.

441. This raises another important issue, and that is the emotional and mental stress occasioned to prisoners by the strictures of their incarceration whilst in Tamar. My officers were told by psychological and general health staff, as well as by several prisoners, that mental and emotional stress caused by the regime is a genuine problem. It would, indeed, be surprising if it were not. As one prisoner put it:

Like I can't understand why – they can't understand – like you get out of gaol and you're supposed to be on the road to be rehabilitated, like them places ... you'll never be the same again, like when you get out because your head just goes to places where other peoples haven't been like, because it goes into a mental stage... There's days where you don't want to pick the 'phone up because you don't know what to say.

Conclusion

442. There is a rich literature indicating the deleterious impact of sensory deprivation and confinement for long periods, and it is not necessary to go through this in detail to accept the broad conclusion that in all likelihood there will have been such an impact upon some of the prisoners held in Tamar.
443. Staff from Correctional Health Services, which is part of the Department of Health & Human Services, are of the view that TPS should bring all Tamar prisoners to the clinic on a regular basis for medical review so that their physical and mental health can be monitored. This would provide some kind of safeguard against prisoners suffering serious psychological or physical effects as a result of the regime in Tamar.

444. Tamar is not compliant with HMIP's criteria, which require that prisoners who are placed in segregation be provided with activities to occupy them in their cells and that, if segregation continues for more than 30 days, a care plan is to be put in place to prevent psychological deterioration. Nor is it compliant with the Western Australian criteria for security management schemes, which provide that care should be taken to ensure that prisoners' mental health and wellbeing is maintained through the provision of a suitable range of constructive activities, work, education and visits. This is again, at least in part, a result of the unit's architecture, but also raises resourcing issues.
445. More fundamentally, the degree of segregation that occurs in the management of Tamar, and the lack of anything worthwhile for prisoners to do whilst locked down for such long periods, leads me to the conclusion that the operation of the unit fails to comply with the principles in the ICCPR which I have listed in paragraph 208 of this report. Such treatment does not reflect respect for the inherent dignity of the prisoners. Nor does it reflect any aim towards their reform or rehabilitation.
446. An important consideration here is that of rehabilitation – not overall rehabilitation, but just sufficient rehabilitation to enable prisoners in the unit to return to the mainstream population.
447. There is also the need for 'habilitation', as Dr Crawshaw described it. It is Dr Crawshaw's experience, and this was borne out by information obtained during the course of this review, and by my own observation of the various facilities I have visited, that a significant cohort of prisoners has never learned pro-social behaviours. For many prisoners in such units, it is not a question of returning them to a point where they are able to rejoin the general prison population, or the community for that matter. It is often a case of having to work at developing social skills from scratch, not only addressing behavioural problems but also dealing with illiteracy, innumeracy, and other aspects of social disadvantage which mean that many of these prisoners lack the personal resources needed to respond appropriately to the situations in which they find themselves.
448. As Dr Crawshaw put it:

If we want to reduce [the] recidivism rate, and this of course is the whole thing around Breaking the Cycle³³ ...

³³ Breaking the Cycle is a Government initiative described as follows on the Department of Justice web page:

"In 2009 the Tasmanian Minister for Corrections and Consumer Protection announced the development of a strategic vision for corrections in Tasmania over the next ten years – the Breaking the Cycle: Tasmanian Corrections Plan (2010-2020). The goal of the Breaking the Cycle Plan is to promote the ongoing safety of the Tasmanian community by providing a safe, secure, humane and effective correctional system. It will include both prisons and community corrections, and will also consider the role of alternative sentencing options."

it's how do you actually re-characterise the philosophy within Corrections so we actually start to change behaviours in such a way as they [the prisoners] can be reintegrated and reduce the recidivism rate, reduce the rate of harm to the community.

CONCLUSION

A. SUMMARY

449. It is appropriate now to refer back to the Terms of Reference for this review of the Tamar Unit and the BMP, which are:

To review the manner in which the Tamar Unit in the Risdon Prison Complex and its associated Behaviour Management Program are being managed. In particular the management of that Unit and the program will be reviewed against –

- *the requirements of the Corrections Act 1997 and the Corrections Regulations 2008;*
- *international human rights standards;*
- *best practice standards of prison management.*

450. My investigation leads me to conclude that Tamar and the BMP do not fare well in terms of compliance with local legislation, with international and other standards or with best practice.

451. As earlier stated, the management of Tamar as described and considered in detail in this report is in my view inconsistent with the principles contained in the ICCPR – one of the most fundamental of all human rights instruments and part of the so-called International Bill of Rights - particularly in relation to the degree of prisoner segregation and the lack of stimulation or programs. Aside from the inhumanity of this, there is the practical absurdity of a situation where prisoners held in the unit on a long term basis could potentially be released from an environment of 23 hours a day of segregation directly back into the community without any attempt at reformation or social rehabilitation.

452. At present there are insufficient legislative checks and balances in relation to extreme methods of incarceration such as the BMP. Too much power resides in the Director, and there should be a statutory mechanism for the objective review of decisions of the Director to place a prisoner on the BMP and to maintain such a placement. In saying this, I do not mean to suggest that the Director has exercised any of his powers improperly.

453. I acknowledge again that things have changed since this review commenced. In particular, there are no longer any long-term residents of Tamar. My office is not now receiving the kinds of complaint that led to the review being undertaken, and this is perhaps indicative of a change of approach on the part of TPS management.

454. I remain concerned however, that a lack of formal process and a high level of discretion on the part of management and the Director means

that there is nothing to prevent the problems which have arisen in the unit from arising again. Those problems were in part occasioned by a lack of consistency and objectivity; some misunderstanding as to the role of a unit like Tamar and of programs like the BMP; and a perceived and actual lack of procedural fairness.

455. The principal concerns that have arisen from this review are the lack of therapeutic interventions available through the BMP and in Tamar, as well as inconsistencies and a lack of transparency in the practical implementation of the BMP. The lack of meaningful activity and useful therapeutic programs for prisoners on the BMP has subverted the original good intentions, leaving a high security containment model that offers little or nothing in the way of rehabilitation. This is not in accordance with best practice or acceptable methods of modern prison management.
456. As mentioned, there seems to have been some misunderstanding as to the role of a unit such as Tamar and as a result of my review I have come to question whether decisions to place prisoners in Tamar are always made for the right reasons. To be specific -
- (a) Some of the behaviours that landed prisoners in Tamar could, in my view, have been dealt with by way of formal disciplinary procedures, rather than by subjecting prisoners to the comparatively harsh conditions of the BMP for the not inconsiderable time that it takes to complete the program.
 - (b) It is not unreasonable to suggest on the material available to me, especially in the absence of any therapeutic or rehabilitative programs, that the unit has been used for regulated punishment and discipline rather than behaviour management and/or modification.
 - (c) It is also not unreasonable to suggest that the unit is sometimes used to house difficult prisoners, not because it is thought they will benefit from the BMP, but because of the architectural limitations of the prison.
 - (d) The unit has also been used as a place where dangerous prisoners can be segregated from the general prison population in circumstances where their completion of the program has little or no relevance to the amount of time they will remain there.
457. This only serves to amplify the need for legislated procedures and criteria for placing and maintaining a prisoner on the BMP or otherwise in segregated custody (as exist in New South Wales) in the interests of fairness and objectivity. The current lack of certainty of process has led to a perceived, if not actual, arbitrariness in the way that different prisoners have been managed.

B. PARTICULAR ISSUES

A Lack of Formal Process in Relation to the Placement of Prisoners in the Unit and on the Program, and in Relation to the Duration of That Placement.

458. I have already expressed my concern about the poor and inadequate standard of TPS record keeping generally (see paragraph 253ff above) and in particular about the failure to adequately record the reasons for a prisoner's placement in the unit. While it might be safely assumed that some prisoners are aware of the reason for their placement, this should not be a matter of assumption but of record.
459. In this regard, the program is clearly not compliant with relevant guidelines and standards in relation to segregation which, for the reasons outlined at paragraph 260ff above, are relevant to Tamar and its operation. For example:
- (a) Standard Guideline 1.79 requires that a prisoner should be informed verbally and in writing of the reason(s) for the segregation and the period of the segregation placement; and
 - (b) HMIP's criteria require prisoners to be informed of the reason for their segregation in writing.
460. The operating model requires that the TPS be able to demonstrate that decisions regarding placement on the BMP are "well informed and based on sound judgement. Decisions must be reasonable, fair, transparent and fully documented." (Paragraph 12.2) Records inspected by my staff indicated that this part of the model is honoured more in the breach than the observance, making independent scrutiny of decisions difficult, if not impossible.
461. The lack of an adequate record of the reasons for a placement on the BMP is not only non-compliant with relevant standards and guidelines, it is non-compliant with the model itself.
462. Prisoners need to be informed in writing and orally of the reasons for their placement, including the particular conduct/behaviour that led to this action being taken. It should also be clear from a prisoner's file how that prisoner has been managed; what decisions have been made about his accommodation and about the conditions to which he is to be subject, and who made those decisions and why. Otherwise, there is little or no accountability and transparency, and the potential for internal audit and external scrutiny is greatly compromised.
463. The model also requires that staff making decisions relating to a prisoner's entry to and progress through the program "apply the principles of good decision making". These are not defined, but staff are directed to the *Judicial Review Act 2000 Training Package* developed by the Department of Justice for guidance. Quite apart from the fact that the *Judicial Review Act 2000* has no application to decisions made pursuant to the model, there is nothing to indicate that

the package is readily available to staff, and merely referring to it is not sufficient. That principles of good decision making are not uniformly adopted is evident from the files themselves.

Lack of Information Regarding How Long a Placement on the Program Will Last

464. The rule of thumb seems to be that a standard placement will last for six months, and while this is apparently general knowledge, it is not formalised in any way. Standard Guideline 1.79 requires that prisoners who are to be segregated should be advised verbally and in writing how long their segregation placement will last. The BMP is clearly not compliant.
465. As I have noted at paragraph 305 above, the very nature of the BMP dictates that the amount of time a prisoner remains on it should be finite. Indeed, the expectation of a finite time on the program is an incentive in itself whilst on the other hand, lack of certainty is a distinct disincentive. That a perceived 'level of dangerousness' has the potential to distort and subvert the program is entirely antithetical to its aims and objectives and is not a notion that has any place in the BMP.

Lack of Information as to the Standard of Behaviour Required

466. Though several officers denied any suggestion that prisoners were not made aware of what was required of them, it remains the case that a prisoner's induction into the unit is verbal and while a copy of the Hierarchy of Privileges and Sanctions might be placed with other documents on the outside of cell doors, no written outline of expected behaviours is given to prisoners and they do not seem to have any access to the balance of the operating model.
467. Relevant provisions, standards and guidelines in this regard include:
- (a) s 29(p) of the Act, which confers on prisoners the right to be provided with information about the rules and conditions which will govern their behaviour in custody;
 - (b) Standard Guideline 1.46, which provides that the behaviour required of prisoners should be made clear and be available on reception in a prisoner's written code of conduct that is clear and concise;
 - (c) HMIP criteria for incentives and earned privileges schemes, which include the following:
 - (i) that schemes be well publicised, designed to improve behaviour and applied fairly, transparently and consistently; and

- (ii) staff and prisoners are clear about the scheme and its criteria for promotion and demotion.
- 468. The manner in which Tamar currently functions does not comply with any of the above, and this only compounds the uncertainty and lack of transparency that are unfortunate characteristics of its operation.
- 469. There appears generally to be a culture within TPS of providing as little information as possible about its policies, procedures and practices, which creates an atmosphere of further uncertainty and a perception of unfairness amongst prisoners. Starting to embrace an approach that favours openness and transparency can only improve the accountability of the TPS, with the corollary of improving its standards and practices and making it a responsive and dynamic organisation.
- 470. In my view, copies of the model in its entirety should be readily available to both staff and prisoners, and there should also be a form of plain English user's guide. That prisoners inclined to the practice of bush law might seek to promulgate an interpretation of the model that best suits them is not a relevant consideration, and in any event, such prisoners would be more readily confounded were the model generally, and its aims, objectives and requirements specifically, more widely publicised and better understood.

Inconsistency in the Operation of the Model

- 471. It is vitally important that a program such as the BMP be administered fairly and consistently, and so much is recognised by HMIP's criteria. That there is an element of inconsistency in the way the BMP has been operating is substantiated by the material gathered during my review, and this is far from satisfactory, let alone best practice.

The Conduct of Reviews

- 472. I have commented to the effect that prisoners have not been afforded procedural fairness in relation to reviews, put simply because they are not notified before a review takes place of the behaviours that will be relied upon to make a decision in relation to their status within the program and given the opportunity to respond (see paragraphs 354-358 above).
- 473. I have also noted at paragraphs 181(d) above, that the model was amended following an internal review of its operation in 2007 to include a requirement that where a sanction is likely to be applied, the prisoner is warned in writing beforehand and given the opportunity to modify his behaviour. This has not been happening either, and Tamar is thus not compliant with best practice or its own operating model.
- 474. The conduct of reviews has been an ongoing issue, with Mr Blue identifying problems in this regard as part of his 2007 review as referred to in paragraphs 176 and 177 above. At that time reviews

were not always taking place and as I have already commented, this was a significant compliance failure. It is of considerable concern that even after Mr Blue's findings and recommendations, my staff found examples of occasions when scheduled reviews had simply not taken place. This is not acceptable.

The Restrictive Nature of Some Sanctions and the Lack of Programs and Stimulating Activity.

- 475. The physical architecture of the unit contributes significantly to the severity of the conditions to which prisoners on the BMP are subject and the lack of meaningful, useful or stimulating activities. In short, Tamar is not fit for the use to which it is being put.
- 476. I am firmly of the view that it is unacceptable to confine prisoners to their cells for 23 hours a day, no matter what their behaviours, and it is no answer to simply say that there are not the facilities to do anything else. I appreciate the resourcing issues involved but remain of the opinion that if a behaviour management unit is to be a part of the prison, and I accept that such a unit is required, it should be purpose designed and built.
- 477. The nature of the building and the current operation of the BMP are such that prisoners are unnecessarily confined, unable to engage in any meaningful activities and denied the benefits of programs of any kind, whether therapeutic or otherwise. In those circumstances, the regime in Tamar is not behaviour management but more like discipline. It is not compliant with relevant standards and, it seems to me, in its current guise and location and with its present level of resourcing can never be.
- 478. As long as Tamar continues to operate as it has been, there is cause to be concerned for the mental and emotional well being of the prisoners accommodated in it.

C. GENERAL COMPLIANCE

- 479. In this report, I have identified numerous specific breaches or instances of non-compliance with relevant standards and guidelines and best practice, as well as some instances of non-compliance with local legislation.
- 480. In relation to the Act, I have already referred to the fact that it does not contain any provisions regulating the placement of prisoners on the program or their effective segregation in the unit. I have also made comment in relation to the lack of compliance with s 29(p) of the Act which requires prisoners to be provided with information about the rules and conditions that will govern their behaviour in custody (see paragraphs 276-279 above).

481. Further, I am not satisfied that the operation of the unit complies with other, more fundamental provisions of the Act. Specifically -

- As I have noted, s 4(d) states that the powers conferred by the Act are to be exercised with proper regard to certain guiding principles. The guiding principle contained in s 4(c) is that “services and procedures should be fair, equitable and have due regard to personal and individual dignity and individuality as far as consistent with the need for appropriate levels of security and control.” I do not consider that the level of security applied in Tamar, which has an adverse impact on prisoners’ dignity and self-esteem – particularly when it comes to the movement of prisoners, conditions of visits and the degree of segregation – is entirely warranted.
- A further guiding principle, contained in s 4(d) is that “individuals are capable of change.” I am not satisfied that reliance on past history and a subjective assessment of ‘level of dangerousness’ to maintain a prisoner on the program after he has otherwise met all its requirements, in the absence of any other factor, pays sufficient regard to this principle.
- Another guiding principle contained in s 4(e) is that people subject to the Act “continue to be members of the community and should be assisted to become socially responsible”. The provision goes on to state that “demonstrated social responsibility should be rewarded with less intrusive control and intervention”. On its own, the simplistic carrot and stick model that is the Hierarchy of Privileges and Sanctions (which is at the heart of the BMP) is not calculated to teach social responsibility, especially given the inconsistent manner of its application. The situation is compounded by the lack of anything worthwhile for the prisoners in the unit to do in their long hours of segregation.

482. S 29(a) of the Act also deserves mention, although the operation of the unit does comply with its terms. This provision states that prisoners should be in the open air for at least one hour each day, but only “if the facilities of the prison are suitable for allowing the prisoner or detainee in the open air”.

483. As I have found, the architecture of Tamar is such that prisoners accommodated there are subject to more security strictures than would be necessary were the facility purpose-built as a BMP unit, and that their time out of cell is limited. Those on Stage A have only one hour out of their cells each day in total, and at best a prisoner accommodated in Tamar has the opportunity for three hours of yard time a day, the limit applicable to Stage C. The overriding problem is that whilst the yards at Tamar are open to the air, they are small, featureless and roofed over, and do not realistically provide the experience of being outside.

RECOMMENDATIONS

484. As I have said above (at paragraph 419 above), there is a limit to what can be done to address the problems which have arisen in Tamar without constructing a new facility that is designed to meet the requirements of the BMP, and my primary recommendation is that this should be done. I am satisfied that a facility such as Tamar is needed within the State's correctional system, but if we are going to have one, it must be humanely run. It is very difficult to do this within the physical constraints imposed by the current unit.
485. I recognise, of course, that this is an expensive recommendation to make, and that it may take some time to implement. But there are other things which can and should be expeditiously done to address the deficiencies that I have identified in this report.
486. My recommendations are as follows -

RECOMMENDATION 1

That consideration be given to including a purpose-built high risk and behavioural management unit in Stage D of the Prisons Infrastructure Redevelopment Project, with the unit being designed to provide the flexibility needed for adequate out of cell time, adequate exposure to sunlight and fresh air, access to programs and education and an appropriate level of association between prisoners.

RECOMMENDATION 2

That the *Corrections Act 1997* be amended to place controls around segregated detention whatever the reason for it - whether it be discipline, behavioural management, maintenance of good order, protection or problems arising from prison design. I recommend that consideration be given to including an independent review mechanism such as the one to be found in the *Crimes (Administration of Justice) Act 1999* (NSW).

RECOMMENDATION 3

That the Director of Corrective Services develop programs and activities specifically tailored to the requirements of the Tamar Unit, to ameliorate the effect upon the prisoners of the prolonged segregation which arises under the BMP, and to assist them to maintain good physical and mental health.

RECOMMENDATION 4

That the Director of Corrective Services review the Model and the operation of Tamar with the specific purpose of assessing whether it is practicable to increase the out of cell time provided to prisoners in the unit.

RECOMMENDATION 5

That the Model in its entirety be published to prisoners and staff and that handbooks be produced, to be freely available to all prisoners and staff, which explain in plain English the operation of the Model, expected behaviours and an indication of the duration of a placement should expected behaviours be maintained.

RECOMMENDATION 6

That Staff who work in the unit should be selected in accordance with the BMP's operating philosophy. They should receive specialised training in relation to the operation of the Model, its aims and objectives, and particularly in relation to the needs and expectations of the prisoners subject to it. These goals are not incompatible with some rotation of staff through the unit.

RECOMMENDATION 7

That there be adequate and formal induction processes both for prisoners who are accommodated in Tamar and for the correctional staff who work there. In the case of prisoners, each incoming prisoner should receive written and oral notification of the reason for their placement on the program, with a copy to be entered in that prisoner's file.

RECOMMENDATION 8

That a separate section be added to each prisoner's local case file at the time of his induction into the unit, which should include a documentary record of each significant event in the passage of the prisoner through the program. This includes decisions made in relation to the prisoners' movement up and down the stages.

RECOMMENDATION 9

That prisoners' case notes should include comments from all staff involved in the operation of the BMP and the management of the prisoners on it, not necessarily just correctional officers.

RECOMMENDATION 10

That procedural fairness be afforded to prisoners in the conduct of review proceedings by ensuring that prisoners are given prior written and oral notice of issues to be raised and relied upon, especially where the imposition of a sanction (including continuation on the prisoner's current stage in the program) is proposed.

RECOMMENDATION 11

That when a prisoner is first inducted to the unit, and whenever the prisoner changes from one stage of the BMP to another, the prisoner receive both written and oral notice of the time that they will be on the stage of the program to which they have been assigned if their behaviour is of the required standard, and of any particular behavioural or other requirements that they are expected to meet.

RECOMMENDATION 12

That if a prisoner has been on the BMP for a continuous period of nine months and it is still considered inappropriate to return that prisoner to the general population, alternative strategies for the management of that prisoner should be developed.

RECOMMENDATION 13

That Tamar not be used for the indefinite containment of prisoners on the ground that they are perceived to be dangerous.

RECOMMENDATION 14

That all prisoners housed in Tamar be referred regularly to Correctional Health Services for review and monitoring of their physical and mental health.

RECOMMENDATION 15

That compliance with Recommendations 6 to 14 be routinely audited by the Compliance Unit within the TPS and that, for the purposes of transparency and accountability, a copy of each audit report be provided to the Ombudsman.

ENDNOTE

487. A copy of this report in its final form was provided to the Secretary of the Department of Justice, the Director of Corrective Services and the Director of Prisons, and none sought to make any further comment.
488. The recommendations made above are effectively made to the Secretary of the Department of Justice, the Department which administers the Act. Acting in accordance with s 28(4) of the *Ombudsman Act*, I request the Secretary to notify me, within 6 months of the date upon which this report is tabled in the House of Assembly, of the steps which have been or are proposed to be taken to give effect to these recommendations. If no such steps have been or are proposed to be taken, in relation to all or any of the recommendations, I request that the notice given to me provide reasons why this is so.

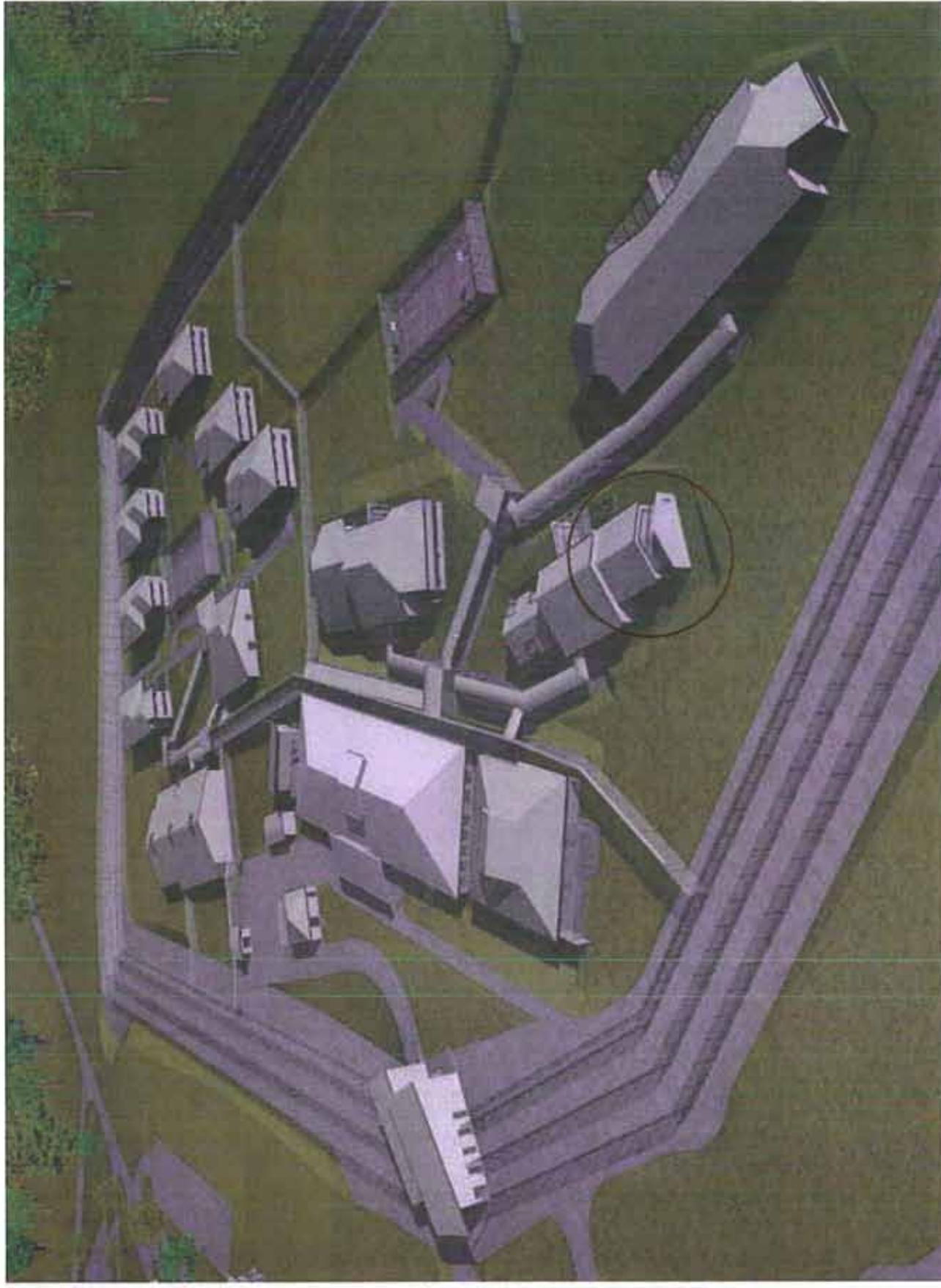
Simon Allston
OMBUDSMAN



APPENDIX A

PLAN OF THE RISDON PRISON COMPLEX AND SCHEMATIC DIAGRAM OF THE MEN'S MEDIUM AND MAXIMUM SECURITY UNITS.





MENS PRISON

Department of Justice - Prison Redevelopment





APPENDIX B

HIERARCHY OF PRIVILEGES AND SANCTIONS

Behaviour Management Program: Hierarchy of Privileges and Sanctions

	STAGE A	STAGE B	STAGE C
Phone Calls	Up to 4 per week.	Up to 7 per week.	Unlimited.
Visits	Convicted: 1 non-contact visit per week. Detainee: Up to 3 non-contact visits.	Convicted: 1 contact visit per week. Detainee: 1 contact and 2 non-contact per week.	Convicted: 1 contact visits per week. Detainee: 2 contact visits and 1 non-contact visits per week.
Association (controlled)	As per association matrix (Maximum of 2 in yard)	As per association matrix (Maximum of 2 in yard)	As per association matrix (Maximum of 2 in yard)
Access Areas	1 hour yard including phone	2 hours yard including phone	3 hours yard including phone
Books / Articles / Magazines / Newspapers / Tapes	One item at any one time (includes religious materials)	Up to 3 items at any one time (includes religious materials)	Up to 5 items at any one time (includes religious materials)
Art / Hobby	Nil.	1 x sketch book and colouring pencils	Approved items for art / hobby (Matchstick hobbies etc.)
Buy Up / Food (no glass or cans)	No canteen purchases except personal deodorant – Toiletry pack supplied. 1 x 30g tobacco (optional)	Essentials only plus 1 x 30g tobacco (optional) or \$10 Canteen. Earnings only.	Up to \$30.00 canteen from earnings only.
Toiletries	Basic items supplied, prisoner/detainee purchases additional items.	Basic items supplied, prisoner/detainee purchases additional items.	Basic items supplied, prisoner/detainee purchases additional items.
Recreation Material (board games, cards, etc)	Card games only. No crib boards or items that can be used as weapons.	Approved games supplied. Recreation equipment to be issued from office and returned on completion of exercise. No items that can be used as weapons.	Approved games supplied. Recreation equipment to be issued from office and returned on completion of exercise. No items that can be used as weapons.
Employment (domestic duties)	Nil.	Nil.	Wardsman; Cleaner
Education Materials (In consultation with BMP Committee)	Approved items for approved education. No items that can be used as weapons.	Approved items for approved education. No items that can be used as weapons.	Approved items for approved education. No items that can be used as weapons.
Religious Materials	Approved items (Included in property limits).	Approved items (Included in property limits).	Approved items (Included in property limits).
Private Property (Other than above)	2 x prison issue clothing Only; Up to 10 photographs at any time	2 x prison clothing; Socks and underwear; Up to 15 photographs at any time	2 x prison clothing; Socks and underwear. 1 x photo album.

	STAGE A	STAGE B	STAGE C
Electrical Items: Departmental property and private property	Television.	Television + Jug (prisoner/detainee to purchase)	Television; clock radio; walkman CD player and up to 4 music compact discs; PS1 and 4 games.
Movement	All prisoners/detainees on Stage A will require handcuffing in accordance with procedures approved by the Correctional Manager, Maximum Security Accommodation and Special Needs Units during any movement inside or outside of the unit. There will be a minimum of two officers during any escorting (inside or outside of the unit). This should be a close quarter escort.	All prisoners/detainee on Stage B will require handcuffing to the front when moving outside of unit ONLY. There is to be a minimum of two officers during escorting. This should be a close quarter escort.	All prisoners/detainee on Stage C will require handcuffing to the front when moving outside of unit ONLY. There is to be a minimum of one staff member during escorting. This should be a close quarter escort.



APPENDIX C

INTERIM STANDARD OPERATING PROCEDURE RPC1.24.2



Tasmania

TASMANIA PRISON SERVICE RISDON PRISON COMPLEX

INTERIM STANDARD OPERATING PROCEDURE RPC1.24.2 PLACEMENT IN BEHAVIOUR MANAGEMENT PROGRAM (TAMAR/HUON UNITS)

Issued 23 October 2006

1. Purpose

This Standard Operating Procedure provides procedures for the placement of prisoners/detainees into the behaviour management program.

2. Scope

This Standard Operating Procedure applies to all Tasmania Prison Service (TPS) staff.

3. Director's Standing Order

Director's Standing Order 1.24 (Behaviour Intervention, Behaviour Management and Disciplinary Separation)

4. Definitions

<i>BMP Placement Committee</i>	Assistant Director of Prisons; Manager, Offender Services; Senior Psychologist, Therapeutic Services Unit.
<i>BMP Case Management Team</i>	Manager, Correctional Case Management; Manager, Maximum Security Accommodation; Psychologist, Therapeutic Services Unit

5. Procedures

Step by step instructions for the removal of prisoners/detainees from the general prison community to the behaviour management unit. Where relevant, these steps are linked to more detailed information, which is available in Section 7 of this document.

- A. Control access to Tamar Unit
- B. Complete admission approval process
- C. Notify prisoner's/detainee's primary contact
- D. Prepare case management plan
- E. Manage hierarchy of privileges and sanctions
- F. Case manage prisoners/detainees in the Tamar Unit
- G. Develop a security risk profile
- H. Review placement in BMP
- I. Transfer prisoners/detainees to Stage C (Huon Unit)
- J. Plan for discharge from BMP
- K. Discharge prisoner/detainee from BMP

A. Control access to Tamar Unit

Step	Action	Timeframe	Responsibility
Step 1	Ensure that access to the Tamar Unit is strictly controlled and restricted to the following: • Correctional Managers • Correctional Supervisors • General Duties Officers • Emergency Response Teams • Other professionals who have business within the Tamar Unit.	At all times	Operations Movement Control Officer/Master Control Room Officer
Step 2	Refuse access to any person who does not have legitimate business within the Tamar Unit.		

Step	Action	Timeframe	Responsibility
Step 3	Ensure that all persons (staff and visitors) entering the Unit are subject to a routine non-intrusive search using a hand held metal detector per <u>Standard Operating Procedures RPC1.09.1 Non-Intrusive Searching Tools</u> , <u>Standard Operating Procedure RPC1.12.1 Searching Visitors and Standard Operating Procedure RPC1.13.1 Searching Staff</u> .	Upon entry to the Unit	Correctional Officer (Tamar)
Step 4	Record the following in the Tamar Unit Access Register: • Date; • Person's full name; • Reason for accessing the Franklin Unit; • Details of the non-intrusive search; and • Time the person entered and exited the Unit.		

B. Complete admission and approval process

Step	Action	Timeframe	Responsibility
Step 1	Refer prisoner/detainee to the BMP Placement Committee. The referral must be accompanied by documentation detailing the reasons for referral and include: • Referral memorandum stating the basis for request • Incident and conduct reports. • A detailed prisoner profile from the TPS Intelligence Unit • Current Sentence Management Plan • Pre-Sentence Report (if applicable) • Mental health status report (if applicable) • Medical report • Any other material that supports the placement		Correctional Manager (Maximum/Medium)
Step 2	Conduct an assessment of the referral and seek any additional information if required.		BMP Placement Committee
Step 3	Provide report and recommendation to the Director of Prisons.		
Step 4	Consider recommendation and either approve a placement in the BMP or refuse to authorise the placement. Ensure the approval is given in writing, to the BMP Placement Committee, outlining the conditions (if any) on which the placement is made. Fully document all reasons for decision.		Director of Prisons
Step 5	Advise the Director of Corrective Services of the placement and the reasons for the placement.		

C. Notify prisoner/detainee's primary contact

Step	Action	Timeframe	Responsibility
Step 1	If the prisoner/detainee has given approval for his primary contact person to be notified if admitted to the BMP, initiate notification in accordance with <u>Standard Operating Procedure RPC2.03.1 Prisoner/Detainee Primary Contacts</u> .	Upon admittance	Correctional Supervisor (Tamar)

D. Prepare Case Management Plan

Step	Action	Timeframe	Responsibility
Step 1	Undertake appropriate assessments and prepare a Case Management Plan.	Within 7 days of placement	BMP Case Management Team

Step	Action	Timeframe	Responsibility
Step 2	Ensure that the following are conducted and taken into account when preparing the Case Management Plan: - A clinical assessment aimed at identifying any psychological problems or therapeutic needs - A clinical assessment aimed at identifying behavioural issues. - A mental health assessment by CHS - The development of an individualised security risk profile.	Within 7 days of placement	BMP Case Management Team
Step 3	Ensure that the Case Management Plan: - Addresses identified risks to the correctional system - Identifies problematic behaviours and facilitates remedial action - Identifies education, recreation and personal development programs that can be accessed in the BMP.		
Step 4	Ensure that prisoners/detainees receive a Tier 2 assessment if it has not been previously completed within the prison system.	As required	Correctional Officer (Tamar)
Step 5	Ensure all eligible prisoners receive a Tier 3 (LS-CMI) assessment.		Assessment & Planning Unit

E. Manage hierarchy of privileges and sanctions

Step	Action	Timeframe	Responsibility
Step 1	Commence BMP by placing prisoner/detainee on Stage A of the hierarchy of privileges and sanctions.	Following placement on BMP	Correctional Supervisor (Tamar & Huon)
Step 2	Review prisoner/detainee's compliance with relevant stage.	Every 28 days	
Step 3	In the event that a prisoner/detainee on Stage B has progressed to Stage C, facilitate transfer of prisoner/detainee to Huon Unit.	As required	
Step 4	Provide detailed report regarding assessments of prisoners/detainees in the BMP to the Correctional Manager (Maximum Accommodation and Special Needs Units).	When completed	
Step 5	Ensure copies of reports are placed on the Local Case File.	Upon receipt	Correctional Manager (Maximum Accommodation and Special Needs Units)
Step 5	Forward copy of report to General Manager, RPC,		

F. Case Manage prisoner/detainee in the BMP

Step	Action	Timeframe	Responsibility
Step 1	Appoint a Correctional Case Officer to case manage the prisoner/detainee.	Within 24 hours of placement	Correctional Supervisor (Tamar)
Step 2	Ensure that prisoner/detainee receives a local induction into the BMP and Tamar Unit and their initial needs are addressed.	Upon arrival	Correctional Officer (Tamar)
Step 3	Liaise with the CMT and support the prisoner/detainee in the objectives of the Case Management Plan.	As required	
Step 4	Ensure comprehensive case notes are made in relation to: - the prisoner/detainee's ongoing behaviour and attitude - meaningful interactions that staff have with the prisoner/detainee		
Step 4	Review each prisoner/detainee's placement, progress and privileges.	Weekly	BMP Case Management Team

G. Develop a security risk profile

Step	Action	Timeframe	Responsibility
Step 1	Conduct a security risk assessment	Upon admission	Correctional Manager (Maximum & Supervisor Special Needs)
Step 2	Develop a security risk profile outlining the level of security required when interacting with the prisoner/detainee (including unlocking the cell and moving him in, around and outside the unit).		
Step 3	Place the original Security Risk Profile on the prisoner's/detainee's Local Case File		
Step 4	Place a copy in the 'Prisoner/Detainee Management Folder' so that staff can readily access the information they need to manage the prisoner/detainee on a day-to-day basis		
Step 5	Ensure that the security requirements detailed in the prisoner's/detainee's Security Risk Profile are met		Correctional Officer (Tamar)

H. Review placement in BMP

Step	Action	Timeframe	Responsibility
Step 1	Prepare a report to the Director of Prisons on the management, general progress and the need for the continued placement of prisoners/detainees in the BMP.	Every 3 months (at minimum)	BMP Placement Committee
Step 2	Ensure copy of the report is placed in the Local Case file.	When completed	

I. Transfer prisoners/detainees to Stage C (Huon Unit)

Step	Action	Timeframe	Responsibility
Step 1	Facilitate transfer of prisoner/detainee from Tamar to Huon Unit.	In accordance with	Correctional Supervisor (Operations)
Step 2	Ensure the prisoner/detainee receives a local induction into the Huon Unit and their initial needs are addressed.	Upon entry to the Unit	Correctional Supervisor (Special Needs)
Step 3	Ensure a formal induction is completed that addresses: - the expectations in regard to participation in Unit routines - the prisoner/detainee's rights, responsibilities and privileges. - The rules of the Huon Unit and expected standards of behaviour.	Within 48 hours of placement.	
Step 4	Ensure comprehensive case notes regarding the induction process are placed in the Local Case File.		

J. Plan for discharge from BMP

Step	Action	Timeframe	Responsibility
Step 1	Recommend prisoner/detainee's discharge from the BMP to the BMP Placement Committee. This recommendation must include a fully documented management strategy for the prisoner/detainee's return to mainstream.	As required	BMP Case Management Team
Step 2	Ensure the management strategy is developed in consultation with the Correctional Manager/Supervisor and the proposed Correctional Case Officer of the receiving facility.	Prior to discharge	

K. Discharge prisoner/detainee from BMP

Step	Action	Timeframe	Responsibility
Step 1	Monitor the prisoner/detainee's progress in the mainstream environment, and provide support/specialist advice to Correctional Case Officer.	As per management plan	BMP Case Management Team
Step 2	When satisfied that the prisoner/detainee no longer requires monitoring provide a report to the Assistant Director of Prisons.	As required	Correctional Manager, Custodial Case Management
Step 3	Forward a copy of the report to the Director of Prisons.	Upon receipt	Assistant Director of Prisons

Step	Action	Timeframe	Responsibility
Step 4	Ensure a copy of the report is placed on the prisoner/detainee's Local Case file.	Upon receipt	Correctional Manager, Correctional Case Management

Responsibilities

The General Manager Risdon Prison Complex is responsible for the maintenance and regular review of this Standard Operating Procedure in consultation with relevant TPS staff.

6. Additional Information

Where relevant, this section provides additional information to assist in completing the steps outlined in Section 5.

Ref	Step	Action
B	Step 1	The Case Management Plan is independent of, and in addition to, any Sentence Plan previously developed for the prisoner/detainee. The Case Management Plan will be developed in the context of previous assessments and Sentence Plans.

7. Access to this Standard Operating Procedure

Unrestricted document

P Rollinson

General Manager Risdon Prison Complex



APPENDIX D

BMP OPERATING MODEL VERSION 3, JUNE 2008

TASMANIA PRISON SERVICE

OPERATING MODEL FOR RISDON PRISON COMPLEX BEHAVIOUR MANAGEMENT PROGRAM

Version 3.0 – June 2008

TABLE OF CONTENTS

1	Introduction	5
2	Context and Philosophy	6
2.1	General Policy	6
2.2	Overview of the BMP	6
2.3	Operating Philosophy and Principles	7
2.4	Physical Facilities	9
2.5	Security Context	9
2.5.1	Purpose	9
2.5.2	Security Standards	10
3	Administrative Structures	10
3.1	Placement Decisions	10
3.2	BMP Placement and Risk Assessment Panel (The BMP Panel)	11
3.3	BMP Case Management Committee (The BMP Committee)	11
4	Admission Criteria	12
5	Approval for Admission	12
5.1	Referral	13
5.2	Assessment	13
5.3	Admission decision and advice	13
6	Prisoner/Detainee Management	14
6.1	Case Management	14
6.2	Reception and Induction	15
6.2.1	Initial Reception and Induction	15
6.2.2	Reception process when prisoner/detainee is uncooperative	16
6.2.3	Case Management Induction	16
6.2.4	Security Risk profile	16
6.2.5	Tier 2 Assessment	17
6.2.6	Tier 3 Assessments	17
6.3	Prisoner/detainee hierarchy of privileges and sanctions	17
6.4	Programs	17
6.5	Education	18
6.6	Employment	18
6.7	Sport and Recreation	18
6.7.1	Art/Hobby Materials	18
6.8	Religious Materials	19
6.9	Prisoner/detainee case management records	19
6.10	Review of Placement in BMP	19
6.11	Planning for discharge	19
6.12	Discharge	20
7	BMP (Tamar) Structured Day	21
8	Prisoner/detainee Essential Services	22
8.1	Catering	22
8.2	Canteen	22
8.3	Books/Articles/Magazines/Newspapers/Tapes	23
8.3.1	Library Services	23
8.4	Health Service Provision	23
8.4.1	Medication	23

8.4.2	Medical Services.....	24
8.5	Visits.....	25
8.5.1	Personal visits.....	25
8.5.2	Professional visits.....	25
8.6	Telephone.....	25
8.7	Laundry.....	26
8.8	Showers.....	26
8.9	Mail.....	26
9	Prisoner/detainee Accommodation.....	26
9.1	Unlock hours.....	26
9.2	Prisoner/detainee Interaction.....	27
9.3	Cell fit-out and cleanliness.....	28
9.4	Cell Access.....	28
9.5	Cell moves.....	28
9.6	Prisoner/detainee property.....	28
9.6.1	Toiletries.....	28
9.6.2	Electrical Items.....	29
9.6.3	Private Property.....	29
9.7	Prisoner/detainee Clothing.....	29
9.8	Smoking.....	29
9.8.1	Out-of-cell time.....	30
9.8.2	In-cell smoking.....	30
10	Security.....	30
10.1	General.....	30
10.2	Access.....	30
10.3	Movement within the Tamar Unit.....	31
10.4	Headcounts and Musters.....	31
10.5	After-hours checks.....	31
10.6	Security Cameras.....	32
10.7	Urinalysis Testing.....	32
10.8	Key Control.....	32
10.9	Cut-down knives.....	32
10.10	Duress Alarms.....	32
10.11	Radios.....	32
10.12	Tools.....	33
10.13	Searching.....	33
10.14	Inspections.....	33
10.15	Emergency Response.....	34
10.16	Disciplinary procedures.....	34
11	Staffing.....	34
11.1	Dayshift.....	34
11.2	Night Shift.....	34
11.3	Staff Meetings.....	35
12	Appeals.....	35
12.1	General.....	35
12.2	Documenting recommendations and decisions.....	35
13	Review of BMP.....	36
13.1	Monthly Statistical Reporting.....	36
13.2	Annual System Audit.....	36
	APPENDIX A.....	37

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3.0	Gary Hancl	12 June 2008	Endorsed by SMT

Amending this Document

This Custodial Operating Model is a living document and it is expected that it will be both reviewed and amended from time to time, to reflect changing correctional best practice, as well as environmental, organisational and other dynamics. The Manager, Organisation Development has overall responsibility for the version control of Custodial Operating Models and any proposed changes to this document must be directed to that office via the Correctional Manager in charge of the facility.

1 Introduction

The mission of the Tasmania Prison Service (TPS) is to contribute to a safer Tasmania by ensuring the safe, secure containment of prisoners/detainees and providing them with opportunities for rehabilitation and personal development. This includes providing an environment in which all prisoners/detainees can feel safe and secure regardless of their vulnerabilities or special needs.

In accordance with the *Standard Guidelines for Corrections in Australia* (Revised 2004), the TPS has an obligation to develop and implement a prisoner/detainee safety regime which:

- Prevents bullying and targets perpetrators;
- Identifies prisoners/detainees who present a risk to prison staff or other prisoners; and
- Places prisoners/detainees in situations that minimise their opportunities to be harmed or harm others.

In recognition of the fact that there are certain categories of prisoners/detainees who, based on their attitudes and behaviours, pose a high risk to the safety and security of staff, other prisoners/detainees or the good order and maintenance of the mainstream correctional environment, the TPS established a Behaviour Management Program that coincided with the commissioning of the Risdon Prison Complex (RPC) in 2006.

The Behaviour Management Program (BMP), which was developed in accordance with evidence-based research and practice, includes separating prisoners/detainees from the mainstream correctional environment because they require higher levels of supervision and control. However, it is also premised on managing prisoners/detainees in the least restrictive conditions consistent with the reasons for their placement, while at the same time introducing a structured, incentives-focussed regime that aims to affect positive attitudinal and behavioural change, and an early return to the mainstream correctional environment. While in the BMP, prisoners/detainees are case-managed by individual correctional case officers with the oversight of an experienced and senior case management team that includes a member of the Therapeutic Services Unit. Where possible, prisoners/detainees are provided with targeted interventions aimed at addressing their high-risk attitudes and behaviours.

The operation of the BMP was the subject of two reviews in early 2008 – a scheduled operational review by the TPS and an independent evaluation by the Department of Justice's Operational Review Officer. These reviews informed a number of amendments to the BMP Operating Model and the present document, which was approved by the TPS Senior Management Team in June 2008, outlines the updated operating principles of the BMP.

2 Context and Philosophy

2.1 General Policy

The TPS has a duty of care to its employees to provide a safe and secure workplace, as well as a duty of care to provide a correctional environment in which all prisoners/detainees can feel safe, regardless of the crime they have committed or their individual circumstances.

Over recent years the TPS has seen an increase in the presence of individuals/groups within the correctional environment that, through their attitude and behaviours, pose a risk to the safety and security of staff and/or other prisoners/detainees. On occasions this has manifested itself as individual or collective violence and/or threatening behaviour towards staff and/or other prisoners/detainees, or a propensity to manipulate or cause disruption (often indirectly) to the discipline or security and good order of the correctional environment.

Rather than place the 'victims' of this type of behaviour on unnecessary (and sometimes restrictive) protection regimes, or collectively punish prisoners/detainees because they have been inappropriately manipulated by a few, it is the policy of the TPS to identify and appropriately manage those prisoners/detainees who threaten the safety, maintenance and good order of correctional facilities. In some cases this includes separating offenders from the mainstream correctional environment and applying restrictive management regimes appropriate to their level of risk, as part of a targeted BMP.

TPS recognises the significance of this course of action, however, and has developed a strict process for regulating and monitoring the placement of prisoners/detainees in the BMP.

2.2 Overview of the BMP

The BMP is a targeted program for managing prisoners/detainees assessed as posing a high security risk to the community, correctional centre staff and/or other prisoners/detainees. It is reserved for prisoners/detainees whose levels of risk are too great to be safely and/or effectively managed in a mainstream environment. It is not a voluntary program; a prisoner/detainee's assignment to the BMP is at the direction of the Director of Prisons, upon the recommendation of a placement panel comprising the Assistant Director of Prisons; the General Manager, RPC; the Manager, IOM Unit; and the Senior Psychologist, Therapeutic Services Unit. While this document specifically addresses the operation of the BMP within the Risdon Prison Complex and focuses on male prisoners/detainees, the same principles can be applied to female prisoners/detainees in the context of the Mary Hutchinson Women's Prison operating model.

The program consists of a three-stage process (Stages A, B & C) that supports a continuum of privileges along which a prisoner/detainee moves according to their behaviour. Positive behaviours and attitudes see a prisoner/detainee move forward in the program and gain additional privileges, while negative behaviours and attitudes result in regression through the program and a resulting loss of privileges. The hierarchy of privileges is contained at Appendix A. Where possible, the program also involves prisoners/detainees being assessed from a therapeutic perspective and undergoing targeted therapeutic interventions aimed at addressing the attitudes and behaviours that saw them enter the BMP in the first place. The overall aim is to have prisoners/detainees return/transfer to a mainstream accommodation area as soon as possible.

Discharge from the program and a return/transfer to the mainstream correctional environment is dependant upon sustained performance in stage C of the program and approval of the Behaviour Management Program Placement and Risk Assessment Panel (the BMP Panel). Although the aim is to have prisoners/detainees return/transfer to a mainstream accommodation area as soon as possible, it is acknowledged that some prisoners/detainees admitted to the BMP will remain there for a considerable time or, in some cases, for the duration of their custodial sentence. Factors impacting on the length of stay will be the degree to which an individual is able to achieve demonstrable changes in attitudes and behaviour or any significant change to the assessed security risks.

2.3 Operating Philosophy and Principles

The philosophy underpinning the BMP is one of modifying behaviour through the use of a continuum of privileges [that reward pro-social attitudes and behaviours] and sanctions [that result in loss of privileges for inappropriate attitudes and behaviours]. This approach is supported, where necessary and appropriate, by targeted therapeutic interventions aimed at facilitating cognitive and attitudinal change. These may be in addition to interventions that specifically target criminogenic needs.

When placed in the BMP each prisoner/detainee commences a period of assessment at Stage A of the program, qualifying for the privileges associated with that stage. Prisoner/detainee progress is reviewed on a monthly basis, with sustained positive behaviour seeing an individual move forward to Stage B of the program, then to Stage C, with the ultimate aim of re/integrating into the mainstream correctional environment. Alternatively, negative attitudes and behaviours result in regression through the programs and a resulting loss of privileges.

A major breach of security or seriously inappropriate behaviour results in a prisoner/detainee facing a disciplinary charge (if applicable) and regression to a lower stage in the program. If a prisoner/detainee assigned to the BMP is sentenced to a period of punishment for a disciplinary offence, this occurs as part of the BMP (i.e. within the Tamar Unit) and, when that period of punishment is completed, the prisoner/detainee will return to Stage A of the BMP program.

If a prisoner/detainee is discharged from the BMP (i.e. Stage C) back to mainstream and subsequently returns to the BMP, that person recommences at an earlier stage of the (i.e. Stage A or B) of the program, as approved by the BMP Committee.

In addition to the above, the following principles underpin the operations of the BMP:

- Rewards and sanctions are applied transparently and with the highest level of integrity, and on the basis of behaviour over a period of time rather than as a consequence of individual acts.
- There is sufficient difference between the privileges associated with the different levels of the BMP to encourage responsible behaviour and compliance with case management aims.
- The regime for prisoners/detainees on Stage A of the BMP provides sufficient opportunity and support for them to demonstrate improvement in their behaviour.
- Prisoners/detainees are given the opportunity to learn that assaulting, abusing, intimidating staff or other inappropriate behaviour is neither an acceptable or successful strategy.
- Prisoners/detainees are given the opportunity to learn that staff are in control of the area in which they are detained, and staff are accountable for establishing and maintaining a positive culture and operations within the BMP that support this principle.
- In recognition of the fact that positive role-modelling and the application of rewards and sanctions fairly and consistently play a major role in supporting behavioural change in prisoners/detainees, the selection of appropriate staff who are willing to be actively involved in pro-social modelling is a critical success factor for the BMP.
- Prisoners/detainees are provided with feedback in relation to their behaviour and given the opportunity to adjust any negative behaviour before a sanction is applied. Where a sanction is likely to be applied to a prisoner/detainee, they are to be warned in writing beforehand and given the opportunity to modify their behaviour.
- Dynamic security is a key activity in the BMP. Ongoing appropriate communication with prisoners/detainees, including written information about individual and group behaviour, helps anticipate future prisoner/detainee behaviour.
- Ongoing communication between staff, both formal and informal, is vital to understanding a prisoner/detainee's current and future behaviour as well as monitoring staff for coping within the environment and stress.

- Where possible, prisoners/detainees are provided with targeted therapeutic interventions aimed at addressing high-risk attitudes and behaviours and facilitating a smooth and timely move to a mainstream correctional environment.
- Prisoners/detainees can appeal against decisions relating to their movement into and through the BMP, and are helped to do so.
- The BMP is monitored and reviewed by senior managers to check for fairness and to encourage responsible behaviour.

2.4 Physical Facilities

The BMP operates from the purpose-built Tamar accommodation unit, which is located adjacent to the Franklin Detention Unit in the maximum-security precinct of RPC. The unit comprises eight cells with security cameras that can be monitored from any movement control station within the facility, including the Master Control Room.

Four cells are located at the eastern end of the unit and have controlled access to a secure open-air exercise yard with security camera. They are separated from a further four cells by an internal partition and doorway, and these cells have controlled access to a communal dining and lounge area with a television and security camera. The unit has an additional secure open-air exercise facility, with security camera, accessible from the communal dayroom; a non-contact visit booth and a servery. It also hosts two consultant/interview rooms facing onto the day room and shares an interview room with the Franklin Unit. The officer station is enclosed for added security. Passageways within the unit also have security cameras.

Access to Tamar is via the RPC secure walkway, which is controlled from within the unit between 0700 and 1700 hours each day. After hours access/egress is controlled from the operations movement control station located in the central operations building or the Master Control Room.

Appendix B provides a graphical overview of the maximum-security precinct and the Tamar unit.

2.5 Security Context

2.5.1 Purpose

The purpose of the BMP is to safely, securely and humanely accommodate prisoners/detainees who, because of inappropriate attitudes and behaviours, pose a high risk to the safety and security of staff, other prisoners/detainees or the good order and maintenance of the mainstream correctional environment. The aim is to assist prisoners/detainees to return to general population by eliminating/minimising the conditions that required them to be placed in the program.

2.5.2 Security Standards

The BMP is a maximum-security regime in which prisoners/detainees require higher levels of correctional supervision and control. The good order and security of the program and the unit in which it operates is a priority focus when managing prisoners/detainees placed there.

Placement in the program is not a punishment and, where practicable, the environment is to be positive. However, it is recognised that prisoners/detainees assigned to the program, by virtue of their placement there, pose a risk to staff and other prisoners/detainees and must be managed according to that risk. As such, whilst accommodated within either the Tamar unit, prisoners/detainees will, through necessity, be subject to more restrictive management regimes than mainstream prisoners/detainees, and the characteristics and privileges of the regimes will be less than for those prisoners/detainees within the mainstream environment.

The Tamar unit has a constant correctional officer presence when prisoners/detainees are unlocked, and escort restrictions consistent with a prisoner/detainee's management level and risk profile apply. In some instances, additional restraint levels may be used if approved by the Correctional Manager, Maximum Security Accommodation and Special Needs Units. The unit does not have a constant correctional officer presence during the designated lunch period or after hours, as prisoners/detainees are locked in their cells at these times.

The locking and unlocking of cells occurs electronically from the movement control station within Tamar between 0700 and 1700, but can be controlled from either the operations movement control station or the Master Control Room if required. After hours cell access is controlled by the operations movement control station. Prisoners/detainees do not have the capacity to lock/unlock their cells; nor do unit correctional staff have the capacity to manually override the locking and unlocking of cells.

Each prisoner/detainees is case managed by a correctional case officer assigned to the Tamar unit under the direction of the BMP Case Management Committee.

3 Administrative Structures

3.1 Placement Decisions

The Director of Prisons has ultimate responsibility for approving admissions into the BMP. In exercising that discretion, the Director is supported by advice/recommendations of the BMP Placement and Risk Assessment Panel and the BMP Case Management Committee.

The Director of Corrective Services is responsible for reviewing appeals against placement decisions made by the Director of Prisons.

3.2 BMP Placement and Risk Assessment Panel (The BMP Panel)

The BMP Panel comprises the Assistant Director of Prisons (Chair); the General Manager, RPC; the Manager, IOM Unit; and the TPS Senior Psychologist. Each member may nominate one suitably qualified proxy, but the appointed members remain accountable for overall panel outcomes and obligations. A quorum of the panel is three, but must include at least two appointed members and one proxy.

The role of the panel is to:

- act in an advisory capacity to the Director of Prisons on matters relating to the BMP;
- Conduct regular reviews of BMP prisoners, facilities, and procedures.

The panel shall:

- Assess and make recommendations to the Director of Prisons in relation to referrals for admission to the BMP;
- Meet once a month to review each prisoner's placement, progress and privileges;
- Assess each prisoner's progress from the reports available, advice of the BMP Case Management team (The BMP Committee) and specialist staff advice where available;
- At least once every month from the time of placement, review each prisoner/detainee's status and consider that person's readiness for discharge from the program. As part of the review, the prisoner/detainee may be interviewed but if that person refuses an interview or there are other reasons for not having an interview (e.g. if available information indicates either no or only a minimal change in the prisoner's status), this is to be documented; and
- Where appropriate, approve the discharge of prisoners/detainees from the BMP.

3.3 BMP Case Management Committee (The BMP Committee)

The BMP Committee comprises the Manager, Maximum Security Accommodation and Special Needs Units (Chair); the Manager, Correctional Case Management; a TPS Psychologist or Special Needs Counsellor attached to the Therapeutic Services Unit; and either a Correctional Supervisor or Correctional Officer attached to the Tamar Unit. A quorum of the committee is three, but must include the Manager, Maximum Security Accommodation and Special Needs Units or the Manager, Correctional Case Management who will act as chair in the absence of the former.

The committee is responsible for reviewing and overseeing the case management of prisoner/detainees within the BMP. Its role is to:

- With the support of Tamar correctional staff and other specialist personnel (where needed), case manage prisoners/detainees placed within the BMP;
- Arrange for the compilation of prisoner/detainee's management plans;
- Conduct case conference reviews as necessary;
- Notify prisoners/detainees of committee recommendation and record the date, time, name and signature of the person making the notification; and
- Provide advice to the BMP Panel and the General Manager, RPC in respect of prisoners/detainees placed within the Unit, including their readiness for discharge.

The committee meets at least once per week to review and manage the progress of prisoners/detainees placed within the BMP.

4 Admission Criteria

Only prisoners/detainees who:

- pose a high risk to the safety and security of staff, other prisoners/detainees or the good order and maintenance the mainstream correctional environment; and
- require correctional supervision and control of a higher level than can be safely provided in the mainstream correctional environment ; and
- have shown, through their attitude and/or behaviour that they cannot be safely managed elsewhere in the mainstream environment,

are eligible for placement within the BMP.

The BMP is a placement of last-resort, and should only be considered as an option after other, less restrictive options have been exhausted. Where, as a result of clinical assessment, it is believed that a prisoner/detainee is likely to benefit from a program of intensive therapeutic intervention, placement within Tamar should be considered.

5 Approval for Admission

The BMP Panel is responsible for reviewing the admission and discharge of prisoners/detainees in respect of the BMP, and making recommendations to the Director of Prisons who makes the ultimate admission decision. However, in the event of a potential serious risk to the good order and maintenance of the facility, the General Manager, RPC may use his/her discretion to place a prisoner/detainee into the Tamar unit pending a formal referral and admission to the BMP as outlined in sections 5.1 to 5.3. Such a placement does not comprise a formal admission to the BMP and a formal referral and admission must occur within 10 business days of a placement being made.

5.1 Referral

If a Facility Manager or the General Manager, RPC is of the opinion that a prisoner/detainee meets the above criteria, they may request the BMP Panel to consider admission of the prisoner/detainee to the BMP.

The request must be accompanied by documentation fully detailing the reasons for the referral, most notably to justify why that person cannot be more effectively managed elsewhere. The referral must include the following information:

- A referral memorandum stating the basis for the request, including copies of all incident reports, conduct reports, and any other material that supports the requested placement;
- A detailed prisoner profile from the TPS Intelligence Unit;
- A current Sentence Plan;
- Pre-sentence report (if any); and
- Any other relevant material in support of the application.

5.2 Assessment

The BMP Panel conducts an assessment of the circumstances surrounding the referral, including any therapeutic needs of the prisoner/detainee, and may seek any additional information it believes necessary. The Panel shall provide a report (and recommendation) to the Director of Prisons about the appropriateness of admitting the prisoner/detainee to the BMP.

5.3 Admission decision and advice

The Director of Prisons may either approve an admission to the BMP; refuse to authorise the admission, or make a decision to accommodate the prisoner/detainee in an alternative location. Where a decision is taken to admit a prisoner/detainee in the BMP, the Director will approve this, in writing to the BMP Panel, and outline conditions (if any) on which the admission is made. The Director of Corrective Services is to be advised of the admission and the reasons in support.

Where the Director of Prisons declines to authorise a BMP admission, or makes an alternative placement arrangement, the decision (with reasons) will be documented and forwarded to the BMP Panel which will, in turn, advise the correctional manager who made the initial referral.

6 Prisoner/Detainee Management

6.1 Case Management

The BMP Committee, with the support of unit correctional staff and other external service providers, case manages prisoners/detainees placed in the BMP.

Where the Director of Prisons approves a placement in the BMP, the BMP Committee is responsible for arranging appropriate assessments to be undertaken and preparing a Case Management Plan within 10 working days of the admission being made. This includes:

- A clinical assessment aimed at identifying any psychological problems or therapeutic needs associated with the prisoner/detainee's placement in the BMP that need to be addressed in their ongoing management;
- A clinical assessment aimed at identifying behavioural issues that can be addressed through targeted interventions;
- A medical assessment; and
- A mental health assessment by the Correctional Health Service if required.

The Case Management Plan is to:

- Address identified risks to the correctional system;
- Identify problematic behaviours and, where applicable, facilitate remedial action. This includes, where possible, desired therapeutic interventions;
- Identify desirable education, recreation or personal development programs and options that, where possible, can be accessed in the BMP.

The Case Management Plan is independent of, and in addition to, any Sentence or other Management Plan developed for a prisoner/detainee as part of the broader Integrated Offender Management (IOM) processes. It will, however, be developed in the context of previous assessments and Sentence/Management Plans. The Case Management Plan supersedes any Sentence/Management Plan while the prisoner/detainee is accommodated in the BMP. The BMP Committee regularly reviews and (if necessary) modifies the Case Management Plan.

A correctional case officer attached to the BMP is to be appointed within 24 hours of a prisoner/detainee being admitted to the BMP. The case officer liaises closely with the BMP Committee and works with/supports the prisoner/detainee in the achievement of the objectives of the Case Management Plan. But, in the meantime (i.e. until the Case Management Plan is finalised) the case officer ensures that the prisoner/detainee is fully inducted into the operations of the BMP and their initial needs addressed.

The BMP Committee meets at least once a week to review each prisoner/detainee's placement, progress and privileges, and will liaise closely with unit staff and individual case officers as required. The day-to-day case management of

prisoners/detainees is the responsibility of unit staff and assigned case officers, with the guidance and support of the BMP Committee as required.

6.2 Reception and Induction

6.2.1 Initial Reception and Induction

All receptions are to be co-ordinated and managed through Prisoner Reception and Processing where possible, regardless of whether the prisoner/detainee is being moved from elsewhere within the RPC or is a new/returning reception to the RPC.

The transporting and/or escorting of prisoners/detainees to and from the Tamar Unit is arranged by the Supervisor, Maximum Security Accommodation and Special Needs Units in consultation with BMP staff. Transporting prisoners/detainees outside the RPC is to be in accordance with a 'High Security' Status (Refer DSO 1.24). Movements within the RPC are to be undertaken by a minimum of three correctional officers, and prisoners/detainees are to be handcuffed during the movement.

Prior to the arrival of a new prisoner/detainee at the Tamar Unit, all other prisoners/detainees accommodated there must be secured. The safety and security of the prisoner/detainee involved, staff and the immediate environment (including other prisoners/detainees) is the major focus at this point in time.

The prisoner/detainee being admitted must be:

- Under close observation during the reception process and while under escort into Tamar;
- Briefed by the Correctional Supervisor for the area and provided with a formal induction by a correctional officer attached to the unit in relation to the routine of the unit and the general and specific provisions that apply to their particular level of placement (a further induction, focusing on case management, will be provided by a correctional case officer within 48 hours of admission to the program). The induction is to ensure that the prisoner/detainee is aware of the following;
 - a) That he is expected to participate in the daily routine of the BMP;
 - b) Of the prisoner/detainee's right, responsibilities and privileges whilst in their current stage of the BMP;
 - c) Of how the BMP operates, including how they can progress through the program on the basis of positive attitude and behaviour, while regress through the program on the basis of negative attitudes and behaviour;
 - d) Of the BMP rules, which must be clearly displayed for the reference of prisoners/detainees and staff, and the expected standards of behaviour; and
 - e) Of any other matters that the officers undertaking the induction believes necessary at the time.
- Assigned a cell; and
- If necessary, assessed by Correctional Health staff in relation to their physical and/or mental wellbeing.

The fact that the prisoner/detainee has been provided with an induction, together with any relevant information arising from the process, is to be recorded in the prisoner/detainee's local case file.

Note: It is important that the Correctional Supervisor for the area meets every prisoner/detainee being transferred to the unit and is actively involved in the reception and induction processes.

6.2.2 Reception process when prisoner/detainee is uncooperative

Director's Standing Order 1.11 'Use of Force' governs the use of force by correctional officers, including the circumstances in which physical force (physical restraint and handling), security equipment (Restraints and Physical Force Equipment), and chemical agents can be used.

An authorisation to place a prisoner/detainee in the BMP is a lawful direction of the Director of Prisons and the provisions of Director's Standing Order 1.11, including reporting requirements, apply to the use of reasonable force in relation to prisoners who refuse to be transferred there or are otherwise non-compliant or uncooperative.

6.2.3 Case Management Induction

The assigned correctional case officer is responsible for providing a formal case management induction within a 48-hour period of being assigned to a prisoner/detainee being admitted to the unit. The aim is to outline the case management process, relevant procedures and outcomes, as well as address any issues or concerns from the perspective of the prisoner/detainee.

6.2.4 Security Risk profile

Prisoners/detainees are automatically assigned a security risk profile relevant to their stage of the BMP, which informs the level of security required when interacting with the prisoner/detainee, including unlocking his cell and moving in and around the unit. Any additional security arrangements are to be approved by the Correctional Manager, Maximum Security Accommodation and Special Needs Units. The generic security arrangements for the different stages of the BMP are as follows:

Stage A	All prisoners/detainees on Stage A will require handcuffing in accordance with procedures approved by the Correctional Manager, Maximum Security Accommodation and Special Needs Units during any movement inside or outside of the unit. There will be a minimum of two officers during any escorting (inside or outside of the unit). This should be a close quarter escort.
Stage B	All prisoners/detainee on Stage B will require handcuffing to the front when moving outside of unit ONLY . There is to be a minimum of two officers during escorting. This should be a close quarter escort.
Stage C	All prisoners/detainee on Stage C will require handcuffing to the front when moving outside of unit ONLY . There is to be a minimum of one staff

member during escorting. This should be a close quarter escort.

6.2.5 Tier 2 Assessment

If not previously completed elsewhere within the prison system, the prisoner/detainee will undergo a Tier 2 assessment as part of developing their BMP Case Management Plan. This must be completed within three business days of the prisoner/detainee being assigned a correctional case officer.

6.2.6 Tier 3 Assessments

If not previously completed elsewhere within the prison system, all prisoners with a sentence of greater than 3 months will undergo a Tier 3 (Level of Service Case Management Inventory) assessment to be administered by qualified Offender Services' staff members. This is to occur within seven business days of being admitted to the BMP and forms an input to the development of the BMP Case Management Plan.

6.3 Prisoner/detainee hierarchy of privileges and sanctions

Prisoners/detainees are required to cooperate with BMP routines and program requirements at all times. Access to increased privileges is linked to positive behaviour and attitudes, while loss of privileges results from negative or inappropriate behaviours and attitudes.

The BMP has three prisoner/detainee supervision regimes (Stages A, B and C), as outlined throughout this operating model and summarised at [Appendix A](#), and a prisoner/detainee's entitlements and privileges whilst accommodated in the BMP are in accordance with their BMP placement level and their Case Management Plan. By default, all new entrants to the BMP commence at Stage A and can progress to Stages B and C on the basis of positive attitudes and behaviour.

6.4 Programs

The Manager, IOM Unit has overall responsibility for the development and provision of programs to RPC, and a prisoner/detainee's Sentence Plan outlines their program needs. In the case of prisoners/detainees in the BMP, their Case Management Plan outlines their program needs, including any specific therapeutic interventions. Where appropriate, and as approved by the BMP Committee, IOM Unit case co-ordinators who have been managing prisoners/detainees in the mainstream prison environment may continue interacting with them while admitted to the BMP.

Prisoners/detainees do not generally have access to general programs outside the Tamar Unit. They may, however, participate in individualised or small group

(specialist) interventions focusing on specific cognitive or behavioural issues run in-unit. Participation is subject to the approval of the BMP Committee.

Specific therapeutic interventions are to be developed and delivered on a consultative basis by the Therapeutic Services Unit and the IOM Programs Unit.

6.5 Education

Prisoners/detainees in the BMP are able to undertake approved education activities, as outlined in their Case Management Plans and according to their stage in the program. In order to undertake education activities, prisoners/detainees are permitted to have access to items approved by the Manager, Maximum Security Accommodation and Special Needs Units, in consultation with the BMP Committee. Education activities are restricted to those that can be undertaken/delivered in-unit.

6.6 Employment

Other than a limited number of domestic in-unit employment opportunities (e.g. wards-men), there are no employment opportunities available for prisoners/detainees assigned to Tamar.

6.7 Sport and Recreation

There is no provision for organised sporting activities in the Tamar unit. Prisoners/detainees do, however, have access to the open-air exercise facilities attached to these unit in accordance with their stage in the BMP.

Prisoners/detainees in stages B and C of the program also have access to games and other recreation items/equipment approved by the Correctional Manager, Maximum Security Accommodation and Special Needs Units.

6.7.1 Art/Hobby Materials

Prisoners/detainees in Stage B and C of the BMP are permitted to have access to approved items for art/hobby, as approved by the Correctional Manager, Maximum Security Accommodation and Special Needs Units. Stage A prisoners/detainees are not permitted to have art/hobby materials. Stage B and C entitlements are as follows:

Stage B	1 x sketchbook and colouring pencils.
Stage C	Approved items for art/hobby (matchstick hobbies etc.)

6.8 Religious Materials

Prisoners/detainees in each stage of the BMP are permitted to have access to religious materials as approved by the Correctional Manager, Maximum Security and Special Needs Units. These items are included in an individual prisoner/detainee's personal property limits.

6.9 Prisoner/detainee case management records

A prisoner/detainee's local case file accompanies him when transferred to and from the BMP and the Tamar unit. Case files are to be secured in a lockable cabinet in the officer station within the unit.

The case file is to be used to make notes in relation to a prisoner/detainee's ongoing behaviour and attitude, as well as details of meaningful interactions that staff have with them (i.e. interactions that are more than just routine). All staff who have meaningful interactions with prisoners/detainees, not just assigned case officers are required to make a record in the prisoner/detainee's case file.

The local case file and, where appropriate, information recorded on the TPS Custodial Information System (CIS), are used to inform decisions in relation to a prisoner/detainee's movement through the BMP.

6.10 Review of Placement in BMP

The BMP Panel shall from time to time, but at no less than monthly intervals, provide a report to the Director of Prisons on the management, operations, general progress and the need for the continued placement of prisoners/detainees in the BMP.

In addition, the Director of Corrective Services, Director of Prisons and the Assistant Director of Prisons shall meet once every six months to review all placements within the BMP. The aim of the review is to ensure that ongoing placements are being maintained in accordance with relevant legislation, departmental policy and contemporary correctional practice.

6.11 Planning for discharge

Where the BMP Committee believes that it is appropriate for a prisoner/detainee to be released from the program, it may make a recommendation to this effect to the BMP Panel. That recommendation is to be accompanied by documented reasons in support, along with a management strategy, independent of the prisoner/detainee's Sentence Plan, as to how that person will be managed back in the mainstream environment. The management strategy is to be developed in consultation with a correctional manager/supervisor attached to the area where it is planned to place the prisoner/detainee and, where possible, the proposed correctional case officer.

6.12 Discharge

A prisoner/detainee may only be discharged from the BMP with the authority of the BMP Panel. The Director of Prisons is to be advised, in writing, of all intended discharges at least 3 business days prior to them occurring.

The chair of the BMP Panel is also to provide written advice of a prisoner/detainee's intended discharge from the BMP, including a copy of the strategy developed for managing that person back into the mainstream environment, to the Sentence Management Panel at least three business days prior to the discharge occurring.

Where a prisoner/detainee is discharged from the BMP, the BMP Committee will monitor his progress back in the mainstream environment and, where appropriate, provide support and/or specialist advice to his assigned correctional case officer. This will continue until the BMP Committee is satisfied that the prisoner/detainee no longer requires monitoring. At this point, the Manager, Correctional Case Management will provide a report to the Assistant Director of Prisons who will, in turn, provide a copy to the Director of Prisons for information. A copy of this report is to be attached to the prisoner/detainee's local case file.

7 BMP (Tamar) Structured Day

The following structured day, based on the maximum-security precinct structured day, applies to the Tamar unit:

Start		Finish
0630	Wake up via intercom	
0700	Shift handover, briefing and Muster. Search common and exercise areas for contraband, weapons and structural integrity.	
0715	Cell lights on, distribute milk and conduct muster.	
0725	Diabetic Clinic (<i>Health Clinic</i>)	
0750	Launceston inmates to Prisoner Processing (<i>Mon/Wed/Fri</i>)	
0805	Inmates to Prisoner Processing for court (<i>Mon/Wed/Fri</i>)	
0820 - 1120	- Medication. - Conduct exercise groups according to Stages and permitted associations. - Cells to be inspected/searched while prisoners being exercised.	
0830	Inmates to Prisoner Processing for court (<i>Tue/Thurs</i>)	
0830	Medical Clinics (<i>including Opiate Substitution Therapy</i>)	1130
0900	Parole Board (<i>2nd & 4th Friday each month</i>)	1300
0900	Hobart Video Links	1300
0915	Launceston Video Links (<i>Tues</i>)	
1020-1120	Unit cleaning duties (wardsman)	
1120	Walk groups completed and inmates returned to cells	
1120-1130	Search common and exercise areas.	
1115	Diabetic clinic (<i>Health Clinic</i>)	
1130	Lunch distribution and muster.	
1130-1230	Lunch lockdown. Search conducted of common and exercise areas.	
1305	Inmates to prisoner processing for court.	
1355	Hobart Video Links	
1320-1620	- Exercise for Stage C inmates who have not participated in the morning exercise session. Exercise groups according to entitlements and permitted associations. - Cells to be inspected/searched while prisoners being exercised.	
1600	Medication	
1610	Diabetic Clinic & S8 medication (<i>Health Clinic</i>)	
1520-1620	Finalise unit cleaning duties (wardsman)	
1620-1630	Walk groups completed and inmates returned to cells	
1630	- Evening meal distribution. - Muster. - Paperwork for following day to be completed and handover notes completed.	

The following personal visits schedule, which operates in the context of the structured day, applies in respect of prisoners/detainees accommodated in Tamar:

Contact Visits	
Monday	Nil
Tuesday	Nil
Wednesday	1330-1410
Thursday	0915-0955 and 1430-1510
Friday	1330-1410
Saturday	0915-0955 and 1330-1400
Sunday	0915-0955 and 1430-1510
Non-contact visits	
Monday	Nil
Tuesday	Nil
Wednesday	1330-1400
Thursday	0915-0945 and 1430-1500
Friday	1330-1400
Saturday	0915-0945 and 1330-1400
Sunday	0915-0945 and 1430-1500

It is expected that the structured day will vary over time, according to organisational constraints and needs, and changes are to be approved by the Correctional Manager, Maximum Security Accommodation in consultation with the TPS Structured Day Co-ordinator.

Evening lockdown in the maximum-security precinct is a rolling lockdown, commencing at Tamar and Franklin units, followed by a lockdown schedule approved by the General Manager, RPC.

8 Prisoner/detainee Essential Services

8.1 Catering

Meal times within Tamar are in accordance with the structured day, and meals are delivered in accordance with the approved TPS Catering Plan. Special diets are only available for medical, cultural or religious reasons. Meals are eaten with plastic cutlery. All meals are eaten in-cell.

8.2 Canteen

Canteens are delivered on a weekly basis, and issued to prisoners/detainees by unit correctional staff. In order to avoid instances of standover tactics, prisoners/detainees are locked down during the canteen delivery period.

The canteen list for the BMP is subject to the approval of the Correctional Manager, Maximum Security and Special Needs Units.

Prisoners/detainees are permitted to purchase canteens in accordance with their stage of the BMP as follows:

Stage A	No canteen purchases except for personal deodorant. Toiletry pack supplied. 1 x 30g tobacco (optional).
Stage B	Essentials only plus 1 x 30g tobacco (optional) or \$10.00 canteen. From earnings account only.
Stage C	Up to \$30.00 canteen from earnings account only.

As outlined at section 9.6.1, the purchase of toiletries can be in addition to the above (up to \$10.00 per week).

Field Code Changed

8.3 Books/Articles/Magazines/Newspapers/Tapes

Prisoners/detainees are permitted to be in possession of these items as follows:

Stage A	1 item at any one time (includes religious items)
Stage B	Up to 3 items at any one time (includes religious items)
Stage C	Up to 5 items at any one time (includes religious items)

8.3.1 Library Services

If eligible, prisoners/detainees may borrow books in accordance with protocols developed by the Manager, Prisoner, Education and Training and outlined in the RPC Custodial Operating Model.

8.4 Health Service Provision

The Correctional Health Service of the Department of Health and Human Services provides nursing support to the Tamar unit for medication, primary health and psychiatric assessment purposes.

8.4.1 Medication

8.4.1.1 General

Nursing personnel are responsible for the distribution of general medication within the Tamar unit, with security-related support being provided by general duties correctional staff as required.

8.4.1.2 Schedule 8 Medication

Schedule 8 medications are issued from the Health Centre by prescription. Prisoners/detainees prescribed Schedule 8 medication are required to attend the Health Centre in line with the maximum-security precinct structured day.

8.4.1.3 Opiate Substitution Therapy

Opiate substitution clinics are held at the RPC Health Centre on a daily basis in line with the maximum-security precinct structured day, and prisoners/detainees undergoing opiate substitution therapy are required to attend the Health Centre to have their medication dispensed.

8.4.1.4 Diabetic Medication

Prisoners/detainees are not permitted to be in possession of diabetic testing equipment or medication requiring injection. CHS personnel undertake in-unit diabetic testing for prisoners/detainees who are on oral diabetic medication and issue this medication to the unit on a daily basis. Prisoners/detainees requiring injectable diabetic medication must be taken to the Health Centre for testing and administration of medication in line with the maximum-security precinct structured day.

8.4.2 Medical Services

8.4.2.1 Primary Health

A nursing clinic for maximum-security prisoners/detainees is held daily at the Health Centre in line with the maximum-security structured day.

A number of specialist clinics, comprising Medical Practitioner; Dentistry; Physiotherapy; Optometry; Psychology; Drug and Alcohol; Epilepsy; Blood-borne Virus; and Asthma clinics, will be conducted at the Health Centre on an ongoing basis. These will be scheduled at the same times as general nursing clinics, and prisoners/detainees will attend these clinics on a needs basis.

Where possible, the CHS will deliver primary health services 'in-unit' to prisoners/detainees accommodated in Tamar, including having nurses and the Medical Officer attend the unit on a regular basis to undertake assessments and minor treatments that can occur outside the Health Centre. Otherwise, prisoners/detainees must be taken to the Health Centre for nursing and specialist clinics.

8.4.2.2 Mental Health

The Forensic Mental Health Service provides ongoing outpatient support and forensic assessment services to prisoners/detainees accommodated in RPC, including a consultant psychiatrist for assessment purposes when required. Where necessary, inmates with acute mental illness will be admitted to the Secure Mental Health Unit for treatment, in accordance with DHHS referral protocols.

8.5 Visits

8.5.1 Personal visits

Prisoners/detainees have access to personal visits as follows:

Stage A	Convicted: 1 non-contact visit per week Detainees: Up to 3 non-contact visits per week
Stage B	Convicted: 1 contact visit per week Detainees: 1 contact and 2 non-contact visits per week
Stage C	Convicted: 1 contact visit per week Detainees: 2 contact and 1 non-contact visit per week

All visits take place in the RPC visits facility at times approved by the Correctional Manager, Maximum Security Accommodation and Special Needs Units and are directly supervised by correctional staff. It is a requirement that they be booked in advance via the Visitor Reception Centre. Only one prisoner/detainee assigned to Tamar is permitted to be in the visits facility during any one visit session.

8.5.2 Professional visits

Professional visits – such as a prisoner/detainee's legal representative, Community Corrections' professionals, or representatives from other agencies (e.g. Centrelink, Veterans Affairs etc.) are conducted by appointment only from Wednesday to Friday at times approved by the Correctional Manager, Maximum Security Accommodation and Special Needs Units. Professional visits take place in the non-contact visit facility located in the RPC visits centre unless otherwise approved by the Correctional Manager, Maximum Security Accommodation and Special Needs Units.

8.6 Telephone

Personal telephone access is as follows:

Stage A	Up to 4 per week.
Stage B	Up to 7 per week
Stage C	Unlimited

The Tamar unit has an Arunta telephone system that prisoners/detainees can use to make telephone calls. This is located in the in-unit open-air exercise facility. Phone calls are to be made during scheduled out of cell time only.

Prisoners/detainees are also permitted professional phone calls on weekdays between in accordance with the BMP structured day.

8.7 Laundry

The RPC commercial laundry undertakes the laundering of all linen for the Tamar unit. Clean linen is delivered from the RPC laundry by TPS staff, and dirty linen is sealed in plastic bags and removed by TPS staff.

Tamar does not have provision for the in-unit laundering of personal clothing. As such, the laundering of personal clothing is undertaken by prisoner/detainee employees within the maximum-security precinct, in accordance with local protocols developed by the Correctional Manager, Maximum Security Accommodation and Special Needs Units. All laundry coming into Tamar is to be searched prior to being delivered to prisoners/detainees.

8.8 Showers

Each cell has its own shower and toilet. Prisoners/detainees are expected to shower on a daily basis during their in-cell time.

8.9 Mail

In accordance with general TPS policy and protocols. All outgoing mail must have addressee information on the front and the prisoner/detainee's name and OTS number on the rear of the envelope. No other writings, drawing or other form of adornment is permitted on the envelope.

All mail to and from BMP prisoners/detainees is inspected and read by relevant unit correctional staff.

9 Prisoner/detainee Accommodation

9.1 Unlock hours

The daily out-of-cell time for the maximum-security precinct is between 0730 and 1700. This includes a one-hour lockdown at lunchtime. The following out-of-cell times apply to the BMP, and will occur within the maximum-security precinct out-of-cell periods:

Stage A	1 hour per day in the Stage A and B exercise yard at the eastern end, or rear, of the Tamar Unit. This includes telephone time.
Stage B	2 hours per day in the Stage A and B exercise yard at the eastern end, or rear, of the Tamar Unit. This includes telephone time.
Stage C	3 hours per day in the Stage C exercise yard and the communal dining and lounge area (i.e. the exercise yard adjacent to the communal dining and lounge area). This includes telephone time.

9.2 Prisoner/detainee Interaction

Prisoners/detainees may associate with others in certain circumstances. The following principles apply:

- A prisoner/detainee may apply to associate with other prisoners/detainees in writing, with an application form provided on request. Where necessary, a unit correctional officer will assist the prisoner/detainee to complete the form;
- The Manager, Maximum Security Accommodation and Special Needs Units will assess the application and, if appropriate, may approve one or more associations in accordance with the following schedule. Approval is at the discretion of the Manager, Maximum Security Accommodation and Special Needs Units.

Stage A	Nil Associations
Stage B	Maximum of 2 (Only one at any one time)
Stage C	Maximum of 4 (Only one at a any one time)

- A prisoner/detainee associating with one other prisoner/detainee is classed as one association. Therefore, a Stage B prisoner/detainee may associate with two other prisoners/detainees, but with only one of them at a time. A stage C prisoner/detainee may associate with up to four others, but with only one person at any one time;
- Prisoners/detainees do not have to be in the same stage to associate, but they must be in a stage of the BMP that allows them to associate with others;
- Associations are a privilege and are dependant on each prisoner/detainee in a particular association being of good behaviour and maintaining a positive attitude;
- If either party to an association is generally not of good behaviour within the BMP, or if adverse reports are raised during any particular association, approval for the prisoners/detainees to associate will be revoked;
- Associations are not granted on the basis of maintaining security and good order (i.e. prisoners/detainees who behave poorly will not be given an association to ensure good behaviour or compliance).

9.3 Cell fit-out and cleanliness

Tamar has standard maximum-security cells, but with security cameras in each. Each cell is fitted with a concrete bed; television, desk, corkboard and shelving unit; a cell services unit that includes cell call and two radio stations; a shower and toilet; an observation dome; and state of the art smoke detectors, and alarms. The end of the bed doubles as a chair for the desk.

Cells are to be kept in a clean, tidy and hygienic state. Graffiti or other markings are not permitted.

Damage to cells is not tolerated. In the event of intentional or reckless damage, prisoners will be prosecuted, either civilly or under the TPS Prisoner Disciplinary System. Cost recovery will also be pursued.

9.4 Cell Access

Stage A prisoners/detainees do not have access to their cells during designated out-of-cell times. Their cells doors are to be locked during these periods.

Prisoners/detainees in stages B and C are permitted to have access to their cells for up to 20 minutes during designated out-of-cell times for cleaning. Cell doors are to remain open while cleaning takes place. Otherwise, prisoners/detainees do not have access back into their own cells during their designated out-of-cell times and cell doors are to be locked.

Under no circumstances are prisoners/detainees permitted to enter or remain in cells other than their own.

9.5 Cell moves

All prisoners/detainees will move cells at least once within every 28-day period.

9.6 Prisoner/detainee property

In addition to items previously mentioned - such as educational materials, religious materials, recreational material, canteen purchases, art/hobby items, and approved reading materials - prisoners/detainees may have the following property in their cells:

9.6.1 Toiletries

TPS provides prisoners/detainees in all stages of the BMP with a toiletries pack containing basic items. Prisoners/detainees in each stage may purchase additional toiletry items of up to \$10.00 per week on their canteen. This is in addition to any other canteen purchases.

9.6.2 Electrical Items

Prisoners/detainees may have the following TPS or privately owned electrical items in their cells:

Stage A	Television
Stage B	Television and jug (prisoner/detainee to purchase)
Stage C	Television; clock radio; walkman CD player and up to 4 music CD's; PS1 and 4 games.

9.6.3 Private Property

Stage A	▪ 2 x prison issue clothing only ▪ Up to 10 photographs at any one time
Stage B	▪ 2 x prison issue clothing ▪ Socks and underwear ▪ Up to 15 photographs at any one time
Stage C	▪ 2 x prison issue clothing ▪ Socks and underwear ▪ 1 x photo album

Damage to departmental appliances (e.g. televisions, jugs etc.) and other departmental property is not tolerated. In the event of intentional or reckless damage, prisoners will be prosecuted, either civilly or under the TPS Prisoner Disciplinary System. Cost recovery will also be pursued, with a damaged item not being replaced until the cost of the damage has been paid for.

Cells are searched on a regular basis and any excess property is removed. Excess personal property will be placed in storage or, if appropriate arrangements are made, may be signed out of the prison.

9.7 Prisoner/detainee Clothing

Prisoners/detainees are to be clothed in accordance with TPS Director's Standing Orders or, if employed, their employment status while undertaking that employment.

9.8 Smoking

The TPS prisoner/detainee smoking policy adopts a phased approach to implementing a service-wide prohibition on smoking in cells. Up until the end of 2008 (or as otherwise advised by the Director of Prisons) prisoners/detainees will be permitted to smoke in their own cells on a limited basis. During this period the following provisions apply to the Tamar unit.

9.8.1 Out-of-cell time

Under no circumstances is smoking to occur in internal communal accommodation areas during designated out-of-cell periods. Wall-mounted cigarette lighters are provided in the unit open-air exercise facilities. Smoking is permitted in these areas, but is to occur at least 3 metres away from the entrance to the accommodation areas.

9.8.2 In-cell smoking

Prisoners/detainees are permitted to smoke in their cells when locked down.

10 Security

10.1 General

The good order and security of the BMP is the priority focus at all times. No property or items are to enter the Tamar unit without the approval of the Correctional Manager, Maximum Security Accommodation and Special Needs Units. All items are to be checked and cleared by unit officers prior to entry.

10.2 Access

During business hours correctional staff control access to and from Tamar via the movement control station located within the unit, but the Operations Movement Control station, the Medium Movement Control Station or the RPC Master Control Room can assume control if necessary. After hours access is controlled from either the Operations Movement Control Station or the Master Control Room.

Access to the Tamar unit is strictly regulated and restricted to prisoners/detainees accommodated there and to TPS employees, DHHS employees and other external providers attending the area for approved work-related purposes. Staff who do not have legitimate business within the unit are not to enter. Access is restricted to correctional managers; correctional supervisors, general duties officers; emergency response teams and other professionals who have business within the Tamar unit.

All staff entering the units are subject to non-intrusive search (see [section 10.13](#)), and their details – together with the reason for the attending the unit – are to be recorded in a unit register maintained for the purpose. The Correctional Manager, Maximum Security Accommodation and Special Needs Units is to review the registers on at least a weekly basis and ensure that all access to the units is appropriate and necessary.

10.3 Movement within the Tamar Unit

Unit correctional staff control movement within and around the Tamar unit in accordance with TPS and local protocols.

The locking and unlocking of cells in Tamar is controlled electronically from the movement control station within the unit, but can also be controlled from one of the other movement control stations in the facility or the Master Control Room if necessary. Cells are not to be unlocked unless at least two correctional officers are present, or more if a prisoner/detainee's risk profile warrants it.

The following provisions apply in relation to the movement of prisoners/detainees in, around and outside the unit:

Stage A	All prisoners/detainees on Stage A are to be handcuffed in accordance with procedures approved by the Correctional Manager, Maximum Security Accommodation and Special Needs Units during any movement inside or outside of the unit. There must be a minimum of two officers during any escorting (inside or outside of the unit). This must be a close quarter escort.
Stage B	All prisoners/detainee on Stage B are to be handcuffed to the front when moving outside of unit ONLY . There is to be a minimum of two officers during escorting. This must be a close quarter escort.
Stage C	All prisoners/detainee on Stage C are to be handcuffed to the front when moving outside of unit ONLY . There is to be a minimum of one staff member during escorting. This is to be a close quarter escort.

10.4 Headcounts and Musters

Formal musters take place in accordance with the RPC structured day.

10.5 After-hours checks

Prisoners/detainees are locked in their cells after hours. Nightshift correctional staff physically check each cell and sight its occupant on at least a three-hourly basis between the evening and morning musters. A record of these checks, together with any relevant comments/observations, is to be entered into the unit logbook.

Prisoners/detainees are able to make contact with the RPC control room via the cell call system installed in their cell, if needed.

In addition to the physical checks outlined above, prisoners/detainees in Tamar are viewed by security camera at least every 30 minutes by the Master Control Room, to

ensure that they are safe and secure. An appropriate note is made in the Master Control Room log when these observations have occurred.

10.6 Security Cameras

All cells in Tamar have security cameras, as do the exercise facilities, passageways, and the communal dining area. They can be monitored from the RPC Master Control Room and all other movement control stations in the facility, including the station located in Tamar.

10.7 Urinalysis Testing

Urinalysis testing is undertaken in-cell, in accordance with approved TPS testing procedures.

10.8 Key Control

Movement into, out of and around the Tamar unit is controlled electronically. Correctional staff are not issued with override keys for electronically controlled doors, but do have keys for access to cabinets containing emergency equipment. These are collected from the access control point in the gatehouse the commencement of each shift and returned at its conclusion. Keys are not to be removed from RPC.

10.9 Cut-down knives

Cut-down knives are located in the Operations movement control station and the officer station in the Tamar unit. Additionally, all correctional supervisors are issued with cut-down knives to be carried at all times while on duty.

10.10 Duress Alarms

All staff and visitors to the Tamar unit are required to wear duress alarms. Alarms are drawn from the access control point in the gatehouse on entry to the facility and returned when exiting. Responses to duress alarms are in accordance with TPS emergency response protocols.

10.11 Radios

Correctional staff operating within the Tamar unit use radios, which are drawn from, and returned to, the access control point in the gatehouse on entry into the facility on a daily basis.

10.12 Tools

No tools are stored or permitted in the Tamar unit.

10.13 Searching

The following principles apply:

- All prisoners/detainees entering or leaving Tamar unit are searched in accordance with TPS Director's Standing Orders and RPC Standard Operating Procedure 1.11.1.
- All prisoners/detainees will be pat-searched in an out of any common areas;
- All staff and visitors entering Tamar unit are routinely subjected to a non-intrusive search with a handheld metal detector each time they enter the unit. They may also be subject to a non-intrusive search using the TPS drug detector dog on a random or programmed basis;
- Prior to and at the completion of a prisoner/detainee's placement in Tamar unit, their cell is thoroughly searched;
- At least two cells per day are searched in Tamar;
- All security fittings and prisoner/detainee areas are searched at least once a day in accordance with RPC Standard Operating Procedure 1.10.1. Bars and mesh fitted to all cells, windows and exercise yards, and other common areas are examined and tapped or checked at the same time to ensure that they are structurally sound;
- All items, including food delivery boxes, are searched before being allowed into Tamar unit. A handheld metal detector is used where practicable. Prisoner/detainee employees providing services (e.g. food delivery) to the unit must not enter the unit and must leave items at the entrance to the unit,

In addition to the above, targeted searching based on information or intelligence received will occur in accordance with Standing Orders and Standard Operating Procedures.

Details of all searches conducted, together with the results of those searches, are recorded in unit logs and search registers, which are reviewed on a weekly basis by the Correctional Manager, Maximum Security and Special Needs Units.

Any items found in the possession of prisoners/detainees that are prohibited at their current stage of the BMP will be confiscated. If appropriate, the prisoner/detainee will be subject to a disciplinary action.

10.14 Inspections

Correctional officers assigned to the Tamar unit are to conduct individual cell checks on a daily basis to ensure cleanliness and tidiness.

The RPC management team, which includes the Correctional Manager, Maximum-Security Accommodation and Special Needs Units, conducts a formal inspection of the maximum-security precinct, including the Tamar unit, at least once a week.

10.15 Emergency Response

Responses to, and command and control of, emergency situations in the Tamar unit and the broader maximum-security precinct are to be in accordance with TPS and RPC-specific emergency response protocols.

10.16 Disciplinary procedures

The normal TPS disciplinary process applies to all prisoners/detainees accommodated in the BMP.

Disciplinary hearings are to be held in one of the consulting/interview rooms adjacent to the communal dining and lounge area.

11 Staffing

The Correctional Manager, Maximum Accommodation and Special Needs Units (5 days x 8 hours) has responsibility for all aspects of the day-to-day security and operations of the units located in the maximum-security precinct, including the Tamar unit. That person, in turn, reports to the General Manager, Risdon Prison Complex and is a member of the RPC Management Team.

11.1 Dayshift

Three correctional officers (7 days x 10 hours) are allocated to both Tamar unit during unlock hours. These officers are attached to Maximum Security Team 1 and are supported by other staff, including general duties correctional officers, on a scheduled and needs basis.

11.2 Night Shift

There is no designated nightshift staffing in either the Tamar unit. Units. The Supervisor, Operations has after-hours responsibility for the units, and General Duties Night Shift Correctional Officers undertake checks/responses of/to the area on a roving basis.

11.3 Staff Meetings

Staff team meetings are held on at least a monthly basis, with the Correctional Manager, Maximum Security and Special Needs (or designated proxy) having responsibility for assuming the role of chairperson. These meetings are structured and operate in accordance with the TPS Staff Meeting policy.

12 Appeals

12.1 General

Prisoners/detainees have the right to formally appeal against decisions made regarding their admission, to and ongoing placement within, the BMP, including decisions relating to the movement from one stage of the program to another. These must be in writing and made within 14 days of a decision being effected or notification of a decision being received.

Prisoners/detainees must be advised upon admission into the program of their right to appeal. Special care must be taken to ensure that Aboriginal/Torres Strait Islander prisoners/detainees and those with disabilities or English as a second language understand their rights regarding admission/placement decisions.

Written notifications to prisoners/detainees regarding admission/placement decisions, including decisions to move them to a more restrictive stage of the program, must include advice that they have the right to appeal the decision.

The Director of Corrective Services will consider appeals against decisions endorsed by the Director of Prisons.

The Director of Prisons will consider appeals against decisions made by other parties, i.e. BMP Panel and BMP Committee.

An appeal will not be undertaken unless the prisoner/detainee can provide new and relevant information that was not available at the time the decision was made, and which would most likely have altered the decision.

12.2 Documenting recommendations and decisions

The TPS must be able to demonstrate that decisions regarding placement within the BMP are well informed and based on sound judgement. Decisions must be reasonable, fair, transparent and fully documented.

It is extremely important that any extenuating circumstances taken into account when making a decision regarding the placement or treatment of a prisoner or a detainee are fully documented.

When making decisions regarding prisoners/detainees entering or moving through the various stages of the BMP, staff must apply the principles of good administrative decision-making. Staff should refer to the principles contained in the Judicial Review Act 2000 Training Package published by the Department of Justice, Tasmania (Office of Legislation Development and Review) for guidance.

13 Review of BMP

To ensure effective corporate performance reporting, the following reporting and review mechanisms will apply:

13.1 Monthly Statistical Reporting

The Correctional Manager, Maximum Security Accommodation and Special Needs Units is to provide to the General Manager, RPC (who will, in turn, provide a copy to the Assistant Director of Prisons) with a report that includes:

- The number of admissions to/discharges from the BMP;
- The average length of stay of prisoners/detainees in BMP and the various stages of the BMP;
- Procedural or documentation shortcomings and how they were remedied;
- Any operational issues that have arisen during the month and how these issues were addressed or whether they are still to be resolved; and
- Any other issues deemed relevant to report on.

Copies of the monthly report are also to be provided to the Director of Prisons and the Director of Corrective Services, with the responsibility for this resting with the Assistant Director of Prisons.

13.2 Annual System Audit

The Assistant Director of Prisons and the Manager, IOM Unit are to conduct an annual audit/review of the BMP that focuses on systemic issues, and submit a report to the Director of Prisons and the Director of Corrective Services. This report will evaluate the effectiveness of the BMP in relation to:

- safety and security of prisoner/detainees and staff;
- accuracy and efficiency of relevant processes;
- compliance with indicators, such as time frames, documentation and the aims of the program;
- complaints and complaint resolution;
- resources availability and appropriateness;
- recommendations for improvement; and
- other matters deemed appropriate to report on.

APPENDIX A

Behaviour Management Program: Hierarchy of Privileges and Sanctions

	STAGE A	STAGE B	STAGE C
Phone Calls	Up to 4 per week.	Up to 7 per week.	Unlimited.
Visits	Convicted: 1 non-contact visit per week. Detainee: Up to 3 non-contact visits.	Convicted: 1 contact visit per week. Detainee: 1 contact and 2 non-contact per week.	Convicted: 1 contact visits per week. Detainee: 2 contact visits and 1 non-contact visits per week.
Association (controlled)	As per association matrix (Maximum of 2 in yard)	As per association matrix (Maximum of 2 in yard)	As per association matrix (Maximum of 2 in yard)
Access Areas	1 hour yard including phone	2 hours yard including phone	3 hours yard including phone
Books / Articles / Magazines / Newspapers / Tapes	One item at any one time (includes religious materials)	Up to 3 items at any one time (includes religious materials)	Up to 5 items at any one time (includes religious materials)
Art / Hobby	Nil.	1 x sketch book and colouring pencils	Approved items for art / hobby (Matchstick hobbies etc.)
Buy Up / Food (no glass or cans)	No canteen purchases except personal deodorant – Toiletry pack supplied. 1 x 30g tobacco (optional)	Essentials only plus 1 x 30g tobacco (optional) or \$10 Canteen. Earnings only.	Up to \$30.00 canteen from earnings only.
Toiletries	Basic items supplied, prisoner/detainee purchases additional items.	Basic items supplied, prisoner/detainee purchases additional items.	Basic items supplied, prisoner/detainee purchases additional items.
Recreation Material (board games, cards, etc)	Card games only. No crib boards or items that can be used as weapons.	Approved games supplied. Recreation equipment to be issued from office and returned on completion of exercise. No items that can be used as weapons.	Approved games supplied. Recreation equipment to be issued from office and returned on completion of exercise. No items that can be used as weapons.
Employment (domestic duties)	Nil.	Nil.	Wardsman; Cleaner
Education Materials (In consultation with BMP Committee)	Approved items for approved education. No items that can be used as weapons.	Approved items for approved education. No items that can be used as weapons.	Approved items for approved education. No items that can be used as weapons.
Religious Materials	Approved items (Included in property limits).	Approved items (Included in property limits).	Approved items (Included in property limits).
Private Property (Other than above)	2 x prison issue clothing Only; Up to 10 photographs at any time	2 x prison clothing; Socks and underwear; Up to 15 photographs at any time	2 x prison clothing; Socks and underwear. 1 x photo album.

	STAGE A	STAGE B	STAGE C
Electrical Items: Departmental property and private property	Television.	Television + Jug (prisoner/detainee to purchase)	Television; clock radio; walkman CD player and up to 4 music compact discs; PS1 and 4 games.
Movement	All prisoners/detainees on Stage A will require handcuffing in accordance with procedures approved by the Correctional Manager, Maximum Security Accommodation and Special Needs Units during any movement inside or outside of the unit. There will be a minimum of two officers during any escorting (inside or outside of the unit). This should be a close quarter escort.	All prisoners/detainee on Stage B will require handcuffing to the front when moving outside of unit ONLY . There is to be a minimum of two officers during escorting. This should be a close quarter escort.	All prisoners/detainee on Stage C will require handcuffing to the front when moving outside of unit ONLY . There is to be a minimum of one staff member during escorting. This should be a close quarter escort.



APPENDIX E

EXTRACT FROM *CORRECTIVE SERVICES ACT 2006* (QLD)

CORRECTIVE SERVICES ACT 2006 (QLD)

DIVISION 6 – MAXIMUM SECURITY ORDERS

60 Maximum security order

- (1) The chief executive may make an order (the maximum security order) that a prisoner be accommodated in a maximum security unit.
- (2) The maximum security order may be made only if--
 - (a) the prisoner's security classification is maximum; and
 - (b) the chief executive reasonably believes that 1 or more of the following apply--
 - (i) there is a high risk of the prisoner escaping, or attempting to escape;
 - (ii) there is a high risk of the prisoner killing or seriously injuring other prisoners or other persons with whom the prisoner may come into contact;
 - (iii) generally, the prisoner is a substantial threat to the security or good order of the corrective services facility.
- (3) The maximum security order must not be for a period longer than 6 months.

61 Consecutive maximum security orders

- (1) The chief executive may make a further maximum security order for a prisoner to take effect at the end of an existing maximum security order.
- (2) The further maximum security order must be made not more than 14 days before the end of the existing maximum security order.
- (3) However, the chief executive must not make the further maximum security order unless--
 - (a) not more than 28 days before the end of the existing maximum security order, the chief executive gives written notice to the prisoner advising the prisoner that--
 - (i) the chief executive is about to consider whether a further maximum security order should be made; and
 - (ii) the prisoner may, within 14 days after receiving the written notice, make submissions to the chief executive

about anything relevant to the decision about making the further maximum security order; and

- (b) the chief executive considers any submission the prisoner makes under paragraph (a)(ii).

62 Other matters about maximum security order

- (1) A maximum security order for a prisoner must include, if it is practicable, directions about the extent to which--
 - (a) the prisoner is to be separated from other prisoners accommodated in the maximum security unit; and
 - (b) the prisoner is to receive privileges.
- (2) The privileges the prisoner may receive while subject to the maximum security order must be limited to privileges--
 - (a) that can be enjoyed within the maximum security unit; and
 - (b) the enjoyment of which, in the circumstances of the order, may reasonably be expected not to pose a risk to the security or good order of the corrective services facility.
- (3) The maximum security order may include directions about the prisoner's access, within the maximum security unit, to programs and services, including training and counselling.
- (4) The chief executive may provide for the prisoner's reintegration into the mainstream prisoner population of the corrective services facility before the period of the maximum security order ends.

63 Review of maximum security order

- (1) A prisoner subject to a maximum security order may apply in writing to the chief executive for referral of the order to an official visitor for review.
- (2) However--
 - (a) if the period of the maximum security order is 3 months or less, the prisoner can not ask for the order to be referred more than once; or
 - (b) if the period of the maximum security order is more than 3 months, the prisoner can not ask for the order to be referred more than twice in any 6 month period.
- (3) After receiving an application under subsection (1), the chief executive must refer the maximum security order to an official visitor.

- (4) The official visitor must review the maximum security order.
- (5) In addition to the prisoner's entitlement under subsection (2), the prisoner may also ask for the maximum security order to be referred to an official visitor if the chief executive amends the order, other than under subsection (9).
- (6) The official visitor, on the official visitor's own initiative, must review the maximum security order if--
 - (a) the period of the order is more than 3 months; and
 - (b) the order has not been reviewed--
 - (i) at the prisoner's request; or
 - (ii) within the previous 3 months.
- (7) When reviewing the maximum security order, the official visitor may exercise the powers mentioned in section 291.
- (8) After completing the review, the official visitor must recommend to the chief executive whether the maximum security order should be confirmed, amended or cancelled.
- (9) The chief executive must consider the recommendation and confirm, amend or cancel the maximum security order.
- (10) To remove any doubt, it is declared that the chief executive is not bound by the official visitor's recommendation.
- (11) For this section, 2 or more maximum security orders running consecutively are taken to be 1 maximum security order.

64 Medical examination

A doctor must examine a prisoner subject to a maximum security order--

- (a) as soon as practicable after the order takes effect; and
- (b) subsequently, at intervals that are, to the greatest practicable extent, of not more than 28 days; and
- (c) as soon as practicable after the order ceases to have effect.

65 Record

- (1) The chief executive must record, for each corrective services facility, the details of each prisoner subject to a maximum security order.

- (2) The details must include each of the following--
- (a) the prisoner's name, identification number and age;
 - (b) whether the prisoner is an Aboriginal or Torres Strait Islander person;
 - (c) the date on which the maximum security order was made;
 - (d) the period for which the maximum security order was made;
 - (e) the dates the prisoner was examined under section 64;
 - (f) if the order was reviewed--
 - (i) the date when the review was carried out; and
 - (ii) the name of the official visitor who reviewed the order; and
 - (iii) the decision of the chief executive following the review.



APPENDIX F

**EXTRACT FROM *CRIMES (ADMINISTRATION OF SENTENCES) ACT*
1999 (NSW)**

CRIMES (ADMINISTRATION OF SENTENCES) ACT 1999 (NSW)

DIVISION 2 – SEGREGATED AND PROTECTIVE CUSTODY

9 Definitions

In this Division:

"protective custody direction" means a direction referred to in section 11.

"segregated custody direction" means a direction referred to in section 10.

"suspension direction" means a direction referred to in section 20 (1) (a).

10 Segregated custody of inmates

- (1) The Commissioner may direct that an inmate be held in segregated custody if of the opinion that the association of the inmate with other inmates constitutes or is likely to constitute a threat to:
 - (a) the personal safety of any other person, or
 - (b) the security of a correctional centre, or
 - (c) good order and discipline within a correctional centre.
- (2) The general manager of a correctional centre may exercise the Commissioner's functions under this section in relation to the correctional centre and, on each occasion he or she does so, must notify the Commissioner of that fact and of the grounds on which the segregated custody direction was given.
- (3) A segregated custody direction given by the general manager of a correctional centre does not apply in relation to any other correctional centre.
- (4) Subsection (3) is subject to section 15.

11 Protective custody of inmates

- (1) The Commissioner may direct that an inmate be held in protective custody if of the opinion that the association of the inmate with other inmates constitutes or is likely to constitute a threat to the personal safety of the inmate.
- (2) The Commissioner may also direct that an inmate be held in protective custody if the inmate requests the Commissioner in writing to do so.

- (3) The general manager of a correctional centre may exercise the Commissioner's functions under this section in relation to the correctional centre and, on each occasion he or she does so, must notify the Commissioner of that fact and of the grounds on which the protective custody direction was given.
- (4) A protective custody direction given by the general manager of a correctional centre does not apply in relation to any other correctional centre.
- (5) Subsection (4) is subject to section 15.

12 Effect of segregated or protective custody direction

- (1) An inmate subject to a segregated or protective custody direction is to be detained:
 - (a) in isolation from all other inmates, or
 - (b) in association only with such other inmates as the Commissioner (or the general manager of the correctional centre in the exercise of the Commissioner's functions under section 10 or 11) may determine.
- (2) An inmate who is held in segregated or protective custody:
 - (a) is not to suffer any reduction of diet, and
 - (b) is not to be deprived of any rights or privileges other than those determined by the Commissioner (or the general manager in the exercise of the Commissioner's functions under section 10 or 11), either generally or in a particular case, and other than those the deprivation of which is necessarily incidental to the holding of the inmate in segregated or protective custody.

13 Form of direction

A segregated or protective custody direction must be in writing and must include the grounds on which it is given.

14 Information concerning review of segregated or protective custody direction

As soon as practicable after an inmate is directed:

- (a) to be held in segregated custody under section 10, or
- (b) to be held in protective custody under section 11 (other than at the inmate's request),

the general manager of the correctional centre is to provide the inmate with information concerning the inmate's rights to a review of the segregated or protective custody direction.

15 Transfer of inmate held in segregated or protective custody

- (1) If an inmate held in segregated or protective custody under a segregated or protective custody direction given by the general manager of a correctional centre is transferred to another correctional centre, the segregated or protective custody direction applies:
 - (a) in relation to the correctional centre to which the inmate is transferred ("the receiving correctional centre"), and
 - (b) in relation to the conveyance of the inmate to the receiving correctional centre, including custody of the inmate in any correctional centre in which the inmate is held during the course of being conveyed to the receiving correctional centre.
- (2) Within 72 hours after the arrival of the inmate at the receiving correctional centre, the general manager of the receiving correctional centre must review the segregated or protective custody direction, having regard to the grounds referred to in section 10 or 11, and give one of the following directions:
 - (a) a direction revoking the segregated or protective custody direction,
 - (b) a direction confirming the segregated or protective custody direction,
 - (c) a direction confirming the segregated or protective custody direction but amending its terms.
- (3) A direction given under subsection (2) has effect according to its terms.
- (4) A segregated or protective custody direction that is subject to a direction under subsection (2) (b) or (c) is, on and after the giving of that direction, taken to be a segregated or protective custody direction given by the general manager of the receiving correctional centre.
- (5) A direction by the general manager of a receiving correctional centre revoking, confirming or amending a segregated or protective custody direction has effect even though it is given outside the period during which it is required to be given under this section.

16 Review of segregated or protective custody direction by Commissioner

- (1) The general manager of a correctional centre where an inmate is held in segregated or protective custody must submit a report about the segregated or protective custody direction to the Commissioner within 14 days after the date on which the direction is given ("the relevant date"), regardless of whether the segregated or protective custody direction was given by the Commissioner or by the general manager of a correctional centre.
- (2) Within 7 days after receiving the report, the Commissioner must review the segregated or protective custody direction and give one of the following directions:
 - (a) a direction revoking the segregated or protective custody direction,
 - (b) a direction confirming the segregated or protective custody direction,
 - (c) a direction confirming the segregated or protective custody direction but amending its terms.
- (3) If the direction is confirmed, the general manager of the correctional centre where the inmate is held in segregated or protective custody must submit a further report about the direction to the Commissioner within 3 months after the relevant date, and within each subsequent period of 3 months after that period.
- (4) Within 7 days after each occasion on which the Commissioner receives any such further report, the Commissioner must review the segregated or protective custody direction and give one of the directions referred to in subsection (2) (a)-(c).
- (5) The confirmation of a segregated or protective custody direction by the general manager of a correctional centre under section 15, or by the Review Council under section 22, does not affect the requirements for reporting about and reviewing a segregated or protective custody direction under this section.
- (6) A direction by the Commissioner revoking, confirming or amending a segregated or protective custody direction has effect even though it is given outside the period during which it is required to be given under this section.
- (7) In this section:

"report", in relation to a segregated or protective custody direction, means a report recommending whether or not the segregated or protective custody direction should be revoked, confirmed or amended.

17 Revocation of segregated or protective custody direction

- (1) A segregated or protective custody direction remains in force until it is revoked.
- (2) The Commissioner may, at any time, revoke a segregated or protective custody direction or amend its terms.
- (3) The Commissioner must revoke a protective custody direction given at the request of an inmate if the inmate requests the Commissioner in writing to revoke it.
- (4) The general manager of a correctional centre may exercise the Commissioner's functions under this section in relation to the correctional centre.

18 Report to Minister on segregated or protective custody direction

- (1) As soon as practicable after confirming a segregated or protective custody direction, the Commissioner must give written notice of that fact to the Minister, giving reasons for the confirmation direction, if:
 - (a) the confirmation direction will result in the inmate being subject to a total continuous period of segregated or protective custody exceeding 6 months, or
 - (b) the inmate has already been subject to a total continuous period of segregated or protective custody exceeding 6 months.
- (2) This section does not apply to a direction confirming a protective custody direction that was given at the request of an inmate.

19 Review of segregated or protective custody direction by Review Council

- (1) An inmate whose total continuous period of segregated or protective custody exceeds 14 days may apply to the Review Council for a review of the segregated or protective custody direction under which the inmate is held in segregated or protective custody.
- (2) The application is to be in writing and is to include the inmate's reasons for making the application.
- (3) The Review Council must review the direction unless subsection (4) applies.
- (4) The Review Council may refuse to review the direction if:
 - (a) the application does not, in the opinion of the Review Council, disclose substantial grounds for a review, or

- (b) the Review Council has previously determined a review of the same direction under this Division and the application does not, in the opinion of the Review Council, disclose substantially different grounds for review.
- (5) The Review Council may not refuse to review a direction under subsection
- (4) if a period of more than 3 months has elapsed since the Review Council determined a review of the segregated or protective custody direction.
- (6) This section applies regardless of whether the relevant segregated or protective custody direction was given by the Commissioner or by the general manager of a correctional centre.

20 Suspension directions by Review Council

- (1) The Chairperson of the Review Council may give a direction for:
 - (a) the suspension of an inmate's segregated or protective custody direction, or
 - (b) the transfer of an inmate to a different correctional centre.
- (2) A suspension direction may be given at any time after an application for a review is made and before it is determined.
- (3) While a suspension direction is in force, the inmate is not to be held in segregated or protective custody unless a new segregated or protective custody direction is given.
- (4) The Chairperson may at any time vary or revoke a suspension direction.
- (5) A suspension direction does not revoke a segregated or protective custody direction.
- (6) A direction for the transfer of an inmate to a different correctional centre may be given:
 - (a) if the Chairperson considers that the inmate's removal would facilitate the review of the segregated or protective custody direction, or
 - (b) for any other reason that the Chairperson thinks fit.
- (7) The determination of a review of a segregated or protective custody direction by the Review Council under section 22 revokes any

suspension direction applying to the segregated or protective custody direction.

21 Procedure for review of segregated or protective custody direction by Review Council

- (1) In determining any matter relating to the segregated or protective custody of an inmate, the Review Council is not bound by the rules of evidence but may inform itself of any matter in such manner as it thinks appropriate.
- (2) The Review Council must cause notice of any hearing in relation to a review to be given to the inmate who applied for the review.
- (3) If the inmate so wishes, the Review Council must allow the inmate to be present, and to be heard, at the hearing.
- (4) The inmate may be represented by an Australian legal practitioner chosen by the inmate or, if the Review Council so approves, by some other person chosen by the inmate.
- (5) The Commissioner or the general manager of a correctional centre (or both) may be represented by an Australian legal practitioner or by some other person.
- (6) Division 2 of Part 9 applies to the conduct of a review by the Review Council under this Division.

22 Determination of review by Review Council

- (1) In reviewing a segregated or protective custody direction, the Review Council must take the following matters into account:
 - (a) whether the direction was given or reviewed in accordance with this Division,
 - (b) whether the direction was reasonable in the circumstances,
 - (c) whether the direction was necessary to secure the personal safety of the inmate or any other person,
 - (d) the security of, and the preservation of good order and discipline within, the relevant correctional centre,
 - (e) the interests of the public.
- (2) In determining an application for review, the Review Council may revoke, confirm or amend the segregated or protective custody direction to which the application relates.



APPENDIX G

EXTRACT FROM *CORRECTIONS ACT 1997* (TAS)

CORRECTIONS ACT 1997 (TAS)

DIVISION 7 – PRISON DISCIPLINE

57. Disciplinary officers

The Director, in writing, may nominate –

- (a) a correctional officer to be a disciplinary officer and may specify the prison or part of the prison in which the correctional officer may perform the functions and exercise the powers of a disciplinary officer; and
- (b) correctional officers in a class of correctional officers to be disciplinary officers and may specify the prison in which the correctional officers in that class may perform the functions and exercise the powers of a disciplinary officer.

58. Prison offences

A prisoner or detainee must not commit a prison offence.

59. Procedure in dealing with allegations of commission of prison offences

- (1) If it is alleged by any person that a prison offence has been committed by a prisoner or detainee, a correctional officer or any other person employed in the administration of a prison is to provide a disciplinary officer with a written report.
- (2) The disciplinary officer is to make a proper investigation of the alleged prison offences which come to the officer's notice and is to give the prisoner or detainee alleged to have committed the offence an opportunity of making an explanation.
- (3) If, after investigating an alleged prison offence, the disciplinary officer is satisfied that an offence has not been committed, the disciplinary officer is not to take any further action.
- (4) If, after investigating an alleged prison offence, the disciplinary officer is satisfied that an offence has been committed but is trivial, the disciplinary officer need not take any further action.
- (5) Subject to subsection (4), if after investigating an alleged prison offence the disciplinary officer is satisfied that the prisoner or detainee has committed the offence, the disciplinary officer is to record the offence in the register of offences and may, in addition, 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.
- (6) If a prisoner or detainee is to be charged with a prison offence, the charge is to be by way of written complaint.
 - (7) The written complaint is to be heard by a disciplinary officer other than the disciplinary officer who made the complaint.
 - (8) The hearing of the written complaint by a disciplinary officer is to be held as soon as practicable after the prison offence is alleged to have occurred.
 - (9) Notwithstanding subsection (8), if the hearing of the written complaint is not held within 14 days from the day on which the complaint is received by the disciplinary officer, the complaint lapses.
 - (10) The prisoner or detainee is entitled to be present at the hearing of the written complaint and to view at that hearing all the evidence in support of the complaint and is to be given the opportunity to respond to the complaint.
 - (11) If the prisoner or detainee refuses to attend the hearing of the written complaint, the disciplinary officer may hear and determine the proceedings in relation to the written complaint in the absence of the prisoner or detainee.
 - (12) The prisoner or detainee is not entitled to be represented at the hearing by a legal practitioner.
 - (13) At a hearing, the disciplinary officer is not bound by legal forms or technicalities and the rules of evidence but may inform himself or herself on any matter in such manner as he or she thinks fit.

60. Appeals against decision of disciplinary officer

- (1) A prisoner or detainee may appeal to the Director against the decision of a disciplinary officer by submitting a written request

for an appeal to the disciplinary officer not later than 3 days from the day on which the decision was made.

- (2) An appeal by a prisoner or detainee may be against the finding of guilt or against the sentence imposed.
- (3) At the hearing of an appeal under this section the Director may –
 - (a) dismiss the appeal and affirm the decision of the disciplinary officer; or
 - (b) revoke the decision of the disciplinary officer and make such decision as the Director considers appropriate.

61. Penalties which may be imposed on prisoner or detainee

If a prisoner or detainee is found guilty of the prison offence with which the prisoner or detainee is charged, the prisoner or detainee is liable to one or more of the following penalties:

- (a) the withdrawal of one or more of the prisoner's or detainee's privileges for a period not exceeding 90 days in the case of contact visits and 30 days in any other case;
- (b) a period of separation from other prisoners not exceeding 30 days;
- (c) the deduction from any prison allowance paid to the prisoner or detainee of an amount to repair any damage caused by the prisoner or detainee to property owned by the State;
- (d) loss of remission.



APPENDIX H

LAYOUT OF CELL AT GOULBURN CORRECTIONAL CENTRE

