

Custody Inspection Report

Inspection of Adult Custodial Services in
Tasmania, 2018

August 2019



Produced by the Tasmanian Custodial Inspector

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Contents

From the Custodial Inspector	1
Acknowledgements	3
Executive Summary	4
Summary of Recommendations	7
About Tasmania Prison Service	13
Inspection Methodology	14
Inspection Standards	15
Reception and Admission	16
Remand Prisoners	20
Prisoner Classification	25
Sentence Administration and Release Arrangements	32
Induction	37
Dynamic Security	56
Procedural Security	66
Segregation, Protective Custody and Separation Prisoners	83
Special High Security Regimes	94
Complaints and Grievances	101
Legal Resources	103
Discipline Offences and Punishment	104
Use of Force, Weapons and Restraints	109
Emergency Management	115
Transport of Prisoners	117
Appendix I - Glossary of Terms and Acronyms	127

From the Custodial Inspector

The Custodial Inspector Act 2016 requires me as Inspector to carry out a mandatory inspection of each custodial centre at least once every three years and to report to the responsible Minister and Parliament.

As Tasmania is a small jurisdiction, to respond to legislative obligations using the limited resources available, the Custodial Inspectorate undertakes themed inspections of custodial centres focussing on particular inspection standards. At the end of a three year cycle, all facets of custodial centres will have been inspected against the full set of inspection standards.

I am required by section 15 of the Custodial Inspector Act to prepare an inspection report on my findings in relation to each mandatory inspection to the Minister. I am required to include in any report such advice or recommendations as I consider appropriate including recommendations relating to the safety, custody, care, wellbeing and rehabilitation of prisoners and detainees; and information relating to education and programs to assist in the rehabilitation of prisoners and detainees. I report directly to the Minister responsible for the custodial centre and the responsible Minister is required to table a copy of the Inspector's report in each House of Parliament. In this way, the findings and recommendations relating to inspections become a public record.

In February and March 2018, the theme-based inspection of the full suite of Custody standards was undertaken and I am now pleased to present this report covering the findings and recommendations resulting from that inspection. The inspection focussed on all aspects of custody from the processes of reception and admission of people into custody, sentence administration to release arrangements. In particular, the inspection covered a broad range of issues relating to the treatment of prisoners and detainees in custody; whether prison infrastructure and design is adequate for the prison population; dynamic and procedural security; transport of prisoners; discipline; use of force, weapons and restraint; and emergency management.

The report is structured into headings that correspond to the Inspection Standards for Adult Custodial Services in Tasmania, and under each heading the relevant inspection standards are referenced.

Prior to publication of this report, the responsible Secretary was consulted, and invited to provide comment and correct any factual inaccuracies in it.

It should be noted that a significant period elapsed between the onsite Custody inspection and the publication of this report. This delay reflects the resourcing constraints under which the Custodial Inspectorate operates. I noted in my 2017-18 Annual Report that it has become clear that the staffing establishment of 1.5 full-time equivalent employees is inadequate and it is proving difficult to meet the demands of the inspection and report writing workload. Since the Custody inspection, my team has completed a further four inspections of all six Tasmanian custodial centres, in relation to all of which there are currently reports at varying stages of the drafting process. It is expected that these reports will be tabled in Parliament



by the end of the 2019 calendar year.

It is important to acknowledge that this report is written to reflect the point in time at which the onsite inspection was conducted such that some changes may have been made to infrastructure and procedures since that time.

Richard Connock
Custodial Inspector

August 2019



Acknowledgements

I would like to acknowledge the contributions of Mr Jim Bryden, Inspections and Research Officer from the Western Australian Office of the Inspector of Custodial Services who provided consultancy services for this inspection. I sincerely thank Jim for his expert advice and assistance, which adds greatly to the work of my office. I also take this opportunity to thank my (then) Western Australian counterpart, Professor Neil Morgan, for providing this assistance.

Acknowledgment and appreciation is also extended to all staff at Tasmania Prison Service who supported the Custody inspection.

I also greatly value the contribution of detainees and prisoners in custody to this report.



Executive Summary

This is the report of the inspection of Tasmanian adult custodial centres covering the suite of Custody inspection standards for adult prisoners. The announced onsite inspection was carried out in late February and early March 2018.

Tasmania Prison Service (TPS) is responsible for providing care and custody, at various levels of security, for prisoners and people remanded in custody in Tasmania¹. TPS also provides secure transport between prison facilities, health facilities and courts.

The following custodial centres operated by TPS were visited during the inspections:

1. Risdon Prison Complex (RPC);
2. Ron Barwick Minimum Security Prison (RBMSPP);
3. Mary Hutchinson Women's Prison (MHP);
4. Hobart Reception Prison (HRP); and
5. Launceston Reception Prison (LRP).

These inspection standards cover a broad range of areas including:

- admission to custody;
- security classification of prisoners;
- prison infrastructure;
- security;
- complaints;
- transport of prisoners;
- use of force;
- separate confinement of prisoners; and
- emergency management.

During the inspections, a number of evidence sources were used to assess the custodial centres against the standards. These included: onsite visits; meetings with senior management; individual interviews carried out with staff and prisoners; group discussions with prisoners; documentation; and observation by inspectors and experts. An external consultant joined the inspections to supplement the internal expertise of the Custodial Inspectorate team. Secondary data gathering and analysis continued after the on-site inspection had taken place.

The inspection standards relating to Custody are directed to the treatment of prisoners, and the conditions in which they are kept while in custody. They are also directed to the services provided to prisoners to support positive behaviour.

¹ Note: For the purposes of this report, a reference to the term *prisoner* includes people that are remanded and detained in custody.

Calculation of prisoner sentences, including remission, was highlighted during the inspection. While the complexities of multiple sentences and remissions are appreciated, the calculation of time to be spent in custody directly impacts prisoners and staff. Incorrect or uncertain calculation of release dates can only contribute to poor prisoner behaviour and mental health; in turn, these require management by staff.

The inspection highlighted that the prisoner classification scheme and separate confinement appear to be the preferred methods to manage challenging prisoner behaviour, where alternative strategies could be applied to deescalate and bring about compliance.

The need for separate accommodation for remand prisoners is also evident. The inspection emphasised the impact being housed with sentenced prisoners has on health and welfare services, work, education, recreational activities, religious observance, case management and planning for remand prisoners and their treatment generally.

There are concerns with the ageing infrastructure at both RBMSP and LRP and neither of these facilities is considered fit for purpose in the modern age - this has been raised in previous Annual Reports and the Care and Wellbeing Inspection Report.

Ideally, a prison regime should be designed to facilitate extensive opportunities for communication between staff and prisoners. The inspection found that this is not the case in the Risdon Prison Complex. In this custodial centre, correctional staff shortages and resulting redeployments affect contact with prisoners.

The impact of lockdowns on prisoners is severe and wide ranging. During lockdowns, prisoners have limited access to education, therapeutic counselling and criminogenic programs. Additionally, lockdowns have an impact on family and significant relationships, with planned visits cancelled at short notice, and prisoners experiencing difficulties accessing telephones. The inspection also identified that lockdowns limit TPS in delivering reintegration and rehabilitation activities.

The inspection also identified:

- concerns relating to TPS' disciplinary processes;
- that there is no suitable facility dedicated to protection of prisoners;
- no specific training had been provided to the staff working in special high security units at the time of the inspection;
- that staff working in the special high security units are not rotated, with a number of staff reporting resulting fatigue due to the stresses associated with constantly dealing with challenging behaviours; and
- deficiencies in reporting, particularly in relation to registers.

As a general comment, the inspection found that although TPS has in place many registers for recording information and data, these registers are often not completed, are only partially completed or incorrect information is entered. There appears to be a lack of understanding by staff about the importance of maintaining accurate business records. Staff require education to appreciate the value of reporting and record keeping and how and when such



records may be used in the future to assist with such things as internal audit, incident investigations and coronial enquiries. Robust procedures are also required to ensure that supervisors are properly checking and signing off registers as complete and accurate. The inspection found that there is also significant duplication in reporting across the board, which is inefficient and time consuming. It appears that reporting is affecting staff morale as TPS is operating with a depleted staffing complement. The inspection heard time and time again that there is not enough time to complete paperwork.

It is recommended that TPS implements measures to improve performance and accuracy in record keeping, particularly in relation to the maintenance of registers, including educating staff and introducing procedures to ensure quality assurance of documentation.

It was also noted that many of the TPS Director's Standing Orders and TPS policies are outdated and well past their review date. In these situations, the inspection team could not make confident judgements without further requests for information from TPS. In particular, the TPS Remission Policy requires urgent updating as does the Huon Unit operating model and the Director's Standing Order relating to external escorts.

As a final point, it is acknowledged that the Tasmanian Government is actively working towards the construction of the Southern Remand Centre on the Risdon site, which will provide 140 dedicated remand beds, and also a new Northern prison, which will accommodate up to 270 prisoners. Though these facilities will not be completed for some time, it is hoped that when they are operational they will alleviate some of the concerns raised in this report.

Summary of Recommendations

It is recommended that Tasmania Prison Service undertake the following actions:

1. Implements measures to improve performance and accuracy in record keeping, particularly in relation to the maintenance of registers, including educating staff and introducing procedures to ensure quality assurance of documentation.

Reception and Admission

2. Takes steps to address the physical environment in which prisoners are admitted in both reception prisons to ensure prisoner confidentiality is maintained.
3. Implements a procedure to ensure that prisoners' personal clothing items that are worn on admission to a facility are cleaned before being placed into the prisoner's property box.

Remand Prisoners

4. Explores options to allow, to the extent that it is practicable, daily visits for remand prisoners.
5. Introduces a broader range of short courses, and explores options for longer courses that can be broken down into stand-alone short units for remand prisoners.
6. Provides clear information to released prisoners regarding the options for collection of money held by TPS on their behalf.
7. Implements measures, and assigns resources, to ensure all prisoners including those on remand – except those in custody for a very short period – are case managed and assigned a planning officer.

Prisoner Classification

8. Introduces a formal risk assessment, and procedures to ensure it is completed, and recorded on the Custodial Information System, before allocating prisoners to share a cell.
9. TPS implements a procedure/practice for removing a prisoner from the top bunk safely and provides training for all correctional staff in this area.
10. Identifies and implements alternative strategies to managing challenging prisoner behaviour outside of using the prisoner classification scheme, whenever it is appropriate and possible.
11. Introduces a central body or person to coordinate the accommodation placement of prisoners in accordance with formally documented processes to ensure consistency in decisions.

Sentence Administration and Release Arrangements

12. Introduces procedures to advise prisoners of the reason and the length of time in custody.
13. Undertakes a review of the quality assurance processes for sentence calculations to ensure that it is robust and not simply a 'tick and flick'.
14. Explores options to ensure that no prisoner is released without the means to pay for transport and some food.



15. Implements alternate payment options to posting cheques to ensure that prisoners without a forwarding home address are able to receive any remaining balance from their TPS prisoner account without having to present at the Risdon site.
16. Revises and amends the *Remission Policy* as a matter of urgency to reflect the correct legislative references and update out of date information.
17. Ensures that the timeframes within the *Remission Policy* are complied with, to allow prisoners sufficient time to appeal full or partial loss of remission thereby ensuring procedural fairness for prisoners.

Induction

18. Considers options for providing prisoners with a general induction to the prison and its services by way of an audio/visual format to assist prisoners with low levels of literacy.

Infrastructure

19. Considers an alternate design layout in the entrance at LRP to make the area more functional and ensure optimal barrier protection.
20. Considers options and implements a solution to preserve prisoners' privacy and dignity when using the toilets in the two observation cells at LRP.
21. Provides chairs for the desks in the LRP cells.
22. Installs privacy measures for the LRP day yard telephone.
23. Remodels beds in LRP cells to allow circulation of air around mattresses.
24. Installs privacy measures around the area used for strip-searching male prisoners at LRP.
25. Considers options, and implement solutions, to ensure a safe and secure reception and administration area, and an improved area to facilitate adequate searching at HRP.
26. Reviews the training of TRG officers and implements changes to provide them with the ability to extract persons from razor wire, both at ground level and at height, safely. TRG members should also be provided with ongoing refresher training in this area.
27. Considers the inclusion of a specialised young offenders accommodation unit when planning future infrastructure projects.
28. Introduces a separate dosing area for the pharmacotherapy program to improve access for prisoners to medical services provided by Correctional Primary Health Services in the clinic area.
29. Installs screening on the Crisis Support Unit exercise yards to ensure prisoner privacy.
30. Considers design changes to the Crisis Support Unit to provide a softer environment and improvements to line of sight.
31. Reviews the operating procedures for the Crisis Support Unit to ensure a good level of amenity and activity, and high levels of social interaction for prisoners.
32. Makes available independent or self-care living accommodation for appropriately security-classified male and female prisoners.

Dynamic Security

33. Displays the State Service Code of Conduct in the Visitor Reception Centre, the visits area of all prisons and on the TPS website.
34. Introduces codes of conduct for prisoners and visitors to the prison.
35. Ensures that prison rules are prominently displayed in appropriate areas of all prisons.
36. Updates the procedural documents relating to anti-bullying as a priority.
37. Implements anti-bullying strategies in all custodial centres, covering both staff and prisoners, tailored to the specific prison environment.
38. Ensures that statistics of all bullying incidents are collected and maintained.
39. Ensures all unlock and lockup times for prisoners are accurately recorded by correctional staff each morning and afternoon to ensure true records are maintained for statistical and reporting purposes.
40. Ensures, for maximum-security units, case notes to record individual prisoners' time out of cell – whether alone or in a walk group - accurately reflect the start time and total time to ensure true records are maintained.

Procedural Security

41. Amends its procedures to ensure that counts are conducted by at least two correctional officers and photographic identification is referred to during the count process.
42. Implements a security-testing program, ensuring that records of the security tests are kept and the results made available to relevant staff.
43. Implements additional presumptive drug testing of prisoners.
44. Researches and implements various scanning technology that will detect not only metal but also drugs and other items. This technology should be introduced into areas of the prisons where it best helps detect and reduce the supply of illicit drugs and other contraband.
45. Introduces x-ray scanning technology that can support x-raying of items entering the commercial laundry.
46. Updates all operating manuals/models and Standard Operating Procedures relating to vehicle searches to ensure that they cover the searching requirements set out in the Director's Standing Order relating to *Searches*.
47. Ensures that all procedures in the searching process are followed for all vehicle searches, particularly searching underneath vehicles using a wheeled mirror or scanning equipment.
48. Implements a process for actively monitoring search procedures.

Segregation, Protective Custody and Separation Prisoners

49. Implements staff training to ensure that all other options for managing non-compliant prisoner behaviour are fully explored before separate confinement is considered.
50. Implements a process to ensure that prisoners are notified in writing of the reason for administrative segregation and advised of their rights to a review of the decision to segregate.



51. Ensures that prisoners in the transitional units in RPC are visited daily by a member of the prison management team.
52. Fences off the protective units from mainstream prisoners in the medium-security precinct.
53. Considers options to include a purpose built secure area for the protection of prisoners in the design of any future prison infrastructure.
54. Implements a formal process for protective custody which includes a requirement for protective custody directions to be in writing and to advise the prisoner of the reason for protection and their right to seek a review of the decision.
55. Explores options to provide a safer environment for transgender prisoners and ensure better protection of transgender rights.

Special High Security Management Regimes

56. Ensures staff working in special high security units receive specialist training, including regular refresher training, and are rotated into other duties at appropriate intervals.
57. Implements a procedural document outlining appropriate information including the purpose, role, function, placement and exit criteria for special high security units and the appeals process for decisions to accommodate prisoners in such units.
58. Issues an operating model for the Tamar Unit as a priority.
59. Reviews and actions recommendations 1, 3, 4 and 5 contained in the Ombudsman's 2010 report, *Risdon Prison Complex Tamar Unit and Behaviour Management Program*.
60. Considers options to minimise the period of time that prisoners spend in cell whilst in administrative segregation in the Tamar Unit.
61. Provides prisoners in the Tamar Unit with more opportunities for work and other constructive activities such as education and recreation.
62. Updates the operating model for the Huon Unit, including clarifying the primary purpose of the Unit.
63. Reviews the contract system that is in place in Huon, particularly relating to protective custody prisoners.
64. As a priority, ensures prisoners in the Huon Unit are appropriately case managed and provided with constructive activities such as further opportunities for work, education and recreation.

Complaints and Grievances

65. Provides information on the complaints and grievances process by way of an induction video or similar audio/visual format.
66. Reviews the existing complaints policy and introduces measures to ensure the complaints and grievances processes maintain prisoner confidentiality.
67. Considers options to allow prisoners to lodge a complaint about the conduct of correctional officers outside of the existing unit management framework.

Legal Resources

68. Explores options, and implements measures, to ensure all prisoners have access to a regularly updated library of law resources.

Discipline Offences and Punishment

- 69. Introduces a checklist to ensure all steps of the disciplinary process for prison offences have been completed.
- 70. Implements a quality assurance process to ensure the disciplinary process for prison offences is adhered to.
- 71. Implements training for correctional officers in the disciplinary process on a regular basis to improve transparency, consistency and procedural fairness in decision making.
- 72. Includes a *Reasons for Decision* section on all disciplinary process forms.

Use of Force, Weapons and Restraints

- 73. Reviews the use of force register on a regular basis to ensure greater accuracy in reporting.
- 74. Establishes the TRG as a standalone group with its own supporting internal structures, or that the pool of TRG members is increased.
- 75. Reviews the refresher training provided to correctional officers generally and takes immediate steps to ensure all Superintendents and Supervisors have completed current refresher training.
- 76. Ensures only correctional officers that are up to date with chemical agent training are permitted to draw, carry and use chemical agents.
- 77. Introduces a checklist or set criteria to assist correctional officers in determining whether force used was reasonable and appropriate in the circumstances.
- 78. Implements a process to ensure that correctional officers check prisoner records before planned use of chemical agents or electric shock devices.
- 79. Implements a process for notification of a prisoner's registered primary contact when an injury has been sustained during use of force and health attention is provided to the prisoner.
- 80. Ensures that a medical examination occurs immediately (or as soon as is practically possible) after the use of chemical agent.

Emergency Management

- 81. Reviews the training provided to non-uniform staff and Correctional Primary Health Services staff in relation to emergency codes.
- 82. Ensures that emergency codes and announcements are broadcast over all radios and, where appropriate, through the public announcement system.

Transport of Prisoners

- 83. Considers installing a gate at MHWP at the bottom of the stairs from the processing area through to the administration area.
- 84. Reassesses the need to strip search at the end of a journey if a prisoner was strip searched immediately prior to being transported.
- 85. Considers better storage options on escort vans for prisoner property when procuring the next fleet of vehicles.



86. Reviews the training provided to correctional staff in relation to the transport of prisoners to ensure it is adequate, specific and detailed and ensure that periodic refresher training is routinely scheduled.
87. Explores options for ensuring that prisoners are able to access toilet facilities whilst travelling between Hobart and Launceston.
88. Updates as a matter of urgency the Director's Standing Order relating to external escorts to include all information contained in staff internal memoranda issued between 2015 and the present time.
89. Reviews the format and content of registers used for recording information relevant to prisoner transportation.
90. Implements a policy and procedure for use of force in transportation of prisoners.

About Tasmania Prison Service

TPS is responsible for providing care and custody, at various levels of security, for prisoners and people remanded in the five adult custodial centres in Tasmania. Most adult custodial centres are located on one large site at Risdon which is approximately 12 kilometres from the Hobart CBD and very close to the suburb of Risdon Vale.

The five adult custodial centres are:

1. Risdon Prison Complex (RPC). This facility is located at Risdon in the south of the state and comprises the medium and maximum security precincts. The medium-security precinct has the capacity to house 196 prisoners and the maximum-security precinct has the capacity to house 107 prisoners.
2. Ron Barwick Minimum Security Prison (RBMSP). This facility is located at Risdon, and has the capacity to house 248 prisoners (including the O'Hara Cottages). RBMSP was the old Risdon Prison, which was recommissioned as the minimum-security facility and opened in late 2006.
3. Mary Hutchinson Women's Prison (MHWP). This facility is located at Risdon and has the capacity to house 46 prisoners.²
4. Hobart Reception Prison (HRP). This facility is located in the Hobart CBD and has the capacity to house 36 prisoners.
5. Launceston Reception Prison (LRP). This facility is located in Launceston and has the capacity to house 29 prisoners.³

The prison service has to respond to an increasing prisoner population across all population groups. The prisoner population has been fluctuating around and frequently above 600.

The Australian Bureau of Statistics reported⁴ that on 30 June 2018, Tasmanian Prisons held 614 prisoners (93% male and 7% female). The proportion of female prisoners was low compared to other jurisdictions but has increased from 18 per 100,000 females in 2017 to 20 per 100,000 in 2018.

19% of Tasmanian prisoners identified as Aboriginal. Incarceration of Aboriginal people in Tasmania is at a rate four times higher than the equivalent rates of incarceration in the non-Aboriginal population, but the lowest proportion reported by any Australian jurisdiction.

In the year ending 30 June 2018, there were 1763 receptions into Tasmanian prisons. All prisoners entering the Tasmanian prison system enter through one of the two reception prisons, in Hobart or Launceston.

² As at 25 February 2019, MHWP has the capacity to house 81 prisoners.

³ These capacity numbers are as at 26 February 2018.

⁴ Australian Bureau of Statistics, Corrective Services, June quarter 2018:
<http://www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/4512.0Main+Features1June%20quarter%202018?OpenDocument>



Inspection Methodology

Inspection provides independent, external evaluation that includes an analysis of what is working and areas that require improvement. It is based on gathering a range of evidence that is evaluated against an inspection framework.

All inspections of custodial centres are conducted against the Custodial Inspector's published inspection standards. The inspection standards are based on international human rights standards, and cover matters considered essential to the safe, respectful and purposeful treatment of prisoners in custody.

The inspection standards specify the criteria for inspection. The inspection team obtain data from multiple sources, and by doing so is able to validate the information collected through cross verification and test the consistency of findings. In most cases, the information is collected from at least three different sources. These sources are conversations, observations, and documentation:

- Conversation takes place with prisoners, staff and service providers in a less formal, less structured way than structured interviews. Conversations can take place informally as the inspection team walks around custodial centres or in organised meetings and focus groups.
- Observations take place during onsite visits at custodial centres. Observations can be documented using check lists or contemporaneous notes.
- Documentation refers to tangible material, such as Director's Standing Orders, procedural manuals, registers and spreadsheets etc.

During the Custody inspection, a number of sources of evidence were used to assess the custodial centres against the standards. These sources included individual interviews carried out with staff and prisoners, survey results, group discussions with prisoners, documentation, and observation by inspectors and, where relevant, external expert consultants. In addition, desk-based research and data analysis was carried out with input from TPS.⁵

Inspection reports are published in Parliament after an inspection is completed. Prior to publication of the report the responsible Secretary is consulted with, and invited to correct any factual inaccuracies in the report.

How do the inspection team make judgements?

The inspection team ensure that their judgements are:

- **secure** - based on sufficient evidence
- **first-hand** - based on direct observation of processes, prisoners and staff⁶
- **reliable** - based on the criteria in the inspection standards
- **valid** - accurately reflecting what is achieved and provided
- **corporate** - findings reflect the collective view of the inspection team

⁵ The observations, findings and recommendations are limited by the information available, or disclosed, to the inspection team.

⁶ First-hand wherever possible, and if not a direct observation the information relied on will be fact checked and confirmed by another reliable source (triangulation of evidence).

Inspection Standards

The Inspection standards for adult custodial services in Tasmania provide the structure for reviewing and assessing the performance of custodial centres in relation to the treatment of, and conditions for, prisoners.

The standards were developed taking into account the full range of relevant international treaties, covenants, and the *Standard Guidelines for Corrections in Australia, Revised 2012*⁷.

The standards are closely aligned to both the New South Wales and Western Australian inspection standards for adult custodial services, providing an element of consistency across multiple Australian jurisdictions. The Custodial Inspector consulted with Tasmania Prison Service and other stakeholders throughout the process of drafting the inspection standards.

Independent monitoring and assessment is important to ensure custodial services are meeting standards. An independent perspective can identify issues – both shortcomings requiring improvement and strengths that can be better utilised – that may not be obvious to the custodial centre, thereby providing a continuous improvement framework.

The inspection standards are publicly available on the Custodial Inspector's website www.custodialinspector.tas.gov.au.

Summarised below are the findings of the inspection team in respect of the Custody suite of inspection standards.

⁷ These Standards were revised in 2018 and are now called the *Guiding Principles for Corrections in Australia*.



1 Reception and Admission

Inspection Standards 1 to 4

The standards relating to reception and admission of prisoners were largely assessed through observation by the inspection team during all inspections and onsite visits. Discussions were held with relevant TPS staff and the inspection team also viewed an admission in the Hobart Reception Prison.

Unless there are exceptional circumstances, all admissions to custody in an adult custodial centre are through the two reception prisons – LRP is the north of the state and HRP is the south of the state.

All prisoners participate in an induction process upon reception into custody. Correctional officers are responsible for delivering the initial induction. More information on the induction process is provided in section 7.5 below.

If a prisoner does not speak English, TPS will engage translation services. Ipads have also been used to assist international prisoners to communicate with correctional officers, using free translation websites.

Reception

The reception process aims to:

- accurately identify prisoners and confirm that they are lawfully in custody;
- undertake administrative processes such as the recording and storage of property and the completion of forms relevant to the prisoner's reception into custody;
- promptly identify the prisoner's safety, security, health and immediate welfare needs through the Tier 1 Assessment process; and
- assist with the resolution of any urgent welfare needs
 - on receiving a new prisoner into custody, correctional officers give the prisoner the opportunity to notify his or her next of kin or a person with whom the prisoner has had a longstanding relationship of his or her imprisonment (in accordance with the Director's Standing Order relating to Telephone Communication).

Correctional officers at the reception prisons also:

- search prisoners and remove any contraband or unauthorised items;
- transfer any medication in the prisoner's possession to the Correctional Primary Health Service; and
- facilitate the Tier 1 Health Assessment by Correctional Primary Health Service's staff.

Assessment

The assessment process is an integral part of case management. The information obtained through the assessment process assists TPS in determining how best to manage prisoners and address their individual needs.

The assessment process consists of four tiers. The vulnerability of prisoners is ascertained through the Tier 1 and Tier 2 processes undertaken on admission. The Tier 3 and 4 assessments are undertaken at a later stage and assist with case management and sentence planning. The relevant Director's Standing Order (DSO) sets out the appropriate required timeframes for completion of the various assessments.

Tier 1 Assessment

All prisoners undergo a Tier 1 Assessment to determine their immediate management needs, including the risk of suicide and self-harm, the need for protection, issues of vulnerability and other issues relevant to the prisoner's safety and security. The Tier 1 Assessment has two components:

- a custodial assessment administered by TPS, which includes an initial classification/security assessment; and
- a health assessment administered by the Correctional Primary Health Service.

A correctional officer at HRP or LRP administers the Tier 1 custodial assessment. Where this assessment cannot be undertaken due to the prisoner's physical and/or mental health, the correctional officer enters a case note in the Custodial Information System (CIS). When completing a custodial assessment, relevant custodial history - including any Suicide and Self Harm (SASH) alerts, association alerts or escape risk alerts - is taken into account.

The DSO provides that the prisoner is required to sign the form, acknowledging that the information he or she provided during the Tier 1 assessment process is true and accurate. If the prisoner refuses to sign the acknowledgement, the correctional officer must note the refusal on the form and sign and date the form.

Tier 2 Assessment

Male prisoners undergo a Tier 2 Assessment at the HRP during their first five days in custody. The Tier 2 Assessment for female prisoners is undertaken at Mary Hutchinson Women's Prison (MHWP), as females are transferred from HRP to the women's prison as soon as possible. The Tier 2 Assessment is a general assessment which covers the immediate needs of the prisoner and begins the conversation around activities and support in prison to develop an initial case management plan. As part of the Tier 2 Assessment prisoners undergo basic literacy and numeracy screening.

Tier 3 Assessment

The Tier 3 Assessment includes:

- a Literacy and Numeracy Assessment undertaken by TAFE or Education Officers; and
- a Level of Service / Case Management Inventory (LS/CMI) undertaken by a Planning and Reintegration Officer.⁸

Depending on sentence length and resourcing issues, not all prisoners undergo a Tier 3 Assessment.

There is an additional assessment for prisoners sentenced for a sexual offence and this is undertaken by a Counsellor Sex Offender Case Management (now called Interventions Counsellor).

⁸ Not all prisoners undergo a LS/CMI; it is generally only those prisoners with greater than six months to serve at the time they are allocated a Planning and Reintegration officer.



Tier 4 Assessment

The Tier 4 Assessment is a complex needs assessment which is undertaken by the Therapeutic Services Unit as necessary.

Privacy of information

Inspection standard 2.2 provides that each prisoner's privacy should be safeguarded during the admission and reception process, particularly with regard to any information likely to be of a confidential nature. The inspection team identified shortcomings at both HRP and LRP in respect of the physical environment in which prisoners are admitted and the Tier 1 assessments are undertaken.

At LRP the admissions area is located in a small alcove off the hallway directly outside the door to the sally port, with correctional officers, prisoners and, at times, police officers entering and exiting. Strip searches⁹ of prisoners are also routinely undertaken in this open alcove which is not at all suitable for maintaining privacy. The Tier 1 assessment is undertaken in a very small room with a computer adjacent to the alcove. This room is divided into two parts and due to the practise of correctional officers locking prisoners in one side, and entering information into the computer on the other side, both the correctional officer and prisoner have to speak loudly during the assessment process. The room is not sound proof.

At HRP the inspection team, with the consent of the prisoner involved, observed a Tier 1 assessment. The room used for assessments is located off the corridor leading to the sally port entrance and watch house cells. It is adjacent to the officer station and opposite the health clinic. There are two doors to the room, one opening out to the officer station desk and the other to the open area where prisoners sit outside the health clinic waiting to be seen by health professionals. The corridor is a busy thorough-fare and the HRP prisoner wardsmen are often in the vicinity of the room as they perform their duties, particularly as the HRP kitchen is located close by. The inspection team noted that the Tier 1 assessment was undertaken with the doors open. This may have been due to the fact the inspection team was onsite.

It is recommended that TPS takes steps to address the physical environment in which prisoners are admitted in both reception prisons to ensure prisoner confidentiality is maintained.

Receptions from North West Regional Courts

The inspection team was made aware of an issue relating to receptions into custody from north west regional courts. People remanded into custody from the north west coast are escorted from Burnie and Devonport to LRP. The issue with transporting remand prisoners from these regional areas is that there are not always identifying documents available to correctional officers to ensure the correct person is being held in custody and transferred to

⁹ It is acknowledged that TPS has recently changed terminology to refer to strip searches as 'personal searches', however, the relevant DSO for searches uses the term 'strip search' and this terminology is well understood throughout the prison service and in the community. For the purposes of this report, the term strip search is used throughout to be clear about when policies and procedures relate to an unclothed search'.

LRP. This breaches the DSO relating to external escorts.

Anecdotally, on occasion, TPS take people into custody on verbal instructions from the courts or Tasmania Police, with the warrant sent to the Sentence Administration Unit when available, which could be hours later. Transporting prisoners without access to documentation or records creates risks for TPS. It impedes staff ability to ensure that the prisoner is lawfully in custody and it restricts staff from undertaking a thorough risk assessment of the prisoner – limiting access to information such as escape history, association issues, a susceptibility to self-harm, or history of violence towards correctional officers or other prisoners. In the event of escape from an escort vehicle from the north west, TPS would not be in possession of any photographic identification or documentation to assist in identifying escapees to Tasmania Police or other authorities.

Laundering of Clothing on Reception to Prison

The inspection team observed dirty clothing in a prisoner's property box in the prisoner processing area at RPC. Prisoner clothing should be washed on the way into prison and be clean when placed into the property box.

It is recommended that TPS implements a procedure to ensure that prisoners' personal clothing items that are worn on admission to a facility are cleaned before being placed into the prisoner's property box.

Outstanding Fines

Inspection standard 1.3 requires that a process should be initiated for checking to see if an incoming prisoner has any outstanding fines. The Department of Justice's Monetary Penalties Enforcement Service (MPES) advised that checks on prisoner's outstanding fines are undertaken. MPES receive a daily report by email from TPS, detailing receptions and releases. When a prisoner is identified as having an outstanding fine, MPES updates its database and sends a statement of account listing all outstanding fines to TPS who distribute these statements to prisoners.

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2 Remand Prisoners

Inspection Standards 5 to 9

Prisoners are classified into two legal categories: those who have already been found guilty and sentenced ('sentenced' prisoners), and those who are still awaiting the final outcome of their court case ('remand' prisoners or 'remandees'). A small number of remandees are awaiting sentence and have already been convicted, but many have not yet been found guilty. The majority of remandees are in prison because the court has refused to grant them bail. However, some have been granted bail and are in prison because they have not yet been able to meet the conditions set by the court.

As at 1 March 2018, there were 231 un-sentenced prisoners (37.5% of the prison population) in Tasmanian adult custodial centres. Tasmania has no separate remand facility, so remandees are accommodated within the general prison population. Remand prisoners routinely share accommodation units with sentenced prisoners and it is also possible for remandees and sentenced prisoners to share cells; sometimes this will be for family and support reasons but more often it is simply due to pressure for prison beds.

TPS is not able to meet inspection standard 5.1 which requires remand or unconvicted prisoners, as far as possible, to be kept separate from those who have been convicted. Recognising that this is not best practice, the Tasmanian Government has committed to the construction of the Southern Remand Centre which will be built on an available site in the existing Risdon Prison Complex. It will be constructed in the term of the current government and will provide 140 dedicated remand beds.¹⁰ Based on the current number of un-sentenced prisoners, the Southern Remand Centre will be unable to accommodate all remandees and some will remain interspersed in other facilities.

Inspection standard 9.3 states that remand prisoners' conditions of imprisonment should not be less than is provided for sentenced prisoners. This includes entitlements to access general health and welfare services, work, education, recreational activities, religious observance, and other relevant activities and services. In Tasmanian adult custodial centres, the treatment of remandees differs from that of sentenced prisoners to a limited extent. The inspection also found that there is an issue relating to prisoner classification of remandees. TPS will not classify any un-sentenced prisoners as minimum-security if there are outstanding Supreme Court matters, regardless of whether the prisoner has displayed exemplary behaviour and would otherwise be minimum rated if they had been sentenced.

Visits

Under section 29 of the *Corrections Act 1997*, remandees have the right to at least three visits each week and such other visits as the Director determines. A sentenced prisoner has the right to receive at least one visit each week and such other visits as the Director determines. The legislative requirement is below the expectation of inspection standard 8.1 which provides that remand prisoners should be permitted to receive a minimum of one visit

¹⁰ Refer: <https://www.justice.tas.gov.au/strategic-infrastructure-projects/new-southern-remand-centre>

per day and as many further visits as may be practicable.

It is recommended that TPS explores options to allow, to the extent that it is practicable, daily visits for remand prisoners.

Employment

Remandees are not required to work, but if they are not working they receive the lowest level of gratuities; the basic living allowance of \$15 per week, which is the same for sentenced prisoners. There are no restrictions on the jobs available to remand prisoners.

Despite the fact that remand prisoners cannot be directed to work, if a remandee chooses not to work or if, in the event that no current vacancies exist, the remandee has not:

- made himself/herself available for work; or
- is not enrolled in a full-time education course or program,

he/she is not able to progress to Level 4 of the contract system, which is the highest contract level with the most incentives.

Education and Training

Remandees are unable to access many training opportunities other than short courses, and have more limited educational choices than sentenced prisoners. TPS says that this is because there is no certainty as to whether remand prisoners will be released from court and, if they are released, they will not be able to complete their education.

It is recommended that TPS introduces a broader range of short courses, and explores options for longer courses that can be broken down into stand-alone short units for remand prisoners. Ideally, educational courses that can be continued on release should be considered.

Programs

Remandees are ineligible to participate in criminogenic programs to address offending behaviours, for example, addiction and aggression, even if they wish to engage in such programs.

As previously reported in the *Care and Wellbeing Inspection Report*, remand prisoners are also unable to access the pharmacotherapy program¹¹, as it is a requirement for participants to be sentenced. This is problematic as prisoners have reported being on remand for lengthy periods of time and unable to access medication to assist in the treatment of opioid addiction. Remand prisoners are also prohibited from participating in the Apsley program, which is a twelve week live-in program in the Apsley alcohol and drug treatment unit for male prisoners. The inspection standards state that remand prisoners should be offered opportunities for

¹¹ The pharmacotherapy program involves opioid replacement therapy, it is colloquially known as the s8 program. The term s8 is a reference to Schedule 8 medications* which are prescription medicines (drugs of dependence) that have a recognised therapeutic need when used to treat opioid dependence. Methadone and buprenorphine (Suboxone, Subutex) are the Schedule 8 medicines that have been registered in Australia for opioid-replacement therapy (also known as pharmacotherapy).

addressing drug and alcohol issues and, where appropriate, cognitive skills development programs.

Long Periods of Time Spent on Remand

The restrictions to programs, education and training can be problematic for those un-sentenced prisoners experiencing long delays in court cases being heard and sentencing, which is quite common.

As at 1 March 2018 the time un-sentenced prisoners in Tasmanian prisons spent on remand was as follows:

Under 6 months	191 un-sentenced prisoners
6 months to under 9 months	17 un-sentenced prisoners
9 months to under 12 months	5 un-sentenced prisoners
Over 12 months	18 un-sentenced prisoners

Court

The expectation of standard 6.1 is that remand prisoners will be given adequate access to facilities for the preparation of a defence, and be assisted to communicate with a legal counsel of their own choosing.

Remand prisoners and their legal representatives are able to have unmonitored telephone conversations and meetings beyond the hearing of TPS staff, as frequently as necessary, subject to booking times and meeting rooms being available. In Tasmanian adult custodial centres, no prisoners - whether sentenced or on remand - are able to access current legal library resources. This issue is addressed in the Legal Resources section at 7.12 of this report.

Remand prisoners are able to wear their own clothing when appearing in court and, where required, the prisoner processing areas launder that clothing. TPS also ensures that prisoners attending court are provided with meals at normal times as far as possible; lunches are sent on the escort vehicle with prisoners and evening meals are set aside for any late returns at the end of the day.



Prisoners' personal clothing to wear to court stored in suit bags in RBMSP

Bail and Release

TPS has processes in place to ensure that bail conditions that are attached to the remand prisoner's custody order are actively and regularly reviewed to ensure that unconvicted prisoners are not held in prison unless it is absolutely necessary. Bail applications submitted by remand prisoners in custody are completed by the prisoner and provided to correctional staff. Correctional officers then send the application to the Sentence Administration Unit (SAU) so the unit is aware of all prisoner bail hearings and outcomes. As the coordinating body, SAU forwards the bail applications onto the courts. SAU is contacted by the courts to verify court lists the day prior to appearances and this part of the process highlights any missed bail applications - for example, where correctional staff incorrectly send bail applications directly to the courts rather than SAU. The inspection team was told that this is a source of frustration for SAU staff. SAU is discussed in further detail in section 7.4 below.

When a remandee is attending a court hearing that is likely to result in a release to bail, the processing area packs their identification and property on the transport vehicle with the prisoner so that it can be returned if the prisoner is released.

In respect of any money held by TPS on behalf of the remandee, if released from court in Hobart, remand prisoners have the option of going to either HRP (in the Hobart CBD) or the Visitor Reception Centre (at the Risdon site) to collect their money. TPS credit money to a Visa debit card for the remandee's immediate use. If released from court in Launceston, staff at LRP will call TPS Finance staff to arrange for a transfer of the prisoner's funds to a Visa debit card at LRP, which is collected from LRP (in the Launceston CBD). It is only possible to collect money from HRP and LRP on weekdays. The Visitor Reception Centre (VRC) is open on weekends and holds a small cash float (visa debit cards are not available) so prisoners who are released can attend at the VRC on the weekend to collect their money - but there is a limit of \$50 cash per person with any balance being forwarded to the released prisoner by cheque.

Based on the advice of TPS staff, it appears that prisoners are not routinely advised that money held by TPS on their behalf can be collected from HRP. Anecdotally, the majority of prisoners attend the VRC to collect money, despite the Risdon site being located some distance from the courts in Hobart.

It is recommended that TPS provide clear information to released prisoners regarding the options for collection of money held by TPS on their behalf.

TPS should also consider taking active steps to publicise this information internally throughout the various adult custodial centres, including in the Insider newsletter for prisoners and externally by placing notices in the VRC.

The inspection standards provide that prisoners should never be placed in the position of being released at the end of a day at court without access to accommodation and some money for food. While this is best practice, at the present time, largely due to housing shortages and limited supported accommodation placements, the reality is that prisoners are often released without access to accommodation. Section 7.4 of this report contains further information regarding release arrangements.



Case Management

Inspection standard 9.6 states that remand prisoners should be case managed and the conditions of their continued custody the subject of regular review. This does not happen in Tasmania as resourcing challenges dictate that only sentenced prisoners with a period of less than six months to be served are assigned a planning officer and case managed. The conditions of their continued custody are not reviewed other than to ensure that they are legally being held in custody following each court hearing.

It is acknowledged that there are a high number of unsentenced prisoners that are in custody for a very short period of time, which can be as little as a few days or weeks. Notwithstanding these very short term remandees, much more needs to be done to address case planning for remandees and the six month period discussed in the paragraph above does not allow for adequate case planning for a large number of remandees. Prisoners who do not have a planning officer or case management plan are provided with very little assistance with release arrangements. Six months is too great to be considered a reasonable period for a prisoner not to receive any assistance from a planning officer.

It is recommended that TPS implements measures, and assigns resources, to ensure all prisoners including those on remand – except those in custody for a very short period – are case managed and assigned a planning officer.

3 Prisoner Classification

Inspection Standards 10 to 13

In accordance with the *Corrections Regulations 2018*, TPS uses a three tiered classification system comprising the following security categories:

- Minimum;
- Medium; and
- Maximum.

The classification assessment includes sentenced and remand prisoners.

TPS has a comprehensive DSO titled *Classification and Placement* which contains the following statement of purpose:

The purpose of the classification and placement system is to determine prisoners' security requirements and ensure they are accommodated appropriately.

Classification is the process of placing prisoners on different security categories in accordance with their individually assessed risks.

Prisoners should be accommodated in the least restrictive environment possible in order to maximise rehabilitation.

This Director's Standing Order provides guidelines for the classification of prisoners in accordance with their security risk, both upon reception, and at regular intervals throughout their time in custody.

When determining or varying a prisoner's security category, regulation 6(1) of the Corrections Regulations requires specific criteria to be taken into account. Those criteria are as follows:

- age and character;
- length of sentence;
- nature of offence;
- behaviour during current, and any previous, period of imprisonment;
- escape history; and
- any other relevant factor – the DSO states that this may include physical or sexual abuse, marital status, substance abuse etc.

Additional factors, which must also be considered according to the DSO include:

- the safe and secure custody of the prisoner and other prisoners at the facility;
- the safety of staff and visitors to the prison;
- the good order of the facility;
- the safety of the community;
- opportunities for rehabilitation and reintegration; and
- any extenuating circumstances that may affect the prisoner's security category or placement within the prison system.

The DSO provides that decisions regarding the classification of a prisoner are to be based on a balance between their best interests and the risk that they may pose to the safety,



security and good order of the facility, and the safety of the community.

The Process

Correctional officers at the Hobart and Launceston Reception Prisons are responsible for conducting Tier 1 assessments and making recommendations regarding prisoners' initial security categories using the Tier 1 initial security-rating tool.¹² This assessment considers:

- previous custodial episodes;
- previous offending;
- stability -
 - jobs;
 - education;
 - self-reported drug/alcohol use; and
- age.

Correctional officers at the reception prisons are able to refer classification overrides to the Superintendent of the facility where they consider that a prisoner should be of a lower classification than the initial calculated classification using the security-rating tool.

On transfer to a new prison following the induction period, the correctional supervisors at the receiving prison are responsible for reviewing the Tier 1 classification assessments when new prisoners arrive and, where relevant, initiating initial classification amendments. Superintendents are responsible for endorsing proposals made by correctional supervisors where there is a proposed change of security category, or providing alternative proposals to the Sentence Management Review Panel. The role of the Sentence Management Review Panel is to review the security categories and accommodation of all prisoners within the prison system.

Review of classification can take place at various times throughout a prisoners period in custody. There are set timeframes for regular review, which are outlined below, and discretionary reviews can be undertaken on application. An application for a discretionary review must be initiated by a prisoner's case officer in consultation with the correctional supervisor and endorsed by the Superintendent of the area where the prisoner is being accommodated. Prisoners are not able to initiate a discretionary review themselves.

Reviews must occur at least once within a six-month period, except where a prisoner has been:

- sentenced after a period of remand of six months or more - within 28 calendar days of sentencing;
- transferred to a higher security facility - within 14 calendar days of transfer;
- subject to serious disciplinary matters requiring separation or intelligence based relocation - within 14 calendar days of transfer;

¹² The Health Tier 1 assessment affects placement but does not affect initial classification.

- classified with a security category of minimum – annual review (unless there has been a significant change to a prisoner's circumstances and a shorter period is required as a result).
- subject to a discretionary review - minimum of 4 weeks between reviews.

Prisoners have the right to formally appeal in writing against decisions made regarding their classification within 14 calendar days of the date on the notification. Prisoners are provided with written advice of decisions made regarding their classification; this includes advice regarding their right to appeal.

A classification decision to a lower security category does not automatically result in the prisoner being transferred to a new accommodation area. The relevant Superintendents make decisions around accommodation placement based on many considerations, including the need to work, or to complete programs and subject to any associated risks and space available.

Multiple Occupancy

Inspection standard 12 is directed at multiple occupancy in cells. The standard requires is that prior to allocating prisoners to share a cell, a formal risk assessment must be completed, which includes consultation with the prisoners concerned. In addition, multiple occupancy accommodation should only be provided for prisoners with appropriate risk and need profiles and who have agreed to such placements.

The inspection team spoke formally and informally with many correctional officers, across all ranks up to Superintendent, and repeatedly asked whether a formal risk assessment is completed prior to allocating prisoners to share a cell, commonly referred to as "double bunking". The answer was consistently no – a formal risk assessment is not undertaken. The standard response was that a formal risk assessment is not required because the correctional officers know the prisoners well enough through their daily interactions to determine who will be double bunked. The correctional officers indicated that when determining whether prisoners are suitable to be double bunked they are aware of and consider the following:

- prisoner association issues;
- prisoner vulnerability; and
- prisoner mental health.

In most cases, the correctional officers will have a brief conversation with the prisoners to be accommodated together to make sure that they are happy with the arrangement. Therapeutics Support Unit staff are not consulted and no consideration appears to be given to a prisoner's possible past trauma and abuse history.

The inspection team had concerns that the processes for multiple occupancy are informal and haphazard and rely heavily on organisational memory. The inspection team asked how new recruits, and those officers transferring between adult custodial centres, are able to make sound decisions in these instances. The answer was that other correctional staff can provide relevant advice. The inspection team noted that mental health of prisoners could change at



any time and this would not necessarily be picked up by correctional officers in the units, who are not qualified in mental health issues.

It should be noted that multiple occupancy is treated slightly differently in the Needs Assessment Unit (NAU) in RPC. In this unit there are some shared cells but these are used primarily as buddy cells for support, rather than forced shared accommodation. Single cells are preferred in NAU and doubling up of cells occurs as little as possible. Prisoners who are required to share cells in the NAU do so in consultation with therapeutic services. There is an informal risk assessment conducted before prisoners in NAU are assigned to a shared cell. Such is the informal nature of the risk assessment that there is no record made of it. The inspection team was advised that information regarding association factors and prior conflict etc. is “sometimes” reviewed by referencing the prisoner’s CIS file before allocation occurs. Again, the inspection team was advised that generally staff are aware and “know who they can put with who”.

It is recommended that TPS introduces a formal risk assessment, and procedures to ensure it is completed, and recorded on CIS, before allocating prisoners to share a cell.

On a slightly different issue related to multiple occupancy in cells, the inspection found that there is no operational procedure to remove a prisoner from the top bunk of a bunk bed during a cell extraction or in a medical emergency. This needs to be addressed and a procedure/practice for removing a prisoner from the top bunk safely is required, together with training for staff in this area.

It is recommended that TPS implements a procedure/practice for removing a prisoner from the top bunk safely and provides training for all correctional staff in this area.

Ability to Locate Prisoners Close to Families

Tasmania is, relatively speaking, a geographically small state and to travel from the top of either the north west or north east coasts to Hobart, where the main Risdon prison site is located, takes at most between five to six hours by private car.

The inspection standards require that there should be sufficient prison infrastructure in each region to accommodate the prisoners of the region, providing for different levels of security in proportion to the risk profile of the regional prisoner population. With the exception of LRP, all Tasmanian adult custodial centres are located in the south of the state.

Almost half of the prisoners held in custody in Tasmania come from the north or north west of the state and this creates challenges for family and friends visiting regularly, particularly when public transport is their only means of travel. The Tasmanian Government has recognised that access to these support networks while in prison is valuable and is known to reduce the number of people who reoffend and return to prison. To address this, the government has committed to building a new prison in the north of Tasmania. The new northern prison will accommodate up to 270 prisoners and will be constructed in two stages.

It is anticipated that the first stage will provide 140 beds and be operational from late 2022.¹³

Infrastructure Issues

The inspection found that despite the comprehensive DSO, and well thought out statement of purpose, there are a number of issues relating to prisoner classification. These issues arise largely because of the infrastructure available to TPS.

There are many prisoners with a minimum-security classification accommodated in RPC – both medium and maximum precincts - and a waiting list for minimum-security prisoners to transfer to RBMSP. It appears that correctional officers sometimes manipulate the waiting list; that is, the waiting list is not always followed in chronological order and some prisoners may be skipped over if a correctional supervisor believes that “their face doesn’t fit” the minimum-security environment despite their minimum-security classification. This means that an otherwise eligible prisoner will not be moved because they are perceived to be unsuitable to the minimum environment due to their past misbehaviour, attitude, associations or type of crime.

There are also many prisoners with minimum and medium-security classifications accommodated in the RPC maximum precinct. This is largely due to the fact that the Needs Assessment Unit¹⁴, Crisis Support Unit¹⁵ and Alcohol and Drug Treatment Unit are located in the RPC maximum precinct and maximum-security rules apply.¹⁶ The inpatients area of the RPC Health Clinic accommodates prisoners from MHWP, RBMSP, and RPC so there is always a mixture of prisoners with differing security classifications and genders.

Some minimum-security classified prisoners are accommodated in the RPC medium precinct in order that they can access the s8 pharmacotherapy program, others are there due to association and protection issues.

Association and protection issues are discussed in more detail in section 7.9 of this report.

Behaviour Management

It appears that TPS use prisoner classification as a behavioural management tool. That is, often a prisoner’s behaviour determines their security rating. Most other jurisdictions around Australia determine a prisoner’s security rating based on the prisoner’s offences prior to

¹³ <https://www.justice.tas.gov.au/strategic-infrastructure-projects/new-northern-prison>.

¹⁴ “The Risdon Prison Complex (RPC) includes a dedicated fifteen-bed Needs Assessment Unit (NAU), which provides the TPS with a comprehensive and specialised assessment capability for prisoners/detainees who present as potentially vulnerable in a prison environment and warrant further investigation prior to being transferred to an accommodation area.” Excerpt from the Operating Model for the Mersey Needs Assessment Unit Version 2.0 – November 2008

¹⁵ “Crisis Support Unit (CSU) means the designated crisis support unit, where a prisoner or detainee is admitted: a) for a safe and secure environment if assessed as suicidal or has engaged in serious self harming behaviour; and b) for specialised assessments and/or higher level intervention and support than is available in the mainstream accommodation units for an “at risk” prisoner.” Excerpt from the Operating Model for the Mersey Needs Assessment Unit Version 2.0 – November 2008

¹⁶ Regardless of an individual prisoner’s security classification, the rules that apply to the prisoner are the rules of the correctional facility that they are accommodated in.



imprisonment, and then their behaviour is managed at that level unless they commit a major offence such as attempted escape or a serious assault of an officer whilst in custody. In Tasmania, the system currently used by TPS can create instances of prisoners being raised in security rating for what could be a one-off reaction, being a temporary inability to concentrate or think clearly, which is otherwise normally out of character. The inspection team witnessed one such episode during the inspection where a minimum-security classified prisoner had a serious episode of uncontrolled and challenging behaviour, colloquially called a “melt down”, and damaged a holding cell over a relatively minor issue (the removal of a mattress from his cell). The response to the episode and damage was to forcibly remove the prisoner from RBMSP to RPC and reclassify the prisoner to maximum-security. An alternative option to changing a prisoner’s classification would be to employ disciplinary sanctions and the contract system - contract regression - to encourage good behaviour.

TPS needs to identify and implement alternative strategies for managing challenging prisoner behaviour outside of using the prisoner classification scheme, whenever it is appropriate and possible.

Ad hoc Coordination of Accommodation Placement

The inspection identified that there is no central body or person that coordinates the accommodation placement of prisoners.

Without a central body or independent person coordinating the accommodation placement of prisoners, allows correctional staff to control the placement of prisoners for a variety of reasons including personal bias and not wanting a particular prisoner “in their patch”. As a result, prisoner placements lack transparency and can cause confusion for staff and prisoners alike when prisoners are transferred before others who have been waiting for a longer period of time. Anecdotally, perceived unfairness in placements can lead to prisoner frustration and poor behaviour. There is a perception that the resulting poor behaviour is sometimes the desired response of some correctional staff making the decisions regarding placement – that is, the poor behaviour ‘proves’ that the prisoner should not be allocated in a particular area, for instance minimum-security. Likewise, there is a perception that if some correctional staff do not want a prisoner to be accommodated in their facility the prisoner will be targeted to ‘catch them out’ so that they will be transferred to a different facility. Although not covered in section 7.2, these claims also fall within the ambit of the inspection standards relating to bullying. It should be stated that the inspection team was unable to substantiate these claims with corroborating evidence. This issue, however, was raised on a number of occasions by prisoners, uniformed and non-uniformed staff and if true is considered noteworthy and will be monitored.

The inspection also identified that there have been a number of prisoners accommodated in the same area for extended periods, not allowing them to progress through the prison system to the appropriate area according to their behaviour and security rating and resulting in limited access to rehabilitative activities.

These issues also extend to the non-routine transfer process under section 36 of the Corrections Act where, at the direction of the Director, a prisoner is transferred between

prisons most often to an area with a higher level of security. In some cases, prisoners feel aggrieved as they are not clearly informed of the reasons why they are transferred, other than to be told the decision was based on “intelligence”.

Not having a central body or independent person coordinating the accommodation placement of prisoners would allow transparency for staff, prisoners and alleviate perceptions of bias and personal opinion as to where a prisoner should be accommodated. Ideally, this central body or independent person would work closely with the Security and Intelligence Unit to allow full knowledge of all security concerns and protection issues relating to the prisoner before determining placement in an accommodation area.

It is recommended that TPS introduces a central body or person to coordinate the accommodation placement of prisoners in accordance with formally documented processes to ensure consistency in decisions.



4 Sentence Administration and Release Arrangements

Inspection Standards 14 and 15

Sentence Administration

TPS has a centralised Sentence Administration Unit (SAU) for all adult custodial centres. The SAU is comprised of three staff located at the Risdon site. This unit was established in 2016 to centrally manage remand and sentencing responsibilities, which include the following:

- receiving and interpreting court orders, which determine the custody of prisoners and those requiring attendance at court;
- ensuring prisoners and detainees are held in custody lawfully;
- calculation of sentence warrants and release dates;
- managing remission and associated processes;
- maintaining accurate information in CIS relating to custody of prisoners;
- informing prisoners and TPS staff of upcoming release and court dates; and
- answering requests from the courts, staff and prisoners relating to sentencing matters.

The courts provide warrants directly to the SAU via email and this is followed with a hard copy sent by mail. The procedure for processing court orders is complex with the majority of steps requiring manual handling and calculations.

Remand Warrants

Remand warrants are an order from the court to hold a person in custody until their next court appearance - either via video link or in person. As discussed above, the court sends all warrants electronically to the SAU. When remand warrants are received by the SAU, they are entered into CIS and the system automatically updates the earliest release date. In these cases the earliest release date is not the date of release - it simply indicates the date the prisoner is due to next appear in court. The details of the remand warrant are also entered into a hardcopy diary, which records all prisoner court appearances.

Inspection standard 15.1 provides that prisoners should be advised or have confirmed the reason and length of their custody and when they will be informed of their next court appearance. The inspection found that there is no process for advising remandees of the reason and length of their custody. In relation to informing prisoners of their next court appearance, this occurs either the day before, or the day of, the court appearance. No advance notice is given for security reasons.

It is recommended that TPS introduces procedures to advise prisoners of the reason and their length of time in custody.

Sentence Warrants

Sentencing documentation is received by the SAU very soon after the court has handed down its decision. SAU staff collate sentence warrants received from the courts and manually record the sentence calculation on a Sentence Calculation Sheet, which is then kept on the prisoner's individual file. Each sentence warrant is considered separately, with the period of

imprisonment stated on the warrant used to determine length of the prisoner's sentence. Prisoners are notified of their sentence calculation and release dates by the SAU approximately 7-14 days after they are sentenced.

There are various ways in which a sentence warrant can be implemented such as, a cumulative sentence, a concurrent sentence, and a sentence with a date to commence specified. These add complexity to calculating the correct sentence period. Parole eligibility and remission periods are also taken into account when undertaking a sentence calculation. Both parole eligibility dates and remission periods may require manual input into CIS.

The possibility for human error is largely due to a deficiency in CIS as it is unable to calculate multiple sentences, affecting the release date calculation. In these cases, SAU staff override the dates in CIS with the manual calculation date. This creates an administrative burden, and potential for error, as once a release date is manually overridden then this date needs to be manually maintained for all future changes to the release date – for example, if a remission is granted or removed.

The day before a prisoner is due for release the sentence calculations are double-checked by SAU staff.

There are alerts on CIS to identify those prisoners that are foreign nationals and may be subject to deportation.

Sentence Calculation

Sentence calculation is a complicated process. It is not uncommon for prisoners to receive multiple sentences that involve numerous different terms of imprisonment, running consecutively and concurrently. These complicated sentences are overlaid with the complexity of remissions applied to a prisoner's sentence under section 86 of the Corrections Act and to non-parole periods. At the time of the inspection, there were no procedure documents or DSOs relating to sentence calculation. SAU staff rely solely on on-the-job training.

The inspection team met with SAU staff who advised that all sentence calculations and release dates are checked, validated and entered into CIS on the day the prisoner is received into custody, or as soon as practicable the following business day if the prisoner is received outside normal business hours. This is a labour intensive manual process and prone to human error, despite TPS having a quality assurance process in place.

A number of issues relating to sentence calculation were either noted by members of the inspection team, or raised by TPS staff or relevant stakeholders, during the Custody inspection. The inspection team also identified errors in sentence calculations across multiple prisoners. As a result, the inspectorate is undertaking an independent review of the process outside of the Custody inspection.

It is recommended that TPS undertakes a review of the quality assurance processes for sentence calculations to ensure that it is robust and not simply a 'tick and flick'.



Release Arrangements

Prisoner Money

As discussed in section 7.2 above, prisoners released from court are able to collect money held by TPS on their behalf from either HRP or the VRC in the south of the state, and LRP in the north.

To prepare for the release of prisoners who have served their sentence TPS' Finance unit reviews the list of releases for the following day and prepares calculations for Visa debit card loading. If a person is unexpectedly released – for some reason the prisoner is not on the list of releases and therefore no Visa debit card will have been prepared for them, they can be paid from the VRC – there is a \$20 cash limit on weekdays and \$50 cash limit on weekends. Any remaining balance from their TPS prisoner account is forwarded by cheque. If a prisoner does not have any money in their TPS prisoner account at the time of their release, they will be released to the community without any funds.

There is no arrangement in place for Devonport and Burnie court releases, prisoners are paid their money by way of cheque sent to their home address. The inspection team noted that there is an issue with the processes for prisoner money in that not all prisoners released have a home address to be used for forwarding cheques. The question arises, what happens in these circumstances?

Anecdotally, many prisoners do not collect their money from TPS on release for various reasons, but the main two cited were that prisoners do not want anything further to do with the prison or the prisoner anticipates a return to prison in the short term and will use their funds on return.

It is recommended that TPS:

- **explores options to ensure that no prisoner is released without the means to pay for transport and some food; and**
- **implements alternate payment options to posting cheques to ensure that prisoners without a forwarding home address are able to receive any remaining balance from their TPS prisoner account without having to present at the Risdon site.**

Assistance with transport home on release

Inspection standard 14.3 requires prisons to provide a safe and effective means of getting home when prisoners are released.

The inspection team heard conflicting advice from multiple sources in this regard. There does not appear to be a consistent policy, and whether a prisoner is assisted by TPS with transport to their release destination appears to be at the discretion of individual correctional officers on duty at the time.

The majority of information provided by staff indicated that TPS is responsible for returning prisoners to the location of their residence prior to imprisonment on release, however, this appears to conflict with the DSO *Payment of Transport Costs for Released Prisoners*.

This DSO establishes the following mandatory policy:

Financial assistance for post-release transportation must only be provided if a prisoner is experiencing financial hardship, or in the case of a late release, is unable to gain access to their funds held by the TPS, and does not have any other means of transport.

The making of suitable transportation arrangements with a prisoner's family or friends must be attempted prior to providing financial assistance for post-release transportation.

The TPS must not provide financial assistance for post-release transportation if the prisoner does not submit a written application.

Appropriate assistance will be provided to prisoners applying for financial assistance for post-release transportation.

Prisoners being released from the Risdon site in the south of the State are to organise their own transport, and most prisoners manage this with little or no issue. There is a bus service that stops on the highway directly outside the site. Prisoners being released to the west and east coasts of the state are given bus tickets to travel on a local bus service.

If a prisoner is to be released from custody to the north of the State, he or she will be transported to LRP on the prison escort vehicle. In very rare instances, if the escort van is filled to capacity and cannot transport the prisoner, TPS will provide a bus ticket for the prisoner to travel to Launceston on a local bus service.

The inspection team was advised that where possible, transports are organised for prisoners to be released from Burnie and Devonport. This is by way of the prison escort vehicle when it is transporting prisoners from LRP to regional court hearings – firstly to LRP from Hobart, and then from LRP onto Devonport or Burnie. In some instances, prisoners are released from custody in Launceston after the last escort vehicle for Devonport and Burnie has departed LRP. When this occurs the prisoner is provided with a bus ticket to travel on a local bus service. This is of little assistance, however, for prisoners that are released after a late court hearing as the last bus to Devonport departs at 5:45pm.

Remission

TPS staff sometimes advise prisoners that their remission will not be granted the day before they are expecting to be released from custody. There have also been some instances when prisoners have been advised that they are not going to be released on the day of their expected release. On occasion, this advice has been provided so late that family members have attended the prison to pick up the prisoner only to be turned away. Late remission notifications can be disruptive to pre-scheduled community services that have been organised by prison reintegration and health staff such as housing, medical and Centrelink appointments.

Prisoners can appeal their loss of remission to the Director of Prisons – but this process takes some time and, even if the appeal is upheld, release in many cases will not occur until sometime after the original scheduled remission release date.

The inspection identified that a number of the late remission notifications are due to the



delayed processing of prisoners remission reports, despite the below information which is contained in TPS' *Remission Policy* document:

5.6 Remission release and assessment dates

The assessment process should be initiated approximately 21 days prior to the prisoner becoming eligible for remission on each eligible sentence.

5.7 Remission assessments

The assessment must be completed in sufficient time to enable procedural fairness to be granted to the prisoner if full or partial remission is not granted.

The *Remission Policy* was last updated in 2009 and does not reflect legislative changes in respect of granting remissions to prisoners sentenced for sexual offences and numbering changes following the remake of the Corrections Regulations in 2018.

It is recommended that TPS:

- **revises and amends the *Remission Policy* as a matter of urgency to reflect the correct legislative references and update out of date information; and**
- **ensures that the timeframes within the *Remission Policy* are complied with, to allow prisoners sufficient time to appeal full or partial loss of remission thereby ensuring procedural fairness for prisoners.**

5 Induction

Inspection Standard 16

TPS provides a structured and comprehensive induction to the prison and its services.

All male prisoners entering custody, including those admitted to LRP¹⁷, spend approximately five business days at HRP being inducted into prison life.¹⁸ During this time, prisoners undertake relevant assessments, complete basic training in food safety, and receive a more comprehensive induction, covering the following topics:

- how to make requests, written and verbal, including via intercom;
- dress regulations;
- smoking policy;
- prison rules and offences;
- muster / headcount rules;
- behaviour and personal hygiene;
- prohibited articles;
- how to make complaints (internal and external);
- sexual harassment and bullying;
- suicide and self-harm prevention support;
- room inspections;
- rubbish removal and room cleanliness;
- canteen;
- access to counsellors and other support staff;
- access to education officers;
- access to chaplains;
- employment;
- property allowed in cells / rooms; and
- mail and telephone availability and rules.

The initial induction addresses the following:

- a general overview of the reception process;
- prison rules and routines;
- advice on entitlements; and
- advice about support services.

The induction package contains the following:

- Induction Sheet for New Prisoners;
- Prisoner Contract;
- Prisoner Property Sheet;
- Telephone Number Request Form;
- Money Transfer Application;
- Visitor Nomination Form;
- Personal visits schedule;

¹⁷ Prisoners entered into custody at LRP are transferred to HRP as soon as operational requirements allow. There may be delay in some cases due to prisoner mental health and wellbeing, court appearances and escort availability.

¹⁸ Female prisoners are transferred to Mary Hutchinson Women's Prison from the reception prisons as soon as possible after entry into custody and they receive their induction there.



- Property Sign-out Form; and
- Writing materials (refer DSO 4.02 – Prisoner Mail).

Each time a prisoner is transferred to another prison or specialised unit, the designated correctional officer or correctional supervisor in that area is responsible for providing a local induction and a copy of the induction booklet for that prison or unit.

While noting that the induction materials provided by TPS are comprehensive and relevant for new prisoners, the information is all in a written format. The inspection team felt that more could be done for prisoners with low levels of literacy, for example, develop a general induction video or similar audio/visual format to address this gap. Ideally, an induction video could be screened on escort vehicles as prisoners from the North of the state travel from LRP to Hobart. An induction video could also be screened on a television channel in cells, which would allow prisoners to watch the induction video at a later time when they are feeling more settled in their new environment.

It is recommended that TPS considers options for providing prisoners with a general induction to the prison and its services by way of an audio/visual format to assist prisoners with low levels of literacy.

6 Infrastructure

Inspection Standards 17 to 29

Offenders of all genders, aged from 18 years, sentenced and unsentenced, are accommodated in the five Tasmanian adult custodial centres managed by TPS. At present, the infrastructure is such that TPS cannot house sentenced and unsentenced prisoners separately.

The five adult custodial centres are:

1. Risdon Prison Complex (RPC) - comprising the medium and maximum security precincts for male prisoners.
2. Ron Barwick Minimum Security Prison (RBMSP) - the minimum security facility for male prisoners, including the O'Hara Cottages.
3. Mary Hutchinson Women's Prison (MHP) - housing female prisoners across all security classifications: minimum, medium and maximum.
4. Hobart Reception Prison (HRP) - housing male and female prisoners across all security classifications: minimum, medium and maximum.
5. Launceston Reception Prison (LRP) - housing male and female prisoners across all security classification: minimum, medium and maximum.

The expectation of the inspection standards is that prisons are not overly oppressive. The prison environment should be 'normalised' as far as practicable with perimeter barriers that are designed not to overpower the senses.

Custodial centres should be planned so that the physical environment does not reinforce isolation, sensory deprivation, powerlessness and alienation of prisoners. Rather they should be designed to encourage interactive relations such that the layout, movements and buildings support a full range of service delivery and maximise opportunity for positive human interactions.

The number of prisoners should not exceed a prison's design capacity, as overcrowding can have significant detrimental effects on the standard of living, regime and safety within a prison. Prison buildings and layout should consider the diverse prisoner population taking into account such things as culture, gender, geriatric needs, disabilities and issues relating to poor mental health. Importantly, custodial centres must never be dilapidated, degrading or inhumane and should have adequate ventilation, circulating fresh air, and natural light.

Each of the five adult custodial centres in Tasmania is secure in its own right and includes spaces for living, education, programs, visits, interviews and recreation activities. It should be noted, however, that the facilities at each of the reception prisons are very limited and do not adequately cater for education and programs. Nor are the visiting areas of either reception prison ideal, as was reported in the *Care and Wellbeing Inspection Report*. Generally, cell sizes across all facilities are adequate, although there are some issues that arise when cells designed for one prisoner are temporarily doubled-bunked. All custodial centres have provision for disability access cells.



Inspection standard 29 requires that prison infrastructure is built and maintained to recognised building standards. All prison infrastructure should conform to the Building Code of Australia requirements and for all structures built in recent times this is the case and appropriate certification was provided to evidence this. There are concerns, however, with the ageing infrastructure at both RBMSP and LRP and neither of these facilities is considered fit for purpose in the modern age - this has been raised in previous Annual Reports and the *Care and Wellbeing Inspection Report*. TPS has in place a planned maintenance system, which is updated regularly; though there is some concern as to whether maintenance is adequately funded. From discussions with staff, it appears that it may not be. The inspection team has also observed first hand:

- sewage blockages in RBMSP;
- peeling paint in cells in RBMSP;
- plumbing issues in LRP, in particular the showers;
- lack of hot water in LRP;
- blocked toilets in RPC;
- mouldy wet areas in RPC;
- lack of washing machines in RPC;
- power running off extension cords in Division 8 in RBMSP;
- unhygienic conditions of kitchenettes in RBMSP¹⁹; and
- cells being offline for extended periods of time due to maintenance issues.

The inspection team has also been advised by relevant TPS staff of the following concerns relating to maintenance of:

- the power circuits in RBMSP which trip when overloaded due to prisoner power consumption and this is an ongoing problem due to power supply not meeting demand; and
- the ageing commercial laundry equipment which is due for replacement.

The inspection standards require that common rooms should provide sufficient seating and writing surfaces. They should include adequate facilities, for example telephone, to ensure these do not become objects of competition for access or control. The inspection found that there was generally adequate seating and tables in all custodial centres. As was reported in the *Care and Wellbeing Inspection Report*, however, there are simply not enough telephones across all custodial centres to meet the demand of prisoner numbers. It is not necessary to repeat the recommendations to install additional telephones in this report. The inspectorate continues to monitor progress against all recommendations.

Further detail specific to the custodial centres is provided below.

¹⁹ It has been previously recommended in the *Care and Wellbeing Inspection Report* that these be replaced.

Launceston Reception Prison

LRP is located in the Launceston Police Station. There is no perimeter fencing. Regular building inspections of LRP are undertaken as part of Tasmania Police processes, with engineers through the premises regularly. The inspection team was advised that the air conditioners are maintained and controlled by Tasmania Police, thus TPS has no control over the temperature in the prison.

At the time of the inspection there were 18 usable individual cells and two time out cells in LRP. LRP adequately accommodates prisoners with mobility issues as all the doors in the facility are wide enough for a wheel chair and the cells are large enough too. The lay out of the facility is on one level, apart from the internal tunnel to the courthouse which is down a flight of stairs. The inspection team noted that there were no duress alarms in the tunnel. Additionally, as previously noted in the *Care and Wellbeing Inspection Report*, there are four wardsmen living in the basement of the building that houses LRP, basically inside a concrete block. In these living quarters the prisoners have no access to fire extinguishers, nor alarms, once they are locked in for the night. The inspection team's concerns about the safety of these arrangements remains.

On entry to LRP there was a narrow hallway type entry (air lock) which had a drink vending machine near the doorway and a metal detection pole placed in the entrance. There was a table that ran nearly the length of the entry area and some small lockers. This area was very crowded and cluttered and there was little room to manoeuvre when three or four people were present. The inspection team was advised that the metal detector had stopped working and everyone entering the prison needed to be searched using a hand held metal detector.

It is recommended that TPS considers an alternate design layout in the entrance at LRP to make the area more functional and ensure optimal barrier protection.

As was reported in the *Care and Wellbeing Inspection Report*, there are four wardsmen living in the basement of the building that houses LRP, basically inside a concrete block. In these living quarters the prisoners have no access to fire extinguishers, nor alarms, once they are locked in for the night. This is highly concerning from a safety perspective.

The toilet installed in the male day yard is stainless steel with a basin over the toilet – an all in one unit. This unit is not suitable in a shared common area and prisoners should not have to obtain a drink from above a toilet, possibly used by someone else minutes earlier. The toilet has a small screen wall which provides some but not enough privacy from the other prisoners. Whilst there is a security/safety issue with an enclosed toilet, the inspectorate is also aware of the need for privacy when using the toilet. An enclosed toilet is not an option for the above reasons but TPS should explore an alternative option, or slightly higher screen that provides more privacy depending on security risks.





Launceston Reception Prison day yard toilet

The inspection team raised concerns about the privacy of the prisoners when they use the toilet in the two observation cells. The toilets are clearly visible to anyone walking past the observations cells as demonstrated in the photos on the next page. The inspection team queried whether there are privacy dots on the cameras or the monitors and was told that there were none²⁰. The LRP Superintendent felt that the dots would present a risk as the staff could not see what the prisoner was doing.

The consultant expert on the inspection team advised that privacy dots on the monitors are small and whilst it may obscure the person somewhat this can be managed. Staff monitoring the cell should be aware of the privacy dot and know if the prisoner is the obscured area for too long etc. These privacy dots work in prisons in many other jurisdictions, including Western Australia, and reduce the risk of correctional staff observing prisoners inappropriately. The majority of staff at LRP are male and whilst there are not privacy dots on the monitors or the cameras these staff are open to the perception and possible accusations of inappropriate observations. It goes without saying that privacy dots will not address the issue of visibility with people walking past the observation cells.

²⁰ Privacy dots can be implemented in a number of ways, on a fixed camera it could be a small dot placed on the lens or alternatively it could be an area blacked out or pixelated through software.



Observation Cell 1

The staff also expressed concern about the toilet in Observation Cell 2, particularly the ability for a prisoner to hide behind it, between the wall and the pan.



Observation Cell 2 – has the same glass frontage as Observation Cell 1 above

It is recommended that TPS considers options and implements a solution to preserve prisoner's privacy and dignity when using the toilets in the two observation cells at LRP.

There are also no televisions in the observations cells, leaving very little to occupy prisoners accommodated in these cells.

There are a number of ligature points throughout the facility, of particular concern is the female day yard. This yard was also said to be used to separate prisoners if need be,



however, the reason for the separation would need to be risk assessed as there were a number of hanging points in the day room including grilles and TV cords. There is a camera in this area.

Although LRP is used for short-term accommodation, it is not unusual for prisoners to be accommodated for extended periods during court cases held in the north of the state. LRP is unable to comply with inspection standard 26.3, which requires that prisons that accommodate female prisoners as well as male prisoners must provide sufficient appropriate accommodation and facilities for the in-prison care of pregnant women, infants, and children. There are no such facilities suitable.

The expectation of inspection standard 26.4 is that accommodation, facilities, programs and activities for female prisoners should not be of a lesser standard than that which is afforded to male prisoners. The inspection team was advised that LRP cannot comply with this standard as female prisoners are often locked down so male prisoners can make legal phone calls or for male prisoner movement.

As has been previously reported in the 2016-17 Annual Report and the *Care and Wellbeing Inspection Report*, there are concerns as to whether LRP is fit for purpose. This is particularly so in relation to the facilities necessary for the maintenance of general hygiene. There is no hot running water in cells, prisoner toilets or the day yard; the showers are defective and in need of replacement or repair; and there are not enough showers to meet demand.

LRP is unable to meet inspection standard 23:

23.1 There should be an adequate ventilation system ensuring circulated fresh airflow to all occupied areas of the prison.

23.2 There should be an effective climate control system allowing temperature and humidity to be mechanically raised or lowered to acceptable comfort levels. A temperature range should be set (which reflects winter and summer seasonal temperature variations) in consultation with prisoners and staff.

23.3 There should be design provision for some degree of prisoner control over their immediate cell environment.

23.4 Windows in all cells must permit sufficient natural light to facilitate prisoners reading and writing.

Prisoners at LRP do not have access to natural daylight or fresh airflow and combined with other factors relating to the age and design of the building, thermal comfort of individual prisoners at LRP is impacted.

A number of additional issues were identified as follows:

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- Due to the small size of the prison, LRP is unable to comply with inspection standard 26.1. This standard requires that female prisoners must be able to avoid being exposed to constant view or being harassed by male prisoners. At LRP, male prisoners can and do call out or yell at female prisoners from the cells in the male area.
- Females and youths are accommodated in the male area when the cells in the female area are full.
- Prisoners may be double bunked in cells which do not provide adequate space and privacy when toilets are used.
- There are no chairs for the desks in the cells.
- There is no privacy when prisoners are using the day yard telephone.
- The use of concrete plinths (which is predominately a raised floor slab) to place mattresses on, rather than beds, does not allow circulation of air for the mattresses.
- The area used for strip searching of male prisoners is inappropriate – it is in an open area off the hallway and next to the door to the sally port – and does not preserve a prisoner's privacy or dignity.
- The control room is manned 24 hours a day but is out of date and needs a complete overhaul.
- [REDACTED]
- Contraband is a significant issue, with the main contraband items anecdotally being tobacco, lighters and syringes. Staff advised that they would like a full body scanner for the prison.

Given the concerns about LRP being fit for purpose, recommendations to address some of the above issues is impractical, however, **it is recommended that:**

- **chairs be provided for the desks in the cells;**
- **privacy measures are installed for the day yard telephone;**
- **beds in cells be remodelled to allow circulation of air around mattresses; and**
- **LRP installs privacy measures around the area used for strip-searching male prisoners.**

²¹ A secure, lockable key management cabinet.



Hobart Reception Prison

HRP is located in between the Hobart Police Station and the Hobart Magistrate's Court in the Hobart CBD. There is no perimeter fencing, only the walls of the building.

The reception area at HRP is not safe or secure for TPS staff. There is no barrier on the front counter between reception staff and the public. This is a work health and safety issue. There is also no privacy screen for the reception desk, with documents containing sensitive information on the desk clearly visible to any one standing at the counter. Likewise, the printer is situated on the counter of the front desk within arm's reach of the public. A bigger space is required for administration.

The inspection also identified barrier problems with the entrance. The search facility is inadequate. The search area is too small, resulting in staff using the hand held metal detector close to other metal objects when searching people entering the facility often resulting in false positive indications. There is no box or raised platform for visitors to the facility to stand on, so correctional staff have to physically bend down to search effectively. The inspection team was advised that the Director of Prisons is aware of the problems with barrier control at HRP and is planning to address these, though the inspection team did not directly confirm this. The entire reception, administration and search area requires redesigning.

Contraband is a significant issue at HRP, with anecdotal reports indicating that people expecting to enter custody after a court hearing will 'load up with drugs' through internal secretion. HRP staff advised that they would like a full body scanner for the prison.

It is recommended that TPS considers options, and implements solutions, to ensure a safe and secure reception and administration area, and an improved area to facilitate adequate searching at HRP.

The inspection team was advised that HRP is "living on the edge with [its] camera system" with staff reporting that it fails frequently. There were also concerns expressed about the lift at HRP, which was not designed for the large workload it is now carrying. Anecdotally, it is not unusual for the lift to breakdown.

Like LRP there are no televisions in the observations cells at HRP, leaving very little to occupy prisoners accommodated in these cells.

There are a number of prisoners housed long-term at HRP for security and protection reasons. These prisoners also have little access to fresh air and sunshine. A desirable outcome would be for TPS to cease using HRP as a long stay facility for protection prisoners and those with association issues. A suitable alternative for protection prisoners should be considered in planning of future prison infrastructure.

Mary Hutchinson Women's Prison

MHWP is located on the Risdon site and is a stand-alone facility with its own secure perimeter fencing. The infrastructure is modern and largely fit for purpose. The gatehouse is small but adequate, and the visiting area requires some attention as reported in the *Care and Wellbeing Inspection Report*.

At the time of the inspection, the facility comprised a number of buildings, including:

- the gatehouse, reception, administration, visits area, interview rooms, processing area, and control room - for the purposes of this report, this area is called the administration block;
- a health clinic, education rooms, and administrative offices;
- minimum-security and medium-security units in one accommodation block²²;
- a separate mother-baby unit which accommodates minimum-security prisoners²³; and
- a maximum-security unit adjacent and connected to the administration block.

Minimum and medium-security classified prisoners are located together in one building and separated only by a stairwell. Minimum-security is located upstairs and medium-security is located downstairs. Minimum-security classified prisoners are allowed to access the medium-security common room to use the exercise equipment located there. Medium-security prisoners are not permitted to enter minimum-security on the upper level for any reason. Correctional staff physically monitor these areas and there is also camera surveillance. The co-location of two security classifications in the one building, however, is not ideal.

Inspection standard 20.7 provides that cells must be free of ligature points - except those in minimum-security buildings. The inspection found multiple ligature points in the minimum and medium-security units and in the separate mother-baby unit. It is acknowledged that prisoners accommodated in the mother-baby unit are minimum-security rated, so this is not an issue. Concerns are raised though noting the co-location of minimum and medium-security classifications in the one building.

Doubling up in cells in the medium-security unit in MHWP is common. The expectation of inspection standard 20.8 is that multiple occupancy cells should provide adequate unencumbered space and privacy when toilets or ablutions are used. If a medium-security cell accommodates more than one prisoner, there is no privacy when toilets are used.

²² The MHWP kitchen, laundry, sewing room and recreation/library room were located in this building too.

²³ It is uncommon for infants or toddlers to be accommodated in MHWP. For the period January 2014 to August 2019, twelve infants have been accommodated in MHWP, thus when there are no infants or toddlers at MHWP the mother-baby unit is always occupied by suitable minimum-security prisoners rather than left vacant.





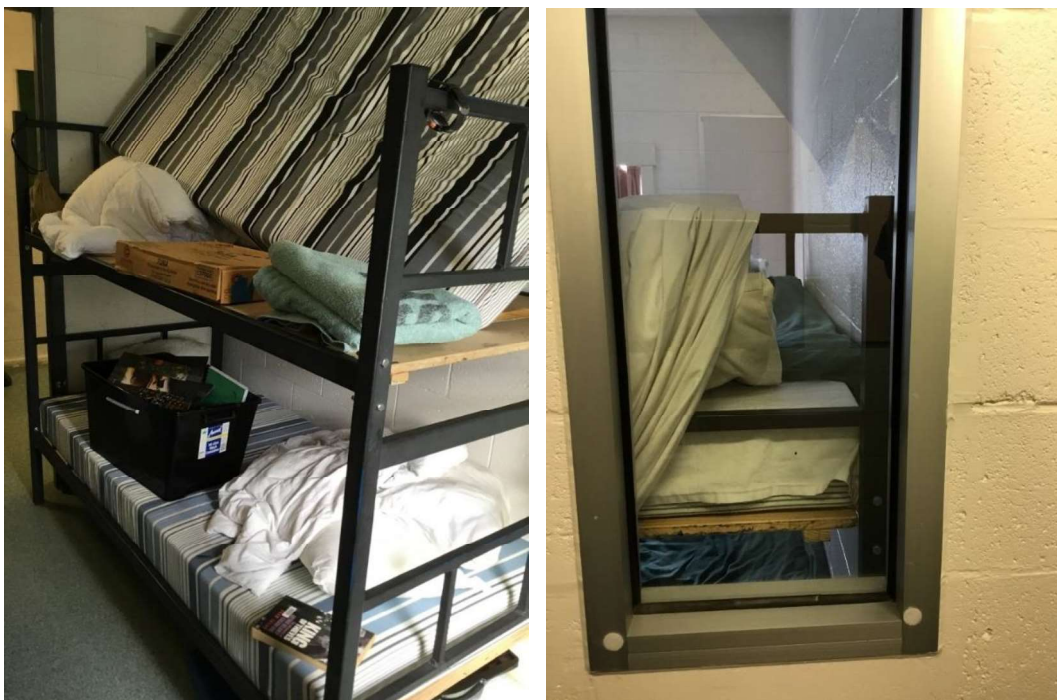
Mary Hutchinson Women's Prison bunked cell – no privacy screens

Regarding cell size, inspection standard 20.4 provides:

20.4 There are no clear international standards on cell size. However, SGPFANZ²⁴ sets 8.75m² as the minimum size for a single person cell including ablutions, and 12.75m² for a double cell.

The inspection found that the size of all single cells in MHWP was adequate though slightly smaller than 8.75m², however, cells used for multiple occupancy were considered too small. For example, Cell 01 in the medium-security unit, which was being used for double bunking, was 2.45m width and 3.03m length totalling 7.42m². This space is not adequate to accommodate more than one prisoner. The bunk beds are placed against the internal cell window obscuring visibility and also extend into the doorway.

²⁴ Standard Guidelines for Prison Facilities in Australia and New Zealand May 1990



Bunks in the Mary Hutchinson Women's Prison at the time of inspection

There is a disability access cell in the maximum-security unit, however, there is no specific disability access cell in minimum-security (which is located upstairs) or medium-security. At the time of the inspection, there was a minimum-security classified prisoner requiring a wheelchair accommodated in the separate mother-baby unit.

The inspection team was advised that the roller door at the entrance to the MHWP sally port breaks down occasionally. When this occurs the door can be manually operated, however, it tends to jam. Staff advised that the gate has also fallen before and at that time it would not operate manually. As a result, MHWP staff have had to take prisoners through the front gatehouse reception area, which is not ideal, though it is inside the facility's perimeter fencing. To avoid moving prisoners through the gatehouse reception area, which is used by all MHWP visitors, TPS should consider installing a gate at the bottom of the stairway from the processing area to allow entry into the administration hallway.

The inspection also identified that limited physical space, in terms of rooms suitable for education and programs, is an issue that has an impact on the running of courses and programs in MHWP.

Ron Barwick Minimum Security Prison

Despite being a minimum-security prison, RBMSP has a perimeter fence, which was erected in the 1960s when it was built as a maximum-security prison - Her Majesty's Prison Risdon.

It has previously been reported that RBMSP is an old, open-air building that is not designed to withstand the cold Tasmanian climate. Its design is based on an American prison located in warmer climes; the bitumen yards are essentially open to the elements and are cold and wet in inclement weather. In addition to being poorly designed it is now an aged facility, which is no longer fit for purpose. RBMSP fails in all respects when assessed against inspection



standard 23 which requires prisons to incorporate a 'healthy buildings' approach to climate control, amenity, lighting and outlook.

The thermal (dis)comfort of individual prisoners at RBMSP is impacted by the aging infrastructure and this was discussed in detail on pages 43-45 of the *Care and Wellbeing Inspection Report*²⁵ and, at the time of the *Custody* inspection, the conditions remained unchanged. As further noted in the *Care and Wellbeing Inspection Report* a number of kitchenettes in RBMSP are not of an acceptable standard. Condensation is an issue in some cells, and generally, paint is flaking from walls and doorframes in all areas.

At the time of the inspection there were two disability/wheelchair friendly cells in Division 4 of RBMSP. The inspection team was advised that the renovation works being undertaken in Division 7 will result in three more disability access cells. The library and education area, however, are located upstairs which is not ideal for mobility-impaired prisoners. Likewise, there are a number of rooms that are used for programs and prisoner interviews that are located upstairs, with no alternate access for mobility-impaired prisoners. This was identified as a particular issue that potentially has an impact on the ability of some elderly prisoners attending group criminogenic programs.

The cell doors in RBMSP do not have any access hatches in them, however as it is a minimum-security prison prisoners are not locked in their individual cells for most of the day. It is also possible to communicate through a sliding window which is adjacent to the door in each cell.

The gatehouse at RBMSP is not ideal, as it is extremely small and cramped, fitting no more than two people comfortably at a time – the small space is greatly impacted by the placement of doors, one of which opens into the limited standing room. There is no room to search a visitor or staff member in this area if required. The area behind the counter for staff is also very limited. Security is dependent upon the staff rostered to the gatehouse and is, at times, variable. The inspection team observed first hand that professional visitors, contractors, delivery drivers, uniform and non-uniform staff were not always searched or requested to provide identification. These observations are not only limited to the onsite Custody inspection but have been noted on multiple occasions at different times. This needs to be addressed.

Risdon Prison Complex

RPC has a perimeter fence and is defended from inside and out by layers of both electronic and physical elements.

²⁵ The full report can be found at:

https://www.custodialinspector.tas.gov.au/_data/assets/pdf_file/0020/451613/FINAL-TPS-Care-and-Wellbeing-Inspection-Report-Appendices-30-October-2018-PDF.PDF



Risdon Prison Complex perimeter fence

Each unit in the maximum-security precinct has a kitchenette, which was part of the original build of the facility. Unfortunately, due to design issues, the kitchenette areas cannot be used as such because there is no direct line of sight from the officer unit station.

In the maximum-security units all cell doors are fitted with an access hatch that allows communication, and some control of a prisoner, without opening the cell door. In the medium-security precinct the cell doors do not have access hatches, as prisoners are able to roam freely within units after lock up. To allow communication there are access points in the front window of each individual unit.

Doubling up in cells in RPC is common in both the maximum and medium-security precincts. This creates challenges for TPS in terms of meeting the inspection standards relating to privacy. Inspection standard 19.6 provides that shared spaces should provide for levels of privacy, subject to safety. The expectation of inspection standard 20.8 is that multiple occupancy cells should provide adequate unencumbered space and privacy when toilets or showers are used. If a maximum-security cell accommodates more than one prisoner, there is no privacy when toilets are used.

Razor Wire

The perimeter fencing in RPC has razor wire incorporated into it. It is the role of the Tactical Response Group (TRG) to extract a person from the wire if they are caught in it. The TRG has two kits for this purpose. When the inspection team asked about training to extract a



person from the razor wire at ground level, staff advised that training was provided when the TRG first started but newer staff joining this group have not had the training. When asked about training for extraction from razor wire at height, staff advised there had been no training of this sort provided for this. The kits that TRG currently have are not suitable for extraction at height and there is a need for a stable platform. These gaps need to be addressed and razor wire extraction training at ground level and at height needs to be provided and regularly refreshed.

It is recommended that TPS reviews the training of TRG officers and implements changes to provide them with the ability to extract persons from razor wire, both at ground level and at height, safely. TRG members should also be provided with ongoing refresher training in this area.

Limitations of the Current Infrastructure

Inspection standard 20 provides that building design and layout should be appropriate to function and appropriate to the background and profile of the prisoners to be held there. The inspection found that appropriate accommodation was a significant issue. There was not suitable accommodation to house a number of prisoner cohorts:

- remandees - that is, to house them separately from sentenced prisoners as discussed in 7.2 above;
- young offenders;
- protection prisoners including sex offenders and transgender prisoners;
- prisoners undertaking pharmacotherapy treatment;
- prisoners with serious disabilities and health conditions requiring intensive medical care; and
- prisoners with severe mental health illnesses that do not meet the criteria for admission to a secure mental health unit under the *Mental Health Act 2013*.

Young Offender Unit

There is no young offender unit in any Tasmanian adult custodial centre. In planning future infrastructure projects, TPS should consider specialised young offenders accommodation, be it a unit or a new prison.

It is recommended that TPS considers the inclusion of a specialised young offenders accommodation unit when planning future infrastructure projects.

Transgender Unit

Similarly, there is no transgender unit in any Tasmanian adult custodial centre. This is discussed in further detail in section 7.9 below.

Pharmacotherapy Dosing Area

As raised in the *Care and Wellbeing Inspection Report*, the s8 clinic time at RPC is problematical as it impinges directly on clinical service time and hinders patient access to

general medical care. From 1:00pm to 3:00pm daily²⁶, while s8 dosing is taking place no other prisoners are allowed to access the health clinic area of RPC. This is a custodial requirement, aimed at reducing the trafficking of prescribed medications. A solution would be to introduce a separate dosing area for the pharmacotherapy program to improve access for prisoners to medical services provided by Correctional Primary Health Services (CPHS) in the clinic area.²⁷

It is recommended that TPS introduces a separate dosing area for the pharmacotherapy program to improve access for prisoners to medical services provided by CPHS in the clinic area.

Crisis Support Unit and Inpatients

The Crisis Support Unit (CSU) and the Inpatients area of the RPC Health Clinic are not appropriately designed facilities. The infrastructure of these facilities does not allow prisoners to get out of their cells often and the exercise yards of both CSU and Inpatients are very small, essentially concrete and metal cages. CSU is a short-term accommodation option aimed at managing acute suicide and self-harm risk. There are four cells in the unit. The Inpatients unit is essentially used as a hospital facility for TPS and has six primary care beds. Some prisoners are accommodated long term in Inpatients due to their medical needs.

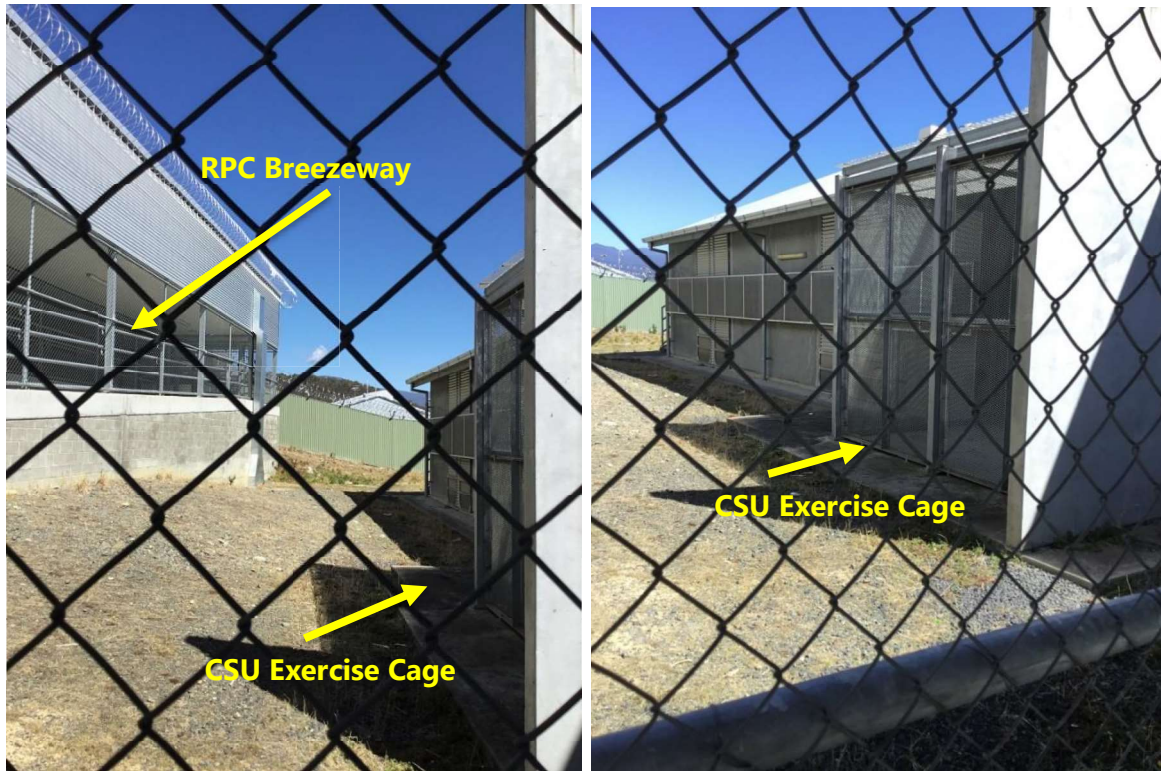
The inspection team has concerns regarding the CSU exercise yard. The anti-climb mesh cage itself is not safe due to the amount of ligature points - cameras mitigate this risk somewhat but not completely. The exercise yard is open to the view of significant and constant passing prisoner traffic along the spine of RPC between the medium and maximum-security precincts, opposite the entry to prisoner processing and the health clinic. Some prisoners are required to wear suicide gowns into the yard for safety reasons and these do not preserve a prisoner's dignity. Noting the vulnerable mental health of prisoners accommodated in CSU, there should be screening to block out the view by others into the exercise yard. These concerns are relevant to inspection standard 27.2 which considers mental health problems and the effects of environmental surroundings:

Environmental design must take into consideration mental health problems and/or disabilities that may heighten sensitivity to, and the effects of, environmental surroundings. This is not to suggest that the environment should be stimulus-free, but rather that elements of the environment should be unobtrusive and unambiguous.

²⁶ The s8 dosing always takes place from 1:00pm to 3:00pm Monday to Friday, but on the weekends it is often run in the morning.

²⁷ Correctional Primary Health Services (CPHS), within the Tasmanian Health Service. CPHS is responsible for healthcare provision at custodial centres throughout Tasmania.





CSU could be a friendlier environment with softening of the facility by use of colour and improvements to the line of sight. There are also challenges with the infrastructure as TPS uses CSU to manage a complex variety of prisoners, including those with a SASH risk; others suffering anxiety and vulnerability; and prisoners with aggressive and violent behaviour. Co-location of these types of prisoners in close proximity feeds negative behaviours within the unit and in some cases exacerbates mental health issues.

TPS should review CSU to ensure the design meets the principles outlined in inspection standard 28:

The design of special accommodation for prisoners that are deemed to be at risk of suicide and require a temporary separate management regime should incorporate therapeutic environmental principles that include regard for a good level of amenity and activity, natural light, high levels of staff/prisoner interaction and appropriate monitoring facilities.

In this regard, it is also necessary for TPS to review the operating procedures for CSU in terms of ensuring a good level of amenity and activity and high levels of social interaction for prisoners accommodated in the unit.

A further issue that was identified by the inspection team in relation to Inpatients and CSU is the accommodation of both female and male prisoners in these units. In particular, inspection standard 26.1 provides that female prisoners must be able to avoid being exposed to constant view or being harassed by male prisoners. A number of sources raised the accommodation of female prisoners in these areas with the inspection team.

It is recommended that TPS:

- **installs screening on the CSU exercise yards to ensure prisoner privacy;**
- **considers design changes to CSU to provide a softer environment and improvements to line of sight; and**
- **reviews the operating procedures for CSU to ensure a good level of amenity and activity, and high levels of social interaction for prisoners.**

CSU is also discussed in 7.9 below in the context of segregation and separation of prisoners.

Pre-release Centres / Independent Living Accommodation

The expectation of inspection standard 20.3 is that living and accommodation units are planned to facilitate incentive management schemes appropriate to the prisoner profile, and include self-care living, where practicable.

There is no pre-release centre or work camp for prisoners in Tasmania. Likewise, there is no real independent or self-care living accommodation. The closest thing to independent living accommodation are the O'Hara Cottages, which are part of the male minimum-security facility at RBMSP. The cottages are located on the Risdon site, just outside the RBMSP perimeter fencing. There are fully functioning kitchens in each cottage, but prisoners are unable to fully self-cater meals. The cottages have their own washing machines and dryers and prisoners are responsible for cleaning the cottages. To allow prisoners to prepare their own meals in the O'Hara Cottages would have the additional benefit of introducing more independent living, assisting prisoners to gain valuable life skills in preparation for release. There is no equivalent to the O'Hara Cottages for female prisoners and this needs to be addressed.

It is recommended that TPS makes available independent or self-care living accommodation for appropriately security-classified male and female prisoners.

Capacity

Whilst the overall design capacity of all adult custodial centres has not been exceeded, from time to time specific units will exceed capacity and the inspection team has observed first hand mattresses on the floor of cells in the RPC medium-security precinct and LRP. The inspection team has also been informed by a number of different stakeholders of instances of mattresses on floors in MHWP, RPC maximum and HRP. Due to growing prisoner numbers, TPS has installed bunk beds in MHWP, HRP and RPC in both the maximum-security and medium-security precincts, to increase capacity.

The inspection found that the number of beds available in RBMSP is insufficient to accommodate all minimum-security classified prisoners, resulting in a 'waiting list' of prisoners accommodated in RPC, in both the maximum and medium-security precincts. Anecdotally, to circumvent capacity issues relating to prisoner classification, correctional staff will override the Tier 1 security classification to 'fit' prisoners into a particular prison; for example, by classifying a prisoner as medium-security instead of maximum-security. Multiple TPS staff, both uniform and non-uniform, raised this issue. Although the inspection team was unable to substantiate the claims with empirical evidence, if the anecdotal evidence is true it is of some concern.



7 Dynamic Security

Inspection Standards 30 to 33

The inspection standards state that dynamic security is arguably the most important element of an effective, humane and safe custodial environment. It is derived from regular positive interaction between prisoners and professional, well-trained staff. Sound dynamic security better enables incident prevention through the early detection of possible security or safety threats and by ensuring prisoners are actively engaged in the prison regime. Dynamic security acknowledges the primacy of staff awareness rather than just prisoner visibility.

Communication between Staff and Prisoners

Ideally, a prison regime should be designed to facilitate extensive opportunities for communication between staff and prisoners. The inspection found that this is not the case in RPC, in the maximum-security precinct. In this custodial centre, correctional staff shortages and resulting redeployments affect contact with prisoners. There appears to be an ingrained culture of staff seeking 'shelter' in the officer station, with interactions largely taking place over the counter behind the protective barrier. The observations of the inspection team over multiple onsite visits confirmed this to be a common practice in all maximum-security units, with staff rarely on the floor unless distributing meals, canteen, drinks or at lock/unlock.

The inspection standards provide that correctional staff should be visible and approachable and prisoners should not have to constantly negotiate physical barriers to speak to staff. This is important as restricted interactions between staff and prisoners limit the intelligence that can be collected and analysed. TPS should address these communication issues by encouraging staff to regularly 'walk the floors'. This would also assist TPS in complying with inspection standard 30.3, which provides that *"It is a responsibility for correctional officers, and all prison staff, who interact directly with prisoners to extend their knowledge of prisoner activities and behaviours and to apply this knowledge professionally for the safety and security of the prison."*

Positively, the inspection team observed that the level of interaction between correctional officers and prisoners was much higher in the RPC medium-security precinct, MHWP, RBMSP and both reception prisons.

Prison Rules and Codes of Conduct

The inspection standards require that prisons should implement clearly defined prison rules and codes of conduct for staff, prisoners and all visitors. Standard 31.1 provides:

The behaviour required of all staff, volunteers, prisoners, personal visitors and others who enter the prison should be made clear in written codes of conduct. For staff these should be acknowledged in writing and recorded.

In terms of a code of conduct for staff, TPS is part of the Department of Justice. All staff are state service employees and must comply with the Code of Conduct outlined in section 9 of the *State Service Act 2000*. The Code of Conduct reinforces and upholds the State Service

Principles²⁸ by establishing standards of behaviour and conduct that apply to all Tasmanian government employees. Any employee who accepts a fixed term position will sign a contract which addresses the Code of Conduct. For any permanent appointment, a letter is issued and addresses conditions in accordance with State Service Act. This does not require a signature. TPS staff complete online training which covers a vast range of subjects including the Code of Conduct. TPS has in place established procedures for the investigation and determination of possible breach of the Code of Conduct.

There are no prisoner or visitor codes of conduct in place. During the induction to a prison, however, correctional staff cover the expected behaviour of prisoners verbally, and relevant information is included in the induction booklet provided to the prisoner.

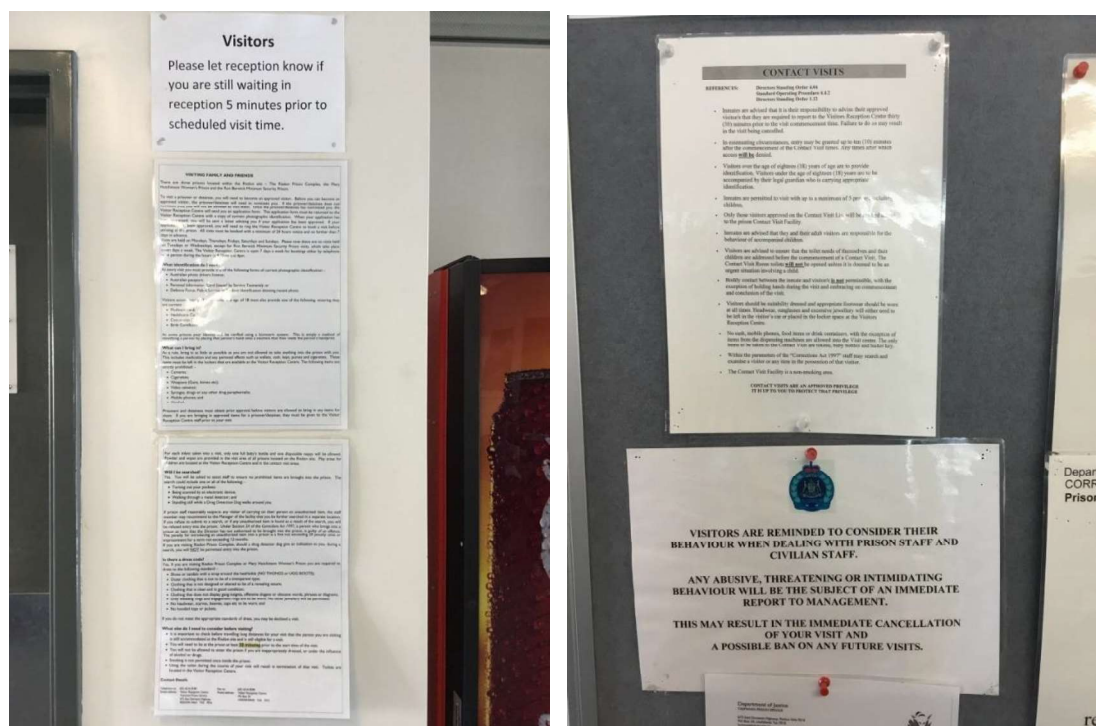
The rules for visiting, including conduct expected of visitors and dress standards, are provided on the TPS website. Likewise, the expected standards for prisoners and visitors are displayed throughout each custodial centre and in the VRC. There is, however, no information for visitors about the expected conduct of TPS staff. Prisoners and visitors should be able to easily access and view the State Service Code of Conduct. It should be displayed on a notice board in the VRC, in the visits areas of all facilities, and available on the TPS website.



Signs in the RPC Visits Area

²⁸ The State Service Principles are set out in section 7 of the *State Service Act 2000*.





Signs in the Visitor Reception Centre

It is recommended that TPS:

- displays the State Service Code of Conduct in the VRC, the visits area of all prisons and on the TPS website;
- introduces codes of conduct for prisoners and visitors to the prison; and
- ensures that prison rules are prominently displayed in appropriate areas of all prisons.

Privilege Incentive Scheme

TPS largely complies with the inspection standards relating to a prisoner incentive scheme which require that good behaviour and conduct is rewarded through a fair and equitable privilege incentive scheme. In this regard, TPS employ a prisoner contract system. The contract system is an incentive and reward system that encourages prisoners to set goals, make sound choices, demonstrate positive behaviour and actively participate in the case management process. The contract is a formal agreement between TPS and the prisoner. There are different levels of contracts within the system and each contract level has different entitlements and benefits. Prisoners are informed of all available privileges and how to access them and they are also informed of behaviour that may result in a loss of privilege.

There are, however, some limitations to this incentive scheme as it is applied to prisoners accommodated in the Huon Unit – this is discussed in detail in section 7.10 below. The main issue arises in respect of inspection standard 32.2, which requires that all prisoners should have equal and sufficient opportunity to participate in the incentive scheme and achieve the highest level of privileges. A small cohort in the Huon Unit are not able to achieve the highest level of privileges by virtue of their accommodation placement.

Bullying

Inspection standard 33 requires that each prison must implement an effective anti-bullying strategy. It is expected that every prison must actively implement and promote a policy of intolerance of bullying, harassing or intimidating behaviour by either prisoners or staff. Additionally, prisons should implement measures to prevent and effectively respond to any reports of bullying and staff must be trained to detect, prevent and respond to bullying behaviour. Where bullying is identified, perpetrators should be addressed and appropriately managed or disciplinary action taken.

The inspection found that the anti-bullying strategy is not adequate or effective. Individual managers will deal with bullying in different ways. Staff bullying does happen and, based on information provided in discussions with various TPS uniformed and non-uniformed staff and Correctional Primary Health Services staff, it appears that it is an ingrained culture within TPS.

There are three relevant procedural document. Interim DSO titled *Preventing Bullying (prisoners/detainees)*, which was issued on 23 October 2006 remains the current order relating to bullying.²⁹ Supplementing this Interim DSO is an Interim Standard Operating Procedure (SOP) for RBMSP, MHWP and RPC. Of note, there is no corresponding SOP for either of the reception prisons despite the fact that both facilities accommodate long term prisoners. In addition, TPS also has an *Inmate Anti-Bullying Strategy* which was issued in November 2007. These documents are out of date and should be reviewed and reissued to ensure they are up to date and processes accord with current best practice. Many of the processes and reporting requirements in the procedural documents are not being followed. Despite the requirement for each separate prison facility to have an anti-bullying strategy appropriate to that prison environment it appears that there are none in place.³⁰

TPS has an additional resource for staff located on the TPS intranet, in the form of a WorkCover Tasmania publication *Bullying: A Guide for employers and workers* (GB253) which was released in June 2010, reprinted in December 2010. WorkSafe Tasmania advised that this document is out of date, predating the current legislation relevant to workplace bullying, and should be replaced with the publication *How to prevent and respond to workplace bullying: A psychosocial hazard* (GB374) which was released in September 2016. Of note, there is no document available for staff that outlines such things as contributing factors that may increase the risk of workplace bullying, self-managing bullying, record keeping, notification of bullying and expected workplace behaviours. This area requires attention.

²⁹ As previously stated, it appears that all DSOs issued immediately preceding the opening of RPC were issued as Interim Director's Standing Orders. Where these documents have not been updated since, they remain as interim orders.

³⁰ A request to provide a copy of the anti-bullying strategy for each custodial centre was not complied with despite the relevant DSO, *Preventing Bullying*, stating that each prison facility must have an anti-bullying strategy. As a result, the inspection team was unable to confirm whether in fact an anti-bullying strategy for each facility exists.



Despite these procedural documents and the WorkCover guideline, anecdotally, bullying is common in the Tasmanian prison system, across all cohorts. That is, bullying of non-uniform staff by correctional officers; bullying of correctional officers by other correctional officers; bullying of prisoners by correctional officers; and bullying of prisoners by other prisoners. Incidents of prisoner bullying are recorded in the TPS Complaints Register, though it appears that under-reporting is common as there were less than 20 *prisoner* bullying complaints registered from August 2013 to October 2018. It is likely that formal prisoner reports are not made due to fear of reprisal. The inspection team was told that bullying incidents are swept under the carpet, particularly when they involve staff. The inspection team was unable to verify the information provided, as no reports, statistics or registers maintained in relation to *staff* bullying incidents were provided despite requests. Though the inspection team was unable to produce empirical evidence if true the claims are troubling. Due to the serious concerns raised by several sources regarding the prevalence of bullying, the inspectorate will closely monitor this area.

It is recommended that TPS:

- **updates the procedural documents relating to anti-bullying as a priority;**
- **implements anti-bullying strategies in all custodial centres, covering both staff and prisoners, tailored to the specific prison environment; and**
- **ensures that statistics of all bullying incidents are collected and maintained and appropriately reported on to prison management on a regular basis.**

Lockdowns

A lockdown occurs when all prisoners in a correctional unit, or even the entire facility, are confined to their cells. During lockdowns, prisoners are generally unable to use common areas, telephones, participate in programs and education, and on occasion are unable to receive visits. Depending on the nature of a prisoner's employment, he or she may be able to undertake their duties, but generally only where the services are essential such as the kitchen or the main laundry, which have contractual obligations with external organisations. Lockdowns are commonly the result of staff shortages, but can also occur for other reasons, such as security concerns.

TPS has a target for prisoner out-of-cell hours of a minimum of 9.0 hours across all facilities. Considering the targets for other jurisdictions, the TPS target appears to be quite low and the inspectorate has been advised that it is under review.

The following table outlines the average hours out-of-cell, per day, for open and secure custodial facilities across Australia in 2016-17³¹:

Time out-of-cells (average hours per day)									
2016-17	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	AUS T
Open	10.1	14.8	15.6	16.0	15.3	16.8	11.5	15.5	12.4
Secure	6.8	10.9	9.8	11.7	8.9	8.6	8.7	9.9	9.5

Lockdowns have a direct impact on the minimum out-of-cell hours across all TPS facilities and while they continue, it is expected that TPS reports relating to out-of-cell hours will indicate the current target is not being met.

The Impact of Lockdowns

The impact of lockdowns on prisoners is severe and wide ranging.

There is no doubt that prolonged lockdowns affect a prisoner's physical and mental health. When areas are locked down, it can result in cancellations of medical appointments and pharmacotherapy treatment. Prisoners also have limited access to education, therapeutic counselling and criminogenic programs. Additionally, lockdowns have an impact on family and significant relationships with planned visits cancelled at short notice, and prisoners experiencing difficulties accessing telephones.

The inspection also identified that lockdowns limit TPS in delivering reintegration and rehabilitation activities, with many sources, including internal and external service providers raising this as an issue.

Lockdowns for several consecutive days have practical implications for prisoners in terms of not being able to wash their limited clothing and have rubbish removed from their cells.

Lockdowns also have an impact on the operation of the RPC Activities Centre and the Apsley Unit, when correctional staff are redeployed from these to cover other areas. Important planning and rehabilitation activities - apart from sport and recreation - such as drug and alcohol counselling and therapeutic programs are facilitated at the RPC Activities Centre. When correctional staff are redeployed from the Centre, these activities are cancelled. With regard to the Apsley program, lockdowns mean that program facilitators cannot attend the unit to deliver the program. Anecdotally, prisoners have indicated that they would rather stay in RPC Medium or RBMSP than take a place in the Apsley program due to the number of lockdowns which affect it. The effects of these lockdowns include: prisoners being released without integral support arrangements in place; lost time and wages for TPS therapeutics and programs staff; and volunteer programs being cancelled, inconveniencing volunteers and wasting resources expended to facilitate these programs.

³¹ <https://www.pc.gov.au/research/ongoing/report-on-government-services/2018/justice/corrective-services/rogs-2018-partc-chapter8.pdf>



Staffing Issues

The inspection standards provide that staffing issues should not be permitted to cause lockdowns or restrict daily activities, reducing hours out of cell and undermining dynamic security. Where this temporarily cannot be avoided, rolling lockdowns should be instituted.

Rolling lockdowns are a means of 'sharing' lockdown hours in a day between different units and facilities. For instance, one correctional unit may be unlocked for (say) a half day then locked down before another unit is unlocked for a half day then locked down, and so on. This process ensures that all correctional units and prisoners are provided with time out of cell each day. Whilst TPS does employ a strategy of rolling lockdowns, at the time of the inspection this appeared to be haphazard and uncoordinated in terms of 'sharing' lockdowns between different units and facilities. Rather than sharing lockdowns, some units seemed to be the first and only 'port of call' when lockdowns were required and were consistently locked down for, sometimes, several days while other units and facilities were unaffected.

It is clear that TPS has significant staffing issues. According to the Lockdown Register, in the month of March 2018 there were 213 lockdowns, 20% of which were a result of staff shortages. Post inspection this information was reviewed due to the increasing frequency of lockdowns. According to the Lockdown Register in the month of January 2019 there were 334 lockdowns, 79% of which were a result of staff shortages.

Reporting of Lockdowns

Upon reviewing the RPC unlock and lockup processes it was noted that there are inconsistencies in the times recorded in the various reports and registers completed by TPS staff. Similarly, the unlock and lockup times recorded did not always correspond with those contained in the relevant unit induction booklet and/or operating manual. In fact, the times contained in the booklet and operating manual did not always match – for example, the inspection team noted the RBMSP induction booklet indicates an unlock time of 6:30am but the operating manual indicates 7:00am.

For most accommodation units throughout TPS, the unlock and/or lockup times set down in the DSO for unlock and lockup processes did not match the times indicated in either the unit induction booklet or operating manual.

Morning unlock and lockup times should be recorded for each accommodation unit, as well as afternoon unlock and lockup times. The inspection found, however, that accurate unlock and lockup times are not being recorded. This is exacerbated by lockdown periods not always being recorded. For instance, the DSO for unlock and lockup processes denotes that unlock in the Mainstream Accommodation areas should commence at 07:30 am. When this does not happen and morning unlock occurs later than 7:30am, say at 8:00am, the time after 07:30am until unlock at 8:00am should be reported as a 30 minute lockdown for prisoners. The inspection found that this is not happening.

In maximum-security units where prisoners are exercised in separate walk groups, these out of cell hours are not always individually recorded in the Lockdowns Register. Each prisoner's exercise time or walk group should be recorded separately to ensure accurate out of cell

hours are being recorded and each prisoner is receiving adequate access to fresh air and sunlight. By way of example, Tamar prisoners' exercise times are not always recorded accurately making it hard to determine if each prisoner received adequate out of cell hours each day. On one occasion, individual case notes for the prisoners housed in the Tamar unit indicated exercise times varying from one hour to nil, however the Lockdown Register records a period of three hours exercise. The Register does not provide a true record of time out of cell for individual prisoners in the Tamar unit. Furthermore, in many instances the Lockdown Register recorded the incorrect times that prisoners received exercise times. In some instances, the reports and registers completed by TPS staff indicate particular prisoners having exercise times in the afternoon, when case notes indicate the prisoner in fact exercised in the morning.

It is recommended that TPS:

- **ensures all unlock and lockup times for prisoners are accurately recorded by correctional staff each morning and afternoon to ensure true records are maintained for statistical and reporting purposes; and**
- **ensures, for maximum-security units, case notes to record individual prisoners' time out of cell - whether alone or in a walk group - accurately reflect the start time and total time to ensure true records are maintained.**

Inaccurate Reporting and Under-Reporting of Lockdowns

Of concern, the inspection found that many lockdowns are not reported in the 'Tasmania Prison Service Daily Report' that TPS circulates to key stakeholders, including the responsible Minister, nor are they recorded in the Lockdown Register.

The inspectorate receives the Daily Report and on many occasions was aware that a facility in RPC had been locked down due to contact from prisoners or staff, however, the lockdown was not reported. As a result of the continuing errors in the Daily Report, the inspectorate requested to be provided with the Daily Operational Briefs from RPC in order to cross check the information in the Daily Report. This cross checking process indicated that the instances of under-reporting of lockdowns was far more significant than first thought. This inaccurate and under-reporting of lockdowns in the Daily Report and the Lockdown Register has been raised on multiple occasions with prison management.

By way of example, the inspectorate was advised that the Apsley unit was locked down on two particular days, however, there was no record of these lockdowns in the Daily Report or the Lockdown Register. The inspectorate confirmed with Apsley correctional staff that periods of lockdown did occur on those two days. The lockdowns were recorded in the Unit diary and one of the days was recorded in the RPC Units Lockdown Register, but not both. After raising this issue, all TPS registers were updated.



Review of the Lockdown Register

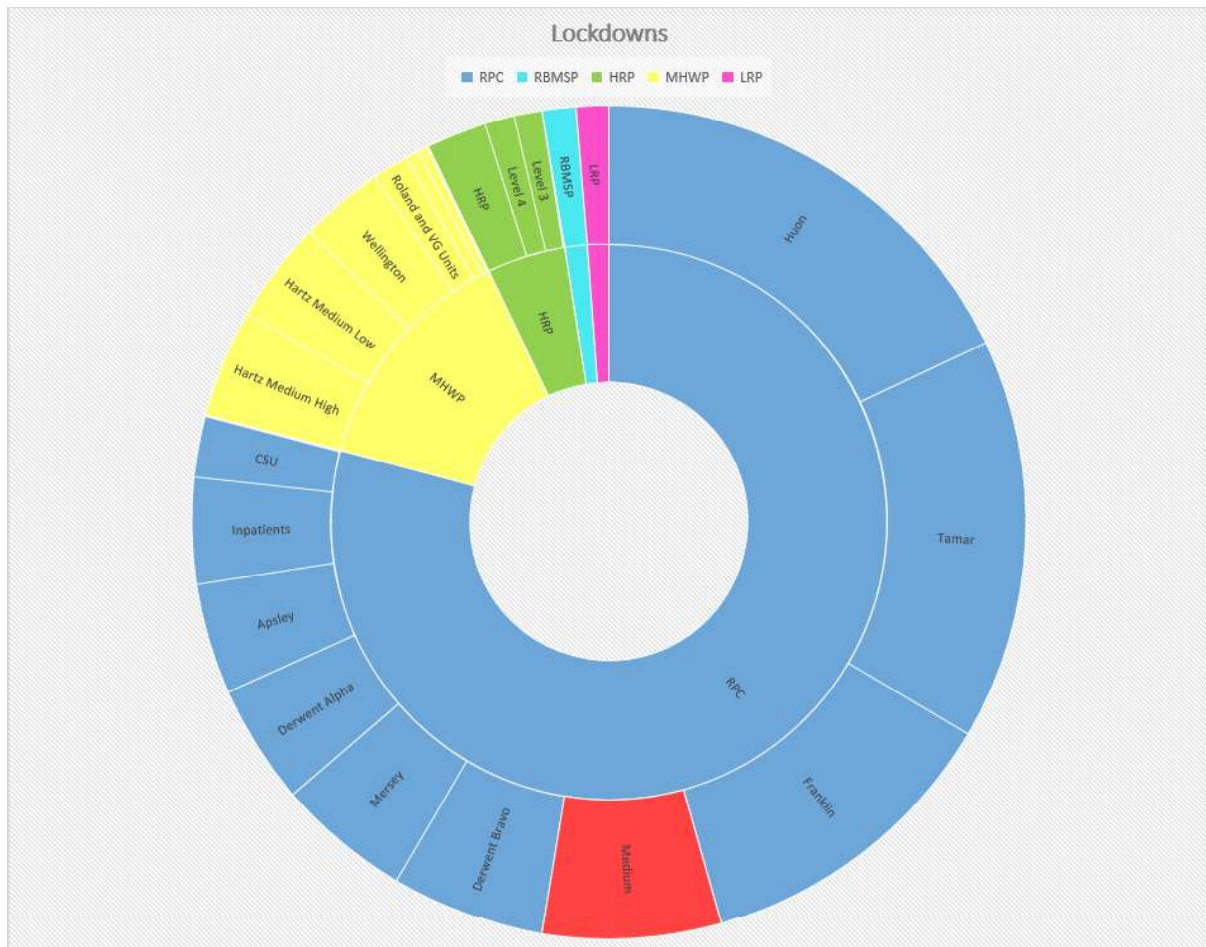
On reviewing information recorded in the TPS Lockdown Register the inspectorate identified issues with the data entry as follows:

1. Incomplete data for lockdown times - some of the 'Time Locked Down' fields in the Lockdown Register were blank, which resulted in total lockdown hours not being produced.
2. Multiple entries made for a particular unit within a facility - lockdown hours could not be accurately determined due to the amalgamation of some units across facilities.
3. Inconsistent formats for data entered – accommodation units affected by lockdowns were recorded inconsistently, in various ways; disaggregation of that data resulted in incorrect information in TPS reports.

Post Inspection

The inspection found that lockdowns were becoming much more frequent – and this has worsened in the period post-inspection. As stated above, in March 2018 there were 213 lockdowns and in January 2019 there were 334 lockdowns - largely due to increasing staff shortages. As indicated in the chart below, the area most affected by lockdowns is RPC Maximum. A number of different sources - including both uniform and non-uniform TPS staff, prisoners and external stakeholders - raised the increasing number of lockdowns with the inspection team. On discussing these concerns with the Director of Prisons, the inspection team was advised that TPS is working on a multi-faceted strategy to address this issue including recruitment of a new cadet school in February 2019; a review of staff rosters; reconsideration of the emergency response plans; and introduction of scheduled rolling lockdowns. TPS maintains there is no alternative to the practice of lockdowns to ensure the safety and security of their prisons given existing resources.

The chart over page shows lockdowns affecting individual accommodation units, across TPS facilities, for the period 1 July 2017 to 31 March 2018. The results highlight the disparity of the lockdowns, with RPC maximum facility (in blue) being locked down for a disproportionate amount of time.



Breakdown of lockdowns for the period 1 July 2017 to 31 March 2018



8 Procedural Security

Inspection Standards 34 to 41

Prisons must have clearly defined procedures for preventing, and responding to, breaches of prison security. Procedural security measures must be applied with respect for the dignity of those involved. All prison staff should be trained and supervised in these procedures.

The inspection standards relating to procedural security consider such things as:

- systems to control access to the prison, including the identification of persons entering the prison;
- systems for counting prisoners, ensuring accountability for all prisoners;
- testing of security procedures and searches;
- mechanisms to prevent and detect the supply of illicit drugs and other contraband;
- incident prevention and response capability;
- search strategies for both targeted and random searches; and
- systems to ensure the appropriate gathering, recording, management and dissemination of intelligence information.

Systems to Control Access to the Prison

To control access to the prisons, TPS has a number of measures in place including the identification of persons entering the prison. All visitors need to complete a visitor application form, provide current contact details, date of birth and current photographic identification, and in some cases be approved by the Security Intelligence Unit, in order to enter the prison. Visitors to RPC and MHWP are also required to have a biometric hand-scan³² to gain entry, due to the higher security measures required in custodial centres with maximum-security units.

Contractors and other professional visitors must have an approved gate pass which requires the person to provide date of birth and proof of identity. The Superintendent of each custodial centre approves gate passes.

TPS has a comprehensive DSO titled *Identification Cards and Visitor Passes*, which covers all processes relating to the issuing of identification cards and visitor passes. The processes have been put in place to enhance the security and good order of the prison by appropriately identifying individuals who are authorised to access prison property and enter prison facilities.

The following extract is taken from the *Identification Cards and Visitor Passes* DSO:

ID cards and visitor passes enable authorised persons to access prison property and enter prison facilities. ID cards and visitor passes indicate to staff responsible for the safety and security of a prison, the level of access the cardholder is entitled to and any conditions of entry that may apply.

³² This is a method of identifying a person by placing that person's hand onto a machine that then reads the person's handprint.

With regard to family visitors to prisons, the expectation of the standard is that such visitors should never be subjected to humiliating or degrading treatment. In particular, there must be clear policy and procedures on the use of force on visitors and referrals to the police - TPS has three relevant DSOs: *Personal Visits*, *Searching* and *Use of Force*.

If it is suspected on reasonable grounds that a visitor may endanger the good order or security of the prison or the safety of the prisoners, a visitor may be prohibited from entering or remaining in the prison. Reasonable force may be used to remove a visitor from a facility if the visitor fails to comply with a direction to leave. Visitors may also be banned from visiting for a period of time, in this regard the *Personal Visits* DSO states:

Bans of greater than 12 months must be approved by the Director of Prisons and, at the request of the banned visitor, will be reviewed by the Superintendent Security Unit at 12 months and every six months thereafter. The banned visitor must demonstrate reasons to justify a review of their ban in order for their ban to be re-considered. The Superintendent (Security) will not conduct reviews of bans which are for a period of less than 12 months unless exceptional circumstances arise.

Ensuring Accountability for Prisoners

The expectation of the inspection standards is that there will be an effective system for counting prisoners, ensuring accountability for all prisoners including those working or engaged in education outside of the prison. In this regard, the number and style of such counts should not be oppressive, consistent with security.

All five custodial centres undertake an official count of prisoners at morning prior to unlock, at lunchtime and at the evening lockup. TPS refers to the process of a count as a “muster”.

Ron Barwick Minimum Security Prison

At RBMSP the count involved prisoners standing in rows in their divisions - in cell order - with their names called out and ticked off by a correctional officer. The correctional officer conducted the count and held a clipboard with a photograph of each prisoner which was used to confirm identification. This practice appeared to be a ‘tick and flick’ process, as the inspection team observed multiple count processes and in every instance the correctional officer conducting the count barely glanced at prisoners to confirm identification – their eyes simply read down the list of names which were ticked off. All counts observed were correct.³³

Risdon Prison Complex

At RPC maximum-security units the count involved prisoners standing in the exercise yard in rows - in cell order - with their names called out and ticked off by a correctional officer. The correctional officer conducted the count and held a clipboard that listed prisoner names, but contained no photographs to confirm prisoner identification. There are photographs of prisoners on the cell doors, but these are not used for the purposes of identification for counts.

³³ A count is “called correct” when the count of prisoners equals the number of prisoners on the TPS record.



At RPC medium-security units the count involved all prisoners returning to their units and the units being locked at which time correctional officers called out names through the front window of each individual unit and prisoners were ticked off by a correctional officer. The correctional officer conducted the count and held a clipboard that listed prisoner names, but contained no photographs to confirm prisoner identification. The inspection team was advised that prisoners are meant to present at the window with their identification card – which has a photograph – but more often than not prisoners did not show their identification and it was not requested by staff. Anecdotally, in the medium-security precinct it is not unusual for the count to be done by one correctional officer. Best practice dictates that there should be two correctional officers conducting a count.

It is recommended that TPS amends its procedures to ensure that counts are conducted by at least two correctional officers and photographic identification is referred to during the count process.

Following the physical counts in the maximum and medium-security units, prisoner numbers are relayed to the prisoner processing area by unit staff. The numbers are reconciled by Prisoner Processing using a white board which has the numbers of prisoners by unit, and then master control are advised. Master Control has a running count of the number of prisoners onsite, accounting for those entering and exiting the RPC facility. On the day of the inspection, the count had to be re-done multiple times before the correct number of prisoners were accounted for. The reason provided for this was that a prisoner had been counted twice in a medium unit, so the count indicated that there were more prisoners than TPS actually had in custody in RPC. The process of recounting significantly delayed the lunchtime unlock.

The inspection team found that the white board used for count purposes in the RPC prisoner processing area is not fit for purpose and needs replacement. It is understood that the white board has been replaced by a more suitable board post-inspection.

Mary Hutchinson Women's Prison

At MHWP maximum-security unit the count involved prisoners standing in the exercise yard in rows, in cell order, with their names called out and ticked off by a correctional officer. In the medium-security unit the prisoners stand outside their cell doors and in the minimum-security unit the prisoners stand in rows in the common area. Prisoners also lined up in the living area of the mother-baby unit. The counting officer referenced photographic identification in this process.

Launceston Reception Prison

At LRP prisoners are locked in their cells prior to meals being distributed. A correctional officer then does a round of the facility and checks all prisoners off. There are clear plastic identification holders on each cell door to display photograph identification for the prisoner accommodated within the cell. The correctional officer conducting the count reports numbers back to the control room.

On the day of the inspection at LRP, staff were unable to reconcile the physical count with the numbers on the board in the control room. After some time staff advised that the issue

with the incorrect count was related to transportation of a prisoner back from the north west coast - who had not yet arrived back at LRP. The count could not reconcile with what staff referred to as “the ins and outs book” located in the processing area nor the white board in the control room. The inspection team was advised that the white board used for prisoner movements was not suitable and that often there were issues with reconciling prisoner numbers.

The inspection team found that the white board used for count purposes in the LRP control room is not fit for purpose and needs replacement. It is understood that the white board has been replaced by a more suitable board post-inspection.

Hobart Reception Prison

While the inspection team did not physically view a count at HRP, it is understood that the process is the same as that in place at LRP. The prisoner movement board is located in the officer station on Level 1, there is also a prisoner movement board in the control room and these boards are reconciled against each other.

Testing of Security Procedures and Searches

Inspection standard 36 provides that security procedures and searches should be implemented systematically and be subjected to regular review. The expectation is that a security-testing program will be in place and accurate records kept of security tests with the results being available to relevant staff.

TPS advised that there is some regular testing of perimeter fencing which is undertaken by contractors with results of testing reported to TPS by exception and only where a fault is detected.

The inspection team was advised that devices used for substance testing are calibrated and serviced on a regular basis, with results of the calibrations recorded in a register.

No information was provided to indicate that there is a security testing program incorporating all security measures. Testing is random and ad hoc, albeit done on a regular basis – there is no system or schedule. It is not clear if results are made available to appropriate staff, or even who those results are made available to, if anyone. It was expected that there would be a plan of action for security testing identifying details of such things as: what work is to be done, by whom, when, and what means or resources will be used and then a register to record these actions.

It is recommended that TPS implements a security-testing program, ensuring that records of the security tests are kept and the results made available to relevant staff.

Preventing and Detecting the Supply of Illicit Drugs and other Contraband

Section 22 of the Corrections Act provides that the Director of Corrective Services – or delegate – may for the security or good order of the prison or the prisoners or detainees, search or examine, TPS staff; prisoners; and visitors. This search authority extends to any part of the prison, and any vehicle equipment, container or other thing in the prison.



TPS has a range of search strategies covering visitors, prisoners and staff. The types of searches include vehicle, body, strip, personal possession and property, cell, prison common areas and grounds and perimeter. TPS uses a variety of non-intrusive searching tools in order to conduct searches in the least intrusive manner possible. Non-intrusive search methods used include walk-through metal detectors, hand-held metal detectors, x-ray machines, an itemiser³⁴, urine tests and drug detection dogs. The inspection team was advised that the itemiser used by TPS was prone to regular break-downs and was very maintenance intensive. At the time of the inspection it was not in operation. TPS was actively looking for replacement technology.

During discussions, TPS staff indicated that there is a need for more presumptive testing of prisoners for drugs. Presumptive tests are used to determine whether a specific chemical is present in a solution, it indicates whether there has been a reaction between a substance and a particular chemical. These tests are commonly used to detect whether someone has drugs in their system.

It is recommended that TPS implements additional presumptive drug testing of prisoners.

There is a comprehensive DSO titled *Searching* which provides procedures for the categories of searches which may be conducted on prisoners, visitors, staff, property and prison facilities in order to maintain the safety and security of prison facilities. The DSO applies to all persons in custody and other persons, items and vehicles on prison property. Responsibilities, categories of search and authorisation requirements, search procedures and record keeping are covered in the DSO. There are a number of conditions required to be met in order for TPS staff to search visitors and young people, including consent and relevant authorisation by senior staff.

TPS has a separate DSO titled *Drug Detector Dogs* which covers dog training and searching protocols including managing an indication by a drug detector dog and seizure of contraband and other unauthorised items. Drug detector dogs are used at all five adult custodial centres.

The DSO states that search registers and a facility search and inspection plan are kept for each facility. All custodial centres have a search matrix which indicates which cells in that facility have been searched, but the level of detail in these matrices is not adequate. Additionally, not all areas of a facility are covered in the search matrixes. This is not to say that TPS is not searching all areas, but there is no record keeping to evidence that it is. TPS has two search register templates – Area Search Register and Cell Search Register – located on the TPS intranet, but the inspection team found no evidence that these documents are being used. There does not appear to be any rigour around search reporting and record keeping and the process of facility searches appeared to be ad hoc.

TPS has a number of strategies for the gathering of intelligence regarding the presence of illicit drugs or the misuse of prescription drugs. A substance testing program is in place and breathalyser, saliva drug and urinalysis testing is undertaken in accordance with section 28

³⁴ An itemiser is a portable device used to detect explosives and narcotics, often used in airport security.

of the Corrections Act. According to the relevant DSO titled *Substance Testing*, substance tests will only be carried out by correctional officers and blood tests may be carried out by a medical practitioner, but only on a voluntary basis and where authorised by the Director of Prisons. A Substance Testing Register is maintained. Prisoners are aware that there are penalties for drug use or for refusing to undertake a test.

The Reception Prisons

As stated in 7.1 above all admissions to custody in an adult custodial centre are via one of the two reception prisons – LRP in the north of the state and HRP in the south. Discussions with staff in each of these facilities indicate there is a need for body scan technology. A full-body scanner is a device that detects objects on or in a person's body for security screening purposes, without physically removing clothes or making physical contact. An advanced body scanner would assist with the detection of illicit drugs and other contraband including weapons, sim cards and mobile phones. The inspectorate is aware that body scanners have been introduced in other Australian jurisdictions. For example in 2016, New South Wales Prisons introduced the Body Orifice Security Scanner, commonly referred to as the BOSS chair.³⁵ The external consultant assisting the inspection advised that BOSS chairs are also used in Western Australian prisons and prisons in the United Kingdom have also employed this type of technology.³⁶ It should be noted, however, that BOSS chairs are limited with regard to detecting non-metal contraband. Full body scanners are not a total solution to security issues and should be used with other technology and practices, as an additional layer of security to detect, prevent and deter the trafficking of contraband and drugs into a prison. At a minimum, body scan technology should be introduced by TPS in the reception prisons, and ideally also at the Risdon site to allow scanning of staff, prisoners and visitors. All future infrastructure builds should consider technology to detect any internal contraband; in conjunction with contraband control toilet inspection units³⁷.

It is recommended that TPS researches and implements various scanning technology that will detect not only metal but also drugs and other items. This technology should be introduced into areas of the prisons where it best helps detect and reduce the supply of illicit drugs and other contraband.

³⁵ <https://www.abc.net.au/news/2016-01-07/body-orifice-scan-chairs-to-be-introduced-to-nsw-prisons/7074824>.

³⁶ <https://www.justiceinspectors.gov.uk/hmiprison/media/press-releases/2018/06/hmp-belmarsh-encouraging-trial-of-body-scanner-to-prevent-smuggling-of-drugs-and-contraband/>

³⁷ A specialised spray rinse unit with gloves, a glass viewing panel and sealed access doors for inspecting excrement for presence of contraband. The unit is coupled to a stainless steel security toilet, and is designed to eliminate the requirement for operators to touch its contents.





Hobart Reception Prison entrance and driveway to the sally port

The Commercial Laundry and Transfer of Contraband between Facilities

During the inspection, TPS staff raised ongoing concerns regarding contraband coming into RPC through the commercial laundry³⁸ and moving to other custodial centres. Similarly, the inspection team was advised that contraband is transferred between custodial centres through the internal laundry service – a number of custodial centres have linen and clothing laundered in the commercial laundry as they do not have appropriate facilities to do it themselves. Items may also be transferred through canteen as all orders for the five adult custodial centres are prepared in RBMSP and then delivered. Clothing stock also transfers between all custodial centres as stock demands. A large scale x-ray machine that can support x-raying of laundry coming in from external locations and items transferring between prisons such as property, canteen, clothing, and laundry, is required.

It is recommended that TPS introduces x-ray scanning technology that can support x-raying of items entering the commercial laundry.

Incident Prevention and Response Capability

Prisons are at high risk of incidents outside the normal regime operations. This means that incident contingency plans should be developed and staff allocated and trained for foreseeable incident responses.

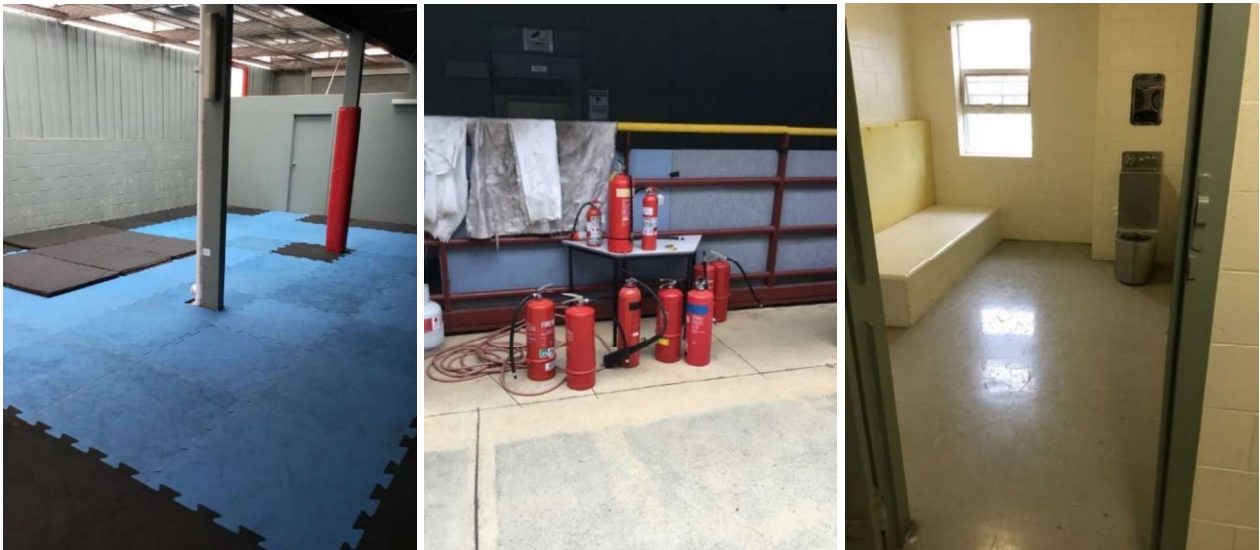
TPS has a comprehensive DSO titled *Incident Management Manual and Emergency Orders 2016* which provides a number of instructional guides and checklists for correctional staff in

³⁸ TPS has a commercial laundry contract under which it delivers services for an external organisation.

each of the separate custodial centres. These emergency orders cover incidents such as fire, internal threats, external threats, personal threats, escape, medical incidents, bomb threats and evacuation.

Correctional staff are trained in incident responses by way of the correctional induction course, refresher training, and testing of contingency plans (emergency training drills) that are conducted within each facility. The DSO requires that Chief Superintendents must ensure that at least three different incident exercises are undertaken at intervals throughout the year, within their Function.

All correctional staff are also trained on the use of related equipment. Training for correctional staff incorporates emergency equipment used in these incidents such as the use of breathing apparatus, cut down knives and fire extinguishers. On a daily basis, each prison allocates specific duties to a number of on-shift trained correctional staff to provide a response when incidents arise – these officers provide first and second response for incidents and emergencies. Furthermore, the TRG will be called on if needed in serious incidents or to manage difficult prisoners to prevent an incident escalating.



Training area – includes a training cell

Each custodial centre has a number of systems or methods that alert staff to an emergency or a potential incident, such as electronically monitored fire alarms, duress alarms, radio systems and a personal address system. These systems and methods are also used during incidents to control movement and alert staff or visitors to emergencies as required. These systems are easily accessed and maintained by internal and external service providers and are tested on a daily basis. Equipment is replaced when used or necessary.

TPS has a Therapeutics Unit which provides support for prisoners directly and indirectly involved in incidents, with CPHS health staff providing onsite medical assistance if required. In the event that TPS staff require medical assistance they are transferred to an external medical facility for assessment or further treatment.



All TPS staff that are directly or indirectly involved in incidents are required to participate in an organised 'Hot Debrief'³⁹ which is conducted as soon as practicable after the event. An 'Operational Debrief', also referred to as a 'Cold Debrief', is organised at a later stage - this is a follow up debrief which is to be held within ten calendar days after the incident. These debriefs are minuted and are used to review the incident or event, and as a tool to determine the level of support that may be required for the staff and prisoners involved. TPS staff are offered support through the M.A.T.E.S.⁴⁰ program and the Department of Justice Employment Assistance Provider (EAP). The M.A.T.E.S program is a peer support program that is intended to support staff through critical incidents.

Inspection standard 38.6 provides that All necessary measures should be taken (including the removal of ligature points) to reduce and prevent accidents, self-harm or unnatural deaths. As noted elsewhere in this report, the inspection identified that there are a number of ligature points throughout custodial centres.

Deaths in Custody

Deaths in custody are also covered in the DSO titled *Incident Management Manual and Emergency Orders 2016*.

The DSO requires that for deaths in custody situations, correctional officers are to ensure the scene and evidence are preserved as a crime scene in accordance with the Standard Operating Procedure titled *Preserving Crime Scenes and Evidence*. WorkSafe Tasmania and Tasmania Police are notified.

There are also legislative provisions which detail the procedures to be followed on the death of a prisoner. The Corrections Regulations provide that immediately after any death, the Director of Corrective Services is to ensure that notice of the death is given to a coroner; and, if practicable, the senior next of kin of the prisoner or detainee. The meaning of senior next of kin is set out in the Coroners Act 1995.

Search Strategies for Targeted and Random Searches

As noted above, TPS regularly undertakes a range of targeted and random searches.

The procedures set out in the DSO relating to searches are intended as a safeguard to ensure that all searches are conducted with due respect for the individual's rights, dignity and comfort. One of these safeguards is the requirement for strip searches to only be carried out by staff members of the same gender. In this regard, inspection standard 40.4 provides that a systematic approach should be implemented to the searching of cells or persons - and staff members of the same gender should conduct searches, wherever practicable. The inspection found that no consideration is given by TPS to same gender in respect of cell searches or body (pat down) searches.

³⁹ A 'Hot Debrief' is a term used in the Emergency Manual to describe an immediate debrief held prior to staff members completing their shift.

⁴⁰ M.A.T.E.S is an acronym for Mates Are There for Encouragement and Support.

From a document search, it appears that TPS clearly informs individuals about search procedures and conducts searches with due respect, though the inspection team was unable to substantiate this finding. No searches were witnessed, nor were any subjects of searches interviewed during the inspection. At each custodial centre there are signs and notices prominently displayed to advise people entering the prison of the possibility that they may be subject to searching and the various prohibitions and punishments for contravention.

There are two types of personal searches - body searches and strip searches. A body search is also referred to as a 'pat down search' and involves a correctional officer searching a person by touching that person through their clothing by a series of hand pats. A strip search requires the removal of the person's clothing and is a visual search that does not involve body contact and must never involve the search of a person's body cavities.

Staff Searches

These searches extend to TPS staff entering a prison and there are clear guidelines in place that are made known to staff in advance. There is a specific section relating to staff searches in the DSO *Searching* which provides that non-intrusive searches may be conducted on a targeted, random or routine basis on staff members, their vehicles, their belongings or other things in their possession.

The Director of Prisons⁴¹ may authorise the search and examination of a staff member's locker and any property within the staff member's locker, and any work areas or staff amenities where the person reasonably believes an unauthorised article or thing may be present. If a staff member's locker is searched, the staff member must be present throughout the search and may also have a support person present.

A body search or strip search may only be conducted on a staff member if a number of stringent conditions have been met, including the staff member being made aware of his/her rights. A staff member who refuses to consent to a search may be subject to further investigation.

Searching of Young People

The relevant DSO also provides detailed guidance in relation to the searching of young visitors⁴². Searches of young people must be undertaken with particular sensitivity and should only occur where there is sufficient evidence to suggest on reasonable grounds that contraband may be present. If a parent who is visiting the prison refuses to search their child under the direction and supervision of correctional officers, the DSO states that their visit may be refused. Practically, the visit will either be refused or changed to a non-contact visit.

Young people subject to body searches and strip searches must only be searched by officers of the same gender as the young person. Babies can also be searched with parental consent. The procedures set out in the DSO require the baby to be searched by their parent in the presence of two correctional officers who should not make any physical contact with the baby.

⁴¹ Or the Director of Corrective Services in the absence of the Director of Prisons.

⁴² The DSO *Searching* refers to 'young visitors', 'juveniles', 'children' and 'babies'. The term 'Juvenile/Child' is defined as a person under the age of 18 years.



The parent of the baby should be directed to lay their baby down on the change table and remove the baby's clothes and nappy one item at a time handing these to the search officer to search. When the search is finished, the baby's clothes and a clean nappy are to be handed to the parent by the search officer for the baby to be dressed. There is no requirement for the searching officer to be of the same gender as the baby.

Searching of Transgender, Transsexual and Intersex People

The DSO also contains provision for searching of transgender, transsexual and intersex people.

In the case of a transgender, transsexual and intersex person, the person must be asked their preference regarding the gender of the Correctional Officer conducting the procedure. If the transgender, transsexual or intersex person expresses no preference, search procedures should be conducted by Correctional Officers of the gender of identification of the prisoner.

Searching of Vehicles

The expectation of the inspection standards is that there are effective search procedures in place to check the contents of vehicles, including materials and tools, entering and exiting prison facilities.

TPS' *Searching* DSO has a section specific to vehicle searches and the procedures apply to all custodial centres. The section covers both searching of vehicles entering or on prison property, and vehicles entering prison facilities through a sally port.

TPS may search any vehicle entering, or on, prison property and vehicle searches are conducted on a random and targeted basis. There are clear procedures in place, including safety measures. The procedures require that prior to commencing a search TPS staff must:

- inform the driver and occupants that their vehicle is going to be searched;
- explain that the search will be documented by video recorder;
- provide the driver with the opportunity to ask any questions; and
- give the occupants an opportunity to surrender any unauthorised items prior to the search commencing.

If the driver or the passengers of the vehicle refuse to submit to the search, the correctional officer in charge of the operation will order the driver and all occupants of the vehicle to leave the prison site immediately.

A correctional officer of at least correctional supervisor rank must supervise all vehicle searches, however, TPS staff indicated that vehicle searches are not supervised. There does not appear to be any confirmation by a correctional supervisor that these searches are in fact completed. TPS should either change the DSO to reflect true practice or ensure that correctional supervisors supervise vehicle searches.



Signs to indicate vehicle searches are taking place in the VRC Carpark

The DSO states all access to TPS sally ports should be restricted to essential vehicular traffic in order to limit risk.

The DSO provides that the operation of all TPS sally ports must be documented in each facility's local Operating Manuals and provisions for the following must be established:

- a process that coordinates vehicular access to the prison at set times, with advance notice provided to the Control Room in regard to impending deliveries;
- police security clearances for all vehicle drivers delivering to TPS facilities via a sally port;
- searching for all vehicle drivers entering the sally port;
- searching for all vehicles, including prison vehicles and equipment (e.g. lawn mowers), and accounting for all tools and equipment entering the sally port;
- a thorough searching process which includes;
 - searching inside, on top of, and underneath vehicles using a wheeled mirror or scanning equipment
 - securing any mobile phones or weapons in a locker
 - screening and confirming each drivers identity on entry and exit
 - a dedicated register in which all the above actions are recorded.

A document review identified the following:

- HRP - *Operating Manual Hobart Reception Prison November 2017* contains a section titled *Searches* but this does not make reference to vehicles or the sally port. There were no relevant Standard Operating Procedures on the TPS intranet.
- LRP - *Operating Model for the Launceston Reception Prison Version 1.1 September 2009* contains a section titled *Searching Vehicles* which refers to *Standard Operating Procedure LRP 1.14.1 (Searching of vehicles and vehicle entry)*, providing the procedures for the searching of vehicles at LRP – but this document is not available on the TPS intranet.



- MHWP - *Operating Model for Mary Hutchinson Women's Prison Version 1.0 April 2006* contains a section titled *Vehicle Access* which contains high level, broad information and refers to a number of relevant Standard Operating Procedures – but these documents were not available on the TPS intranet.
- RBMSP - *Operating Model Ron Barwick Minimum Security Prison Version 3.0* contains a section titled *Searching Vehicles* which refers to *Standing Order 1.14 (Searching Vehicles)* – which is now *DSO 1.10 Searching*, this document requires the operating manual to establish certain provisions as outlined above.
- RPC - There is no overarching operating model or manual for RPC, rather there are individual unit manuals. In respect of searching vehicles there is a Standard Operating Procedure titled *RPC SOP 1.14.1 – Vehicle Entry to Risdon Prison Complex and Searching of Occupants and Vehicles*. This procedure was issued in June 2013 and provides procedures for the searching of vehicles at RPC but these do not explicitly refer to using a wheeled mirror or scanning equipment. There is no reference to police security clearances, but there is a reference to the Approved Driver Register. The inspection team has been advised that there is no Approved Driver Register, rather gate passes are issued by the relevant Superintendent. Police security checks are not required as part of the gate pass process.

It is recommended that TPS updates all operating manuals/models and Standard Operating Procedures relating to vehicle searches to ensure that they cover the searching requirements set out in the Director's Standing Order relating to Searches.

The DSO requires that correctional officers must take appropriate precautions to prevent any damage to the vehicle being searched or its contents. In this regard, the inspection team received feedback from a visitor who had been subjected to a vehicle search expressing concern about the way in which correctional officers had handled the visitor's property - a child's bicycle helmet was roughly thrown on the ground. It is acknowledged that not enough feedback from visitors was obtained to make any findings in respect of the treatment of visitors' property and this area will be monitored outside of the inspection process.

All vehicle searches are recorded by TPS staff in an incident report and visitor search form. Post-inspection, the inspection team was advised that all vehicle searches will also be entered into a vehicle log and search register as is required in the DSO.

The inspection team observed, with concern, that mirrors were not used to search the underneath of vehicles in the sally port of LRP, RBMSP and RPC.

It is recommended that TPS ensures that all procedures in the searching process are followed for all vehicle searches, particularly searching underneath vehicles using a wheeled mirror or scanning equipment.

Body Cavity Searches

The expectation of the standards is that health staff will advise on an appropriate management regime for those prisoners suspected of internally secreting contraband. The inspection found that there is no procedure in place for this to occur. Health staff advised that TPS does at times seek their advice, at the discretion of individual correctional officers.

Inspection standard 40.11 provides that body cavity searches should never be undertaken by prison or health staff, nor for evidentiary purposes. The relevant DSO, however, does not

prohibit body cavity searches, rather it states:

A body cavity search is only to be conducted by a medical practitioner when a person is suspected of ingesting or inserting something into their body.

The term 'Body Cavity Search' is defined in the DSO as:

... a search conducted only by a medical practitioner of a person's body cavity, including an examination of a cavity (anus or vagina). This search is conducted if a person is suspected of ingesting or inserting something into their body which may jeopardise their health or wellbeing or may impose a risk to security.

In reality, body cavity searches do not occur unless at the specific request of a prisoner. Health staff advised that if a body cavity search is required the prisoner will be taken to the Royal Hobart Hospital where radiological scans will be carried out, with medical examination only if needed.

Monitoring of Search Procedures

The inspection found no evidence to suggest that prison management actively monitors the application of the search procedures set out in the DSO. This area would benefit from greater rigour.

It is recommended that TPS implements a process for actively monitoring search procedures.

Intelligence Information Systems

Systems for gathering, recording, managing and disseminating intelligence information

The inspection team was advised that TPS has a centrally established Security Intelligence Unit which gathers and records information by a number of means, such as telephone monitoring, information that has been provided in-confidence, and analysis of information gained from dynamic interactions. The information that is received or gathered is treated confidentially with personal information being removed prior to dissemination. The inspection team was advised that this information is disseminated in a timely manner to appropriate persons, such as Superintendents, to monitor or act on it. Due to the sensitivity of the work undertaken by the Security Intelligence Unit little information regarding the systems and processes used was provided to the inspection team. It was not possible to determine whether appropriate quality and ethical controls are in place, particularly in relation to the use of information obtained from prisoners.

Some concerns were raised regarding the physical resourcing of intelligence staff to collect and collate relevant intelligence in a timely manner – namely, that the SIU is not adequately resourced. The inspection team was advised that the staffing establishment had not changed for a considerable period of time, despite rising prisoner numbers.

SIU have a number of procedures in place to protect the community and family and friends from unwanted communication or harassment from prisoners.



Risk Management

The inspection standards provide that prison management has an obligation to identify, minimise and manage all forms of risk. It is expected that the management of risk will be ensured by:

- the vigilance of staff coordinated through a security manager;
- the operation of a work health and safety (WHS) committee that includes adequate rostered time for assessments and other WHS activities; and
- periodic reviews of security and safety.

TPS has a dedicated Work, Health and Safety (WHS) unit on site, which is responsible for oversight of WHS across all prison facilities, as it manages the WHS Safety Management System. The WHS unit also coordinates and conducts the TPS WHS inspection program. In addition to this unit, each work area has Health and Safety Representatives and WHS is the responsibility of every staff member under the Work Health and Safety Act 2012.

TPS staff can report hazards, illness, injuries, near misses and property damage, either through this unit or the Department of Justice online system, which allows the TPS to identify, organise and track issues raised in order to minimise and manage all forms of risk.

There is also a TPS Work Health and Safety Committee (TPS WHSC). The Terms of Reference for this committee are published on the TPS intranet. Amongst other things these provide that the committee should be chaired, when possible, by the TPS Head of WHS or another member of the Senior Management Team. The terms also cover representation and detail the relevant areas from which membership should be sought. The committee meets formally at least once every three months⁴³ and minutes are published on the intranet.

The terms of reference provide information regarding the role of the TPS WHSC, which is primarily ...to provide a consultative mechanism for management and staff about WHS related changes and concerns they have or may arise within Tasmania Prison Service. The secondary role is ...to monitor and review the implementation of WHS systems and procedures within the TPS.

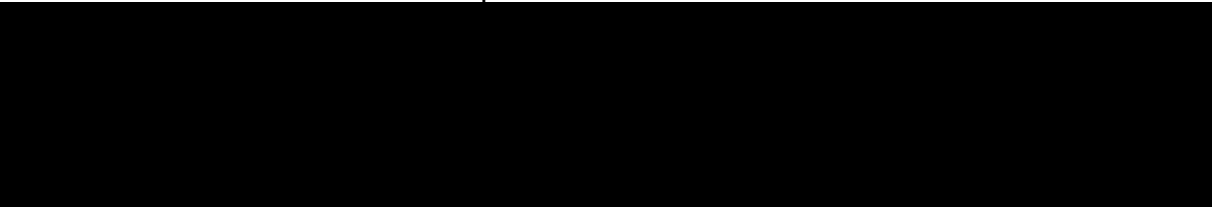
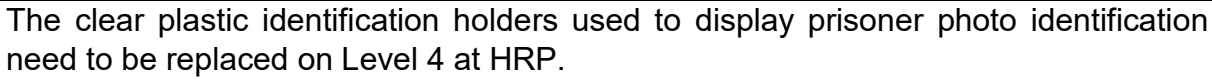
TPS also has a Performance and Compliance unit, which conducts internal audits and compliance checks⁴⁴ across all facilities. The inspection team was advised that TPS commenced a process and a risk based internal audit schedule in February 2018, with all administrative and operational processes planned to be reviewed before the end of 2020. The result of compliance checks are reported to the Superintendent of the relevant prison and the Senior Management Team.

⁴³ And at any reasonable time at the request of at least half of the members of the committee.

⁴⁴ Compliance Checks are scheduled, or random “spot checks” of prison high-risk operational processes, such as key or tool control processes, prisoner counts, searching processes, etc.

General Observations

The following general observations relating to procedural security were made throughout the inspection:

- It is impossible to implement the dry cell policy at LRP as every cell has a toilet and hand basin.
- There was significant movement in and out of the control rooms at HRP and LRP. This distracts from control room operations.
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- The clear plastic identification holders used to display prisoner photo identification need to be replaced on Level 4 at HRP.
- The MHWP gatehouse was extremely busy and significantly under-staffed.
- The process for signing in and issuing duress alarms at MHWP was not careful or sufficiently strict.
- The Wellington Unit at MHWP was under-staffed.
- RBMSP needs to implement a robust process for the checking of registers for keys and fobs.
- There is no DSO relating to the management of closed circuit television (CCTV) footage.
- There are not enough duress alarms for all staff to personally carry one, more are required as a matter of urgency.

Another issue of more serious concern related to direct observations of prisoners by officers. When officers were carrying out direct observations, there appeared to be a level of complacency combined with familiarity. The inspection team was advised that this has been the case for a number of years. This is not to say that in all instances observations are not done properly, but whether they are being recorded accurately is the question. The inspection team observed first hand that they are not: observation records are pre-filled and filled in at times that do not align with the time of the actual observation. The inspection team was advised that correctional staff may have become complacent due to extended periods of time with minimal incidents.

Additionally, TPS staff get to know prisoners and become familiar with their behaviours. This can lead to complacency which carries a risk that staff may be 'caught out' when prisoner behaviour does not fit the usual pattern. Correctional staff cannot, and should never, predict what a prisoner might or might not do.

TPS must impress on staff the importance of undertaking observations and accurately recording the time of all observations. This information is critical in the event of serious incidents or SASH. At one TPS location, the correctional officer responsible for observing of a prisoner was too busy with other tasks to keep to the observation schedule, and had filled out the observation register with incorrect observation times. SASH observations not being



undertaken to a sufficient level is a real risk for TPS.

**TASMANIA PRISON SERVICE
OBSERVATION CHECKLIST**

SASH ☐ Dry Cell Containment ☐ On-Watch Level ☐

Prisoner's Full Name: _____

Officer's Full Name: _____

Time: _____

Activity / Interactions / Observations

Time	Activity / Interactions / Observations	Officer's Full Name	Time	Activity / Interactions /
08:00	Interacting with other inmates	NC		
09:00	NC	NC		
10:00	NC	NC		
11:00	Interacting with other inmates	NC		
12:00	Interacting with other inmates	NC		
13:00	Interacting with other inmates	NC		
14:30	in good interacting with other inmates	NC		

rectional Supervisor to review and sign the Observation Checklist(s) at the end of each shift

Full Name (print clearly): _____

Date: _____

Notes: SASH - WHITE COPY to Therapeutic Services and BLUE COPY to remain in book. Dry Cell Containment - WHITE COPY attach to Dry Cell Management.

Observation Checklist with the bottom entry recorded at 14:30pm – the photograph was taken at 14:11pm

9 Segregation, Protective Custody and Separation Prisoners

Inspection Standard 42 (see also Inspection Standard 11)

The United Nations Standard Minimum Rules for the Treatment of Prisoners (referred to as the Nelson Mandela Rules) include a definition of solitary confinement. The definition in Rule 44 focuses on what the practice actually involves:

For the purpose of these rules, solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days.⁴⁵

This definition seeks to address the issue of the many different names given to what is essentially the same practice (e.g. segregation; separation; isolation; confinement). Rule 44 provides that when a prisoner is confined to a cell for 22 hours or more, that constitutes solitary confinement, regardless of the reason for the confinement or its name. In Tasmania the terms used are administrative segregation, disciplinary separation and separate confinement. The definition also includes an acceptable timeframe for the practice: no longer than 15 consecutive days.

Rule 44 implicitly acknowledges that solitary confinement can take place in many different settings within a prison environment, including: special management units; control units; behavioural management units, care and separation units; special high security regimes; and 'supermax' security. In the Tasmanian context, solitary confinement of male prisoners takes place in the RPC units referred to as transitional units - Franklin and Tamar. These units are discussed in further detail in the section relating to special high-security management regimes at 7.10. In MHWP, female prisoners are placed in solitary confinement in the north end of the Wellington maximum-security unit.

Solitary confinement is not used in RBMSP. Rather, prisoners in that facility are transferred to the transitional units in RPC. HRP manages challenging behaviour by placing prisoners in 'time out' cells which contain only a mattress, toilet and sink, and which are located adjacent to, but outside, the prisoner accommodation wings. LRP manages prisoners by placing them in solitary confinement in their allocated cell, as there is no specific area available in that facility for the purpose of separation. At times, when the reception prisons are unable to manage challenging behaviour, the prisoner will be transferred to the Franklin or Tamar units.

Segregation and Separation of Prisoners

In Tasmania, the segregation and separation of prisoners must only be undertaken strictly in accordance with legislative provisions. The relevant provisions are sections 59(5)(c) and 61(b) of the Corrections Act and regulation 7 of the Corrections Regulations.

⁴⁵ Refer <https://undocs.org/A/RES/70/175>.



Section 59(5)(c) - Procedure in dealing with allegations of commission of prison offences

.....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)

(b)

(c) confine the prisoner or detainee to his or her cell for up to 48 hours;....

Section 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)

(b) a period of separation from other prisoners not exceeding 30 days;....

Regulation 8 - Separate treatment

(1) The Director may order that, in accordance with any standing orders, a prisoner or detainee be subject to –

(a) separate confinement; or....

To supplement the legislative framework, TPS has a DSO titled *Separate Confinement of Prisoners* which sets out the procedures for separate confinement in adult custodial centres. In this document three types of separation are defined in section 1:

Administrative segregation – means a restriction or restrictions preventing a prisoner entering or remaining in a particular part of a prison or associating with other prisoners [refer Regulation 7 Corrections Regulations 2008 [sic]⁴⁶]

Disciplinary separation – means a period of separation from other prisoners as the result of a penalty imposed under the disciplinary process, refer Corrections Act 1997, s.s59(5)(c) and 61(b)

Separate confinement – a generic term encompassing both disciplinary separation and administrative segregation, as defined in this section

A Separation Order is completed when a prisoner is placed into separate confinement.

⁴⁶ The correct legislative reference is regulation 8 of the Corrections Regulations, however, the DSO has not been updated in recent times.

Other Options for Managing Non-Compliant Behaviour

The relevant DSO states:

All other options for managing non-compliant prisoner behaviour must be fully explored before separate confinement is considered.

Under normal circumstances, prisoners placed in separate confinement as the result of a penalty imposed under the disciplinary process will serve that period of separation in their accommodation location.

Despite the provisions in the DSO, prisoners by default appear to be placed into separate confinement in the Franklin unit, pending an investigation into alleged prison offences. It appears that in the majority of cases no other behavioural management options are considered before separation takes place. The inspection team could find no evidence of correctional staff considering the option of a prisoner serving his separation in his usual accommodation unit. This raises the question - why are prisoners removed to the Franklin Unit in the first instance, rather than being placed in separate confinement in their cell in their usual accommodation unit?

It is recommended that TPS implements staff training to ensure that all other options for managing non-compliant prisoner behaviour are fully explored before separate confinement is considered.

Notification of Confinement and Right to Appeal or Seek Review

In accordance with the relevant DSO, prisoners placed in separate confinement must be informed verbally and in writing of the reason for, and the period of, their confinement. The DSO also states that this information must be conveyed to the prisoner in a way that he or she can understand. Positively, the DSO reflects the expectation in inspection standard 11.2:

Prisoners segregated or subjected to a protective custody direction are to be informed both verbally and in writing of the reason for their segregation. As soon as practicable after the directions are given, the prisoner must be advised of their rights to a review of the direction.

The inspection team did a mini audit of prisoners subjected to separate confinement and found that in all cases written notification did occur following the outcome of a disciplinary process, but prisoners do not receive written notification of an administrative segregation under regulation 8 of the Corrections Regulations.

Administrative segregation under regulation 8 allows TPS to transfer a prisoner from their ordinary accommodation placement to a transitional unit pending the investigation of an alleged incident. It appears, however, that TPS facilitate these transfers without any written custody direction or notification of the right to review being provided to the affected prisoner.

Whilst the DSO provides that prisoners have the right to appeal or seek a review of their separate confinement, there are significant problems with the appeals process in respect of administrative segregation and short term disciplinary placements. In the case of short term disciplinary placements, prisoners cannot appeal the sanction until the disciplinary process



has been completed⁴⁷. In many cases, the appeal or review will not be heard until after the period of separation has ended. Additionally, as discussed above, there is an issue with administrative segregation, as it appears that prisoners are not notified of their right to seek review.

It is recommended that TPS implements a process to ensure that prisoners are notified in writing of the reason for administrative segregation and advised of their rights to a review of the decision to segregate.

Prisoner Access to Medical Services and Legal Representatives

Segregated prisoners in Tamar and Franklin are able to access medical attention and continue on any existing schedule of medication. A nurse from Correctional Primary Health Services attends the units daily during the medication rounds and distributes medications through the door hatches of prisoner cells. Nurses will also attend the units, on an *ad hoc* basis, as requested by correctional officers stationed in the units. If a prisoner requires attention from a medical officer they will be taken to the health clinic in RPC.

There is no impediment to prisoner's accessing legal representatives. For legal telephone calls a portable telephone is provided to prisoners in their cell and face-to-face appointments are held in the RPC visitor centre.

Access to Exercise, Activities, Education, Employment, Incentive Schemes and Visitor Entitlements

Segregated prisoners should have equitable access to the full range of activities, education, employment, incentive schemes and visitor entitlements that are available to other prisoners. Such prisoners must also have daily access to the open air and be able to exercise.

Inspection standard 53.6 requires that every prisoner who is placed in segregation must be able to exercise in the open air for at least two hours every day. In this regard, the space made available should be large enough to enable the prisoner to have meaningful exercise. Exercise yards available for use in the Tamar unit are sufficiently sized for prisoners to undertake some exercise such as walking laps and using the chin-up/dip bar, though the area is caged, concrete and barren. Ideally, prisoners accommodated in Tamar should also have access to an outdoor recreational oval or activity centre to be able to undertake more meaningful exercise. The same cannot be said for Franklin however, where prisoners have access to very small exercise 'yards' attached to their cells. It is a degrading environment in which the yards are caged and the ability for prisoners to meaningfully exercise in such a space is extremely limited. It is telling that prisoners accommodated in Tamar are prescribed vitamin D by medical staff due to their very low exposure to sunlight.

The inspection found that the incentives scheme, visitor entitlements and access to activities is linked to prisoner contract levels. New prisoners entering the prison system commence on a Level 3 Contract, unless their behaviour warrants placement on a lower level and, at the

⁴⁷ A prisoner may be charged with an alleged offence, this then proceeds to investigation stage, and some cases onto a hearing and the prisoner is unable to appeal until the hearing is finalised.

least, a prisoner must be in custody for 10 weeks before they can attain a Level 4 Contract. The prisoners accommodated in the transitional units are generally on the lowest level contract levels by virtue of their poor behaviour. These prisoners have restricted non-contact visits, phone calls, canteen, cell contents, and no access to hobby activities. Prisoners on a Level 1 Contract are not permitted access to any canteen items or sport.

The inspection standards require that the management of segregated and protection prisoners must ensure their immediate safety and should be directed in the longer-term to returning them to a normal regime. Whilst the aim of the contract system - to encourage good behaviour - is understood, it is difficult to reconcile TPS's management of segregated prisoners, by way of withdrawal of privileges and activities, with the goal of returning prisoners to the normal regime, or with rehabilitation more generally.

The inspection found that there is also no meaningful interaction between prisoners and staff working in the Tamar unit, as the correctional officers do not leave the officer's station except to distribute meals and 'turn keys' to facilitate prisoner movement. The inspection team was advised that in the past prisoners and correctional officers did engage in the common area of the unit and undertake activities such as board games, card games, racquet ball and electronic games. Ideally, this type of positive interaction should recommence.

In summary, prisoners in the transitional units are held under restrictive conditions, with too much time in solitary confinement, and insufficient access to constructive activities, exercise, sunlight and fresh air.

Monitoring

The DSO *Separate Confinement of Prisoners* states:

Prisoners held in separate confinement must be visited at least three times a week by the Correctional Manager [now Superintendent] and at least once each shift by the Correctional Supervisor. During these visits, prisoners must be given the opportunity to raise any concerns they may have regarding their separate confinement.

Inspection standard 11.7 sets an even higher bar and requires that prisoners in administrative segregation should be visited daily by a member of the prison management team.

The inspection found that there is a Supervisor within the unit for every day shift. While the Supervisor may interact with prisoners for operational matters such as food distribution and facilitating walks, they do not visit prisoners with the sole purpose of giving them the opportunity to raise any concerns they may have regarding their separate confinement. In addition, it should be noted that correctional officers generally complete operational matters and not the Supervisors unless the unit is short staffed. With regard to Superintendents, the inspection found that they do attend the Franklin and Tamar units, but not on a daily or regular basis. The main reason why a Superintendent attends the transitional units is to undertake disciplinary hearings.

It is recommended that TPS ensures that prisoners in the transitional units in RPC are visited daily by a member of the prison management team.



Segregated prisoners in the Tamar Unit have their status regularly reviewed by the High Risk Assessment Team (HRAT), with the intention of moving them back to mainstream accommodation. The prisoner generally moves from Tamar to the Huon Unit. The Huon Unit is considered a 'step down' maximum-security accommodation unit that provides higher levels of correctional supervision and control than the general mainstream maximum-security correctional environment.

Extended Periods in Segregation

Inspection standard 11.3 provides that segregation may only be used as an interim measure, and should never be used for an extended period or as a punishment. It appears that in most cases the duration of the placement in the segregation unit is for a period of three months. Using the Nelson Mandela Rules as a benchmark, the period of time that most prisoners are accommodated in Tamar is well in excess of the 15 days maximum those rules refer to.

Indeed, the inspection team noted that it is not uncommon for prisoners to be accommodated in the Tamar Unit for a much longer period than three months. It could be argued that a period of three months is an extended period, rather than an interim measure. In terms of best practice, to address these extended periods in segregation, TPS should review the conditions under which prisoners are held in the transitional units with a view to decreasing the time they spend in cell and increasing meaningful social interactions with both other prisoners and staff, correctional, programs and education.

At-Risk Prisoners – Crisis Support Unit (CSU)

It is arguable that solitary confinement occurs when a prisoner is deemed 'at-risk' and is placed in CSU. According to the CSU Operating Manual, the stated purpose of the unit is to:

...provide a safe and secure therapeutic environment for prisoners/detainees who are in crisis and require close monitoring and intensive intervention because of the risk of suicide or serious self-harm behaviour.⁴⁸

The conditions in CSU are bleak and very similar to those in the transitional units, the cells are typically bare, with limited amenities. At-risk prisoners are essentially placed in isolation with limited social interaction and therapeutic activities.

CSU is a short-term accommodation option aimed at managing acute suicide and self-harm risk. Prisoners accommodated in CSU do not generally participate in broader criminogenic or non-criminogenic programs. There do not appear to be any specific individualised 'in-unit' interventions, other than access to one-on-one counselling by therapeutics staff. Likewise, education services are not provided to prisoners accommodated in CSU. TPS advise that as most prisoners are accommodated in CSU for short periods, and often are not stable or well enough from a mental health perspective to be able to engage, such services are not required.

There is a small external exercise room which is concrete and caged in an anti-climb steel mesh. There is also an internal day room. This is not used by prisoners and perhaps it should

⁴⁸ CSU Operating Manual, Version 3.0, February 2009.

be.⁴⁹ The inspection found that access to the small external yard is extremely limited. Prisoners in CSU are generally only allowed to leave their cell for one hour to exercise in the concrete yard. Thus prisoners usually spend up to 23 hours a day in their cells and, when they are permitted to 'exercise', they generally do so alone. Even when they are out of their cells, these prisoners are denied meaningful social interaction with other prisoners or staff. Whilst they are supervised by a correctional officer during their walk time, the inspection team observed that this officer sits at a table in the adjacent internal day room. On more than one occasion, the team observed that the supervising officer was reading or completing a crossword puzzle while the prisoner was exercising.

It should be noted that at times prisoners are accommodated in CSU for protective purposes, not because they are deemed to be at risk, yet they are subject to the same restrictions as any prisoner accommodated in the unit.

The inspection team notes a recent decision by the Ontario Superior Court in relation to placing mentally ill prisoners in solitary confinement. The court ordered Correctional Service Canada make a \$20 million payment to be directed towards mental health resources and programs in prisons, plus individual compensation to be determined.⁵⁰

De-facto Solitary Confinement

It could be argued that some prisoners in the maximum-security precinct could also meet the criteria for de facto solitary confinement by default due to the increasing number of lockdowns. That is, a prisoner can be placed in solitary confinement because of their 'regime'.⁵¹ Although the prisoner may never have been segregated explicitly under the Corrections Act, their regular imprisonment may amount to de facto solitary confinement where they are confined to their cells for more than 22 hours per day. The inspection found that a substantial number of prisoners are regularly denied access to fresh air and are confined for more than 20 hours per day. It should be noted that these comments are specifically related to prisoners in RPC maximum-security units who are locked in their cells without access to common areas during any lockdowns. Only prisoners accommodated in RBMSP and the RPC medium-security areas have access to unit common areas during lockdowns.

Protective Custody

Protective custody is used in a prison environment to separate prisoners from potential threat or harm from other prisoners or outside sources.

There are a variety of reasons why prisoners require protection. Commonly reasons relate to the nature of a prisoner's offence (e.g. paedophiles, child abusers, child murderers, domestic violence, sexual offences, mass murder etc.) There are also prisoners who are at

⁴⁹ The inspection team were told that in the past prisoners in CSU were able to utilise the day room.

⁵⁰ <https://www.theglobeandmail.com/canada/article-csc-ordered-to-pay-tens-of-millions-for-placing-mentally-ill-inmates/>

⁵¹ Ti Lamusse, *Solitary Confinement in New Zealand Prisons*. Refer: <https://esra.nz/solitary-confinement-new-zealand-prisons/>



high risk of being harmed or killed by other prisoners due to their employment prior to imprisonment (e.g. former police officers, legal professionals, correctional officers etc). Other categories of prisoners that might require protection include informants, prisoners with debt often related to illegal drugs, gang members in a prison containing rival gang members, or prisoners who are gay, transsexual, or transgender or otherwise vulnerable due to disability, infirmity or age. Prisons will also place prisoners into protective custody when issues relating to standover activities become apparent.

There is no formal process for dealing with prisoners who require protection. Prisoners are placed in protective custody either as an agency initiative or on request from the prisoner. Requests for protection will be granted if TPS considers the prisoner is at real risk. Generally decisions relating to protective custody are made at the Supervisor level. Alerts are noted on a prisoner's CIS file where there are association issues inside the prison. If the threat is from an outside source this is also noted to ensure that adequate protections are put in place if external escorts are required for any reason.

TPS employ mediation techniques when appropriate to mitigate conflict, but as would be expected this does not always work and prisoners are required to be accommodated in separate areas. The inspection found that TPS has a system in place where prisoners with association issues have this entered onto their file in CIS. This requires a manual entry for both parties and, as with all manual processes, there is the danger of human error, that is, the alert being listed on one party only or not listed at all, such that prisoners with a conflict can potentially be located in a unit together.

Infrastructure Issues

The inspection found that TPS does not have a suitable facility dedicated to the protection of prisoners. Rather, where there are prisoners who are vulnerable or threatened, TPS manage by moving them between units and prisons to avoid conflict and standover activity. The following areas are used by TPS to accommodate protective custody prisoners:

- one accommodation wing in HRP is used specifically for the purposes of protection;
- three maximum-security units in RPC;
- two medium-security units in RPC;
- three divisions in RBMSP; and
- the north end of the maximum-security unit in MHWP.

With the exception of the two medium-security units in RPC, the above areas are not used exclusively for protection prisoners and mainstream prisoners are integrated into these.

The two medium-security units used for protection prisoners in RPC are not secure. Whilst mainstream prisoners are not permitted to enter these units, or the outside area immediately outside the units, these rules are consistently broken. The inspection team found that mainstream prisoners often enter the units and assaults are not uncommon⁵². Each

⁵² The inspection team has been told first hand of such assaults by both prisoners and TPS staff. Other evidential sources include case notes, incident reports and disciplinary process documents which are accessed by the inspection team through CIS.

protection unit has a telephone located on the wall outside so that prisoners do not need to leave the protection area. Despite being prohibited from entering the area, mainstream prisoners will often use these telephones. If caught in or near the protection units, mainstream prisoners will be charged with an offence and disciplined, however, as there is no correctional officer stationed specifically in the units, mainstream prisoners appear happy to take the risk of detection.

It is recommended that TPS fences off the protection units from mainstream prisoners in the medium-security precinct.

More generally, it is recommended that TPS considers options to include a purpose built secure area for protection of prisoners in the design of any future prison infrastructure.

Access to Programs and Services

There is a risk that protective custody prisoners may be treated significantly less well than prisoners on a standard regime, and may have reduced access to programs and services. In this regard, there are a number of prisoners housed long term at HRP for security and protective reasons. These prisoners also have little access to fresh air and sunshine. Prisoners accommodated long term at HRP are prescribed vitamin D due to their very low exposure to sunlight. A desirable outcome would be for TPS to cease using Hobart Reception Prison as a long stay facility for protection prisoners and those with association issues. Similarly, in MHWP, protective custody prisoners are housed in the north end of the Wellington maximum-security unit. As noted above a suitable alternative for protection prisoners should be considered when planning future prison infrastructure.

Notification of Reason for Protection and Rights to Review

Inspection standard 11.1 requires that protective custody directions must be in writing, include the reason for protection and advise the prisoner of their rights to a review of the direction. As noted above, the inspection found that there are no formal processes in place relating to protective custody. Likewise, there is no DSO or other policy or procedural document relevant to the protection of prisoners. The inspection found that the only references to protection were contained in the DSO relating to accommodation placement.

If at any time a prisoner/detainee requests protection, the matter must be reported immediately to the Correctional Supervisor who will interview the prisoner/detainee and assess the situation. If a genuine protection issue exists, immediate action must be taken to ensure the prisoner's/detainee's safety and well being. Wherever possible, mediation and conflict resolution will be used to deal with incompatibility issues. If the issue cannot be resolved, a transfer may be negotiated.

The Intelligence Analyst must be notified of requests for protection and genuine incompatibility issues between prisoners/detainees that affect the safety, security or good order of the facility.

Despite requests for information, the inspection team was unable to determine if the Intelligence Analyst is notified of requests for protection and, if so, what happens with this information. Prisoners are not informed in writing when a protective custody direction is made, nor are prisoners advised how long they will be in protection. It appears that protective



custody arrangements are generally permanent however prisoners are able to sign a 'protection waiver' if they do not wish to be in protection and would prefer to be moved to mainstream accommodation. There are, however, instances when a prisoner will be placed in protection despite their wishes to be in mainstream accommodation. There is no review process in place.

It is recommended that TPS implements a formal process for protective custody which includes a requirement for protective custody directions to be in writing and to advise the prisoner of the reason for protection and their right to seek a review of the decision.

Transgender Prisoners

The *Nelson Mandela Rules* state:

Men and women shall so far as possible be detained in separate institutions; in an institution which receives both men and women, the whole of the premises allocated to women shall be entirely separate.

This rule is reflected in the *Standard Guidelines for Corrections in Australia, Revised 2012*, which provide:

Males and females shall in principle be segregated, although they may participate together in organised activities, as part of an established programme.

Similarly, inspection standard 26 states:

Where male and female prisoners are to be accommodated in the same prison (i.e. in mixed gender facilities), prison design should facilitate comprehensive regime participation for both male and female prisoners, while providing for appropriate levels of privacy through the use of separate living unit precincts.

TPS generally manages the separation of male and female prisoners well. Transgender prisoners, however, pose a challenge for prison management. The Macquarie Dictionary defines the term transgender as *relating to a person whose gender identity is different from their physiological gender*. To expand on this definition, Sam Lynch and Lorana Bartels in their article *Transgender Prisoners in Australia: An Examination of the Issues, Law and Policy* describe a transgender person as *someone whose sex and/or gender does not correspond with the sex they were designated at birth and the gender that is expected to follow from that designation*.⁵³

The issue for prisons is that they are an institution based on a binary gender model: that a person is either male or female. Transgender prisoners challenge this binary model and difficulties arise in firstly classifying, and then accommodating a transgender person appropriately. Issues relating to protective custody are significant for this cohort of the prison population.

⁵³ Sam Lynch and Lorana Bartels, *Transgender Prisoners in Australia: An Examination of the Issues, Law and Policy*. Published in *Flinders Law Journal*, Volume 19 Issue 2 December 2017, page 186.

The inspection found that:

- Anecdotally, transgender prisoners are uncommon within the Tasmanian prison system, although statistics were not available to verify this finding as TPS at the time of the inspection did not collect this data.
- The only options available for selection in the 'sex' field in CIS were Male, Female and Unknown.
- There was no record made on a prisoner's file indicating that they identify with a gender different to that assigned at birth.
- Transgender prisoners had been housed in prisons that do not accord with their gender identity.
- Transgender prisoners are segregated for protection reasons and, as a result, have a restricted regime and are deprived of the opportunity to socialise and participate in day-to-day prison activities.

TPS has advised post-inspection that a 'Gender Alert' assessment tab has been added to CIS and TPS staff commenced using the tab on 3 April 2019. Thus, TPS will be able to generate statistics relating to transgender prisoners from 3 April 2019 onwards for new admissions. TPS has not modified the options in the 'sex' field in CIS as this requires a software change.

TPS has a comprehensive DSO dealing with transgender, transsexual and intersex prisoners. This document provides amongst other things that such prisoners will be managed in accordance with the gender with which they identify and, provided the safety, security or good order of the prison is not compromised, will have the right to be housed in a correctional facility appropriate to their gender of identification. In accordance with this DSO self-identification as a member of a sex other than a person's gender or birth is the only criterion for recognition as transgender. The inspection team was unable to assess how this DSO is applied in practice as no information was available.

Though there are many issues relating to transgender prisoners, the significant one for this inspection report is that there is no suitable facility for their accommodation. While it may not be appropriate for male prisoners asserting a female gender identity to be housed in women's prisons - and vice versa - TPS needs to give serious consideration to introducing transgender facilities where such prisoners can express their identity in a safer environment than a conventional male/female prison.

It is recommended TPS explores options to provide a safer environment for transgender prisoners and ensure better protection of transgender rights.



10 Special High Security Regimes

Inspection Standards 43 to 47

The expectation of the inspection standards is that difficult to manage maximum or medium-security prisoners should generally be managed within the mainstream prison population. The rationale for this is that spreading difficult prisoners between mainstream facilities prevents the concentration of such prisoners in one prison, reducing risk. Where difficult to manage prisoners become too well established or develop in-prison inappropriate support networks it may be necessary to move them to another prison for a while, thereby disrupting such prisoners' sense of stability or power. This is difficult within the Tasmanian context as there are limited appropriate facilities and often these prisoners are placed in special high-security units as a result. In addition, some prisoners require more security and closer management than can be provided by normal maximum-security prison regimes. For such prisoners there should be special high-security management regimes available.

TPS has three dedicated units with special high-security management regimes for male prisoners located in the RPC maximum-security precinct:

- Tamar;
- Franklin; and
- Huon.

These units are collectively referred to by TPS as 'the transitional units' on the basis that it is not intended that prisoners are accommodated in these units for an extended period. Generally, prisoners are accommodated in Tamar for a period of up to three months, but this can be extended depending on a prisoner's behaviour.

MHWP has a maximum-security unit for female prisoners which is separated into two areas, one of which is used essentially for the purposes of a special high-security management regime.

Importantly, the inspection standards recognise that high-security regimes should not be unnecessarily afflictive nor should they assault basic human dignity. To the maximum extent practicable, prisoners in these regimes should be managed safely, be provided with constructive activities, and be prepared for their release by way of a return to normal management regimes. Isolation, restrictive movement controls and sensory deprivation must not be used for extended periods beyond specific punishments. Care must be taken with prisoners in special high-security management regimes to ensure their mental health and wellbeing through the provision of a suitable range of constructive activities, work, education and visits. Prisoners should be able to access special programs linked to the nature of their offences and special high-security regimes must provide multi-disciplinary case management through regular reviews by fully trained professional staff. Prisoners should have a case plan detailing the conditions and behavioural requirements for them to exit the facility and regime.

The inspection standards also recognise the challenging environment that special high security regimes pose for correctional staff - there is an expectation that staff must have specific training and be rotated to other duties at appropriate intervals to manage stress and security issues.

The expectation of these standards is also reflected in the relevant DSO titled *Separate Confinement of Prisoners*, which covers the Tamar and Franklin units. The DSO provides:

The maximum time a correctional officer should be assigned to a segregation unit is 12 months. However, this timeframe may be extended at the discretion of the Deputy Director [now Assistant Director of Prisons], Tasmania Prison Service.

Correctional officers working in designated segregation units must have successfully completed the Tasmania Prison Service's operational skills training.

In this regard, the inspection team found that despite the contents of the DSO, no specific training had been provided to the staff working in special high security units at the time of the inspection. Moreover, correctional staff working in the special high security units are not rotated, with a number of correctional officers reporting resulting fatigue due to the stresses associated with constantly dealing with challenging behaviours.

It is recommended that TPS ensures staff working in special high security units receive specialist training, including regular refresher training, and are rotated into other duties at appropriate intervals.

Placement Criteria

There is no published placement criteria for the special high-security units restricting placements to those prisoners assessed as presenting a clearly defined, extreme danger. Anecdotally, there is an application process and this is by way of admission to the 'HRAT process'. This not an actual process, rather the reference comes from the fact that placement in these units is at the recommendation of the HRAT. Prisoners are referred to the HRAT team when they have been the perpetrator of a violent or serious incident. The referral is usually made by the Superintendent of the area in which the prisoner was accommodated when the incident occurred.

The HRAT is a multi-disciplinary team providing ongoing risk assessment and oversight of the treatment planning and delivery for prisoners housed in the Tamar Unit through the development and implementation of Individual Management Plans. Prisoners remain under HRAT review as they progress out of the Tamar Unit to Huon, and in some cases to other mainstream units until their behaviour is considered to longer require risk intervention.

The core HRAT comprises the following members:

- Superintendent, Maximum (Chair)
- Senior Psychologist, Therapeutics
- Correctional Supervisor, Transitional Units.

The role of Chair may only be delegated to another Superintendent. The inspection team was advised that the following members assist the HRAT on an as needs basis:

- High Needs Counsellor / Psychologist, Therapeutics
- Team Leader, Intervention Programs, Integrated Offender Management Unit.



Of note, there is no Operating Manual in place for HRAT and this needs to be addressed by TPS to ensure that the purpose and role of the team is understood.

The inspection team observed a HRAT meeting, which was also attended by Correctional Primary Health Service mental health nursing staff for the purposes of providing advice on a prisoner with mental health concerns.

Meetings are held weekly and all meetings are minuted to provide an accurate record of the input from all members of the HRAT. In the event that agreement cannot be reached, the Chair will make the final decision. If this occurs, however, the position of each member of the HRAT must be minuted. Prisoners receive a letter from HRAT informing them of the outcome of each review, and detailing what is required of them to move forward. Apart from this letter there is no formal documentation relating to the HRAT for either staff or prisoners and this needs to be addressed.

It is recommended that TPS implements a procedural document outlining appropriate information including the purpose, role, function, placement and exit criteria for special high security units and the appeals process for decisions to accommodate prisoners in such units.

Case Management

Prisoners accommodated in the transitional units are assigned a case officer. Daily case notes are completed for each prisoner in Tamar and Franklin and notes for prisoners in Huon are made regularly, at least every couple of days. These case notes assist correctional officers in determining a prisoner's contract level, and also inform decisions regarding a prisoner's future accommodation placement and discharge from the HRAT process.

Tamar Unit

At the time of the inspection, there was no operating model for the Tamar Unit, and there has not been one for a significant period. TPS considers that Tamar is a transitional unit used for behavioural management purposes and dealing with high risk prisoners, as opposed to punishment specifically. The inspection found, however, that correctional staff frequently describe the unit as a punishment or segregation unit. Given there is no operating manual or other documentation to provide guidance as to the purpose of the unit, it may be that correctional staff are unclear about the intentions for its use – punishment of behavioural management – and this needs to be addressed. The Tamar Unit is also used as overflow for the Franklin Unit when that unit is full and prisoners require segregation for disciplinary reasons.

It is recommended that TPS issues an operating model for the Tamar Unit as a priority.

As discussed in section 7.9, prisoners in the unit are held under restrictive conditions, with too much time in solitary confinement, and insufficient access to exercise, sunlight and fresh air.

In the 2010 report, Risdon Prison Complex Tamar Unit and Behaviour Management Program, a former Tasmanian Ombudsman said:⁵⁴

....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 [behaviour management plan], 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.

The physical environment and conditions outlined above have not changed. There are eight cells in the Tamar Unit. At the time of the inspection, there was no exercise equipment in the unit for prisoners' use. The only activity available during the limited time out of cell is to walk in the exercise yard. Depending on a prisoner's classification and contract level they may be permitted to walk with other prisoners in the unit in risk assessed restricted walk groups.

Prisoners in Tamar are able to access limited one-on-one services such as therapeutic counselling, criminogenic programs and education in the form of basic literacy and numeracy. Often these services are provided during the prisoner's walk time, which is not appropriate. There are few activities or opportunities offered for prisoners in the way of participation in rehabilitation activities. The only employment available for prisoners accommodated in this unit is the single wardens' role.

Of note, the Ombudsman in the above mentioned report made inter alia the following recommendations:

- 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)*.

⁵⁴http://www.ombudsman.tas.gov.au/data/assets/pdf_file/0010/147754/100624_Tamar_Report_June_2010.pdf



- 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.

The inspection could not determine whether the Ombudsman's recommendations were either not acted on by TPS following publication of the report; or noting the passage of time, TPS' practices in the Tamar Unit have reverted such that these recommendations are once again relevant. In any event, the inspection team identified that many of the issues raised in the Ombudsman's report remain relevant and the recommendations noted above should be reviewed and actioned by TPS.

It is recommend that TPS:

- **reviews and actions recommendations 1, 2, 3, 4 and 5 contained in the Ombudsman's 2010 report, *Risdon Prison Complex Tamar Unit and Behaviour Management Program*;**
- **considers options to minimise the period of time that prisoners spend in cell whilst in administrative segregation in the Tamar Unit; and**
- **provides prisoners in the Tamar Unit with more opportunities for work and other constructive activities such as education and recreation.**

Franklin Unit

At the time of the inspection there was no operating model for the Franklin Unit, and there has not been one for a significant period of time. The Franklin unit is a transitional unit used for the short term accommodation of prisoners who need segregation for disciplinary reasons. Any prisoner that commits a prison offence can be admitted to Franklin for punishment by segregation. The four cells in the Franklin Unit have access to self-contained, open-air exercise yards measuring 2.81m x 2.96m. Generally the longest period a prisoner is accommodated in the unit will be for a few days, however, longer periods of up to 30 days can be imposed for serious offences. There are no arrangements in place for constructive activities, work, and education. Visits are restricted to non-contact only. Therapeutic counselling is provided one-on-one as required.

Huon Unit

The Huon Unit is a maximum-security accommodation unit in RPC that provides higher levels of correctional supervision and control than the general mainstream maximum- security

correctional environment can reasonably and consistently provide. Generally, the prisoners accommodated in the unit are those who consistently breach prison rules and regulations, or are subject to numerous and persistent intelligence reports.

The Operating Model for Huon Maximum Security Unit (Version 2.0 – June 2011) states:

*Although providing higher levels of correctional supervision and control than general maximum-security environments, Huon is **not** a punishment unit and prisoners/detainees are not sent there for that purpose. It simply provides a safer environment in which prisoners/detainees assessed as presenting a higher risk to staff and other prisoners/detainees can be more effectively managed.*

It should be noted that the Operating Model for Huon is significantly out of date, and much of the content is no longer correct and requires updating.

The inspection found that despite the statement in the Operating Model that Huon is not a punishment unit, it could easily be perceived that punishment is its primary – and the inspection team was not convinced that it was not. Correctional officers routinely referred to Huon as a punishment unit – for hard-core prisoners. There are strict routines in place, including restricted time out of cell and separate walk groups – generally one group walks in the morning and the other in the afternoon.⁵⁵ The other restrictions under which the unit operates, which may be perceived as punishment, extend to limited prisoner access to activities, visits, phone calls, canteen and items permitted in cells. This is because prisoner behaviour in Huon is managed largely through the prisoner contract system. As discussed in section 7.7 above, the contract system is an incentive and reward system that encourages prisoners to set goals, make sound choices, demonstrate positive behaviour and actively participate in the case management process. The contract is a formal agreement between TPS and the prisoner. There are different contracts levels in the system and each level has different entitlements and benefits.

The operating model for Huon states:

Each prisoner/detainee will have a formal contract specifying their privileges and obligations. This will be formalised during their in-unit induction program or as soon as practicable. The Huon unit will run a normal mainstream contract system with level 3 being the highest level achievable. Prisoners/detainees placed in the Huon unit will commence on a level 2 contract, with the exception of those prisoners/detainees progressing from the Tamar unit who will maintain their level 3 contract.

There is also restricted access to recreation activities. Sport and Recreation Officers facilitate face to face exercise sessions in Huon, as well as providing individual fitness programming for prisoners. Prisoners accommodated in the Huon Unit are not permitted to attend the Activity Centre for structured exercise programs, nor the outdoor oval. Prisoners do not normally have access to general programs outside the Huon Unit. They may, however, participate in individualised or small group programs run in the unit. There are a limited

⁵⁵ There are usually two but sometimes up to five walk groups if prisoner behaviour deteriorates and presents a security risk to staff. The more walk groups there are the shorter the period of time allowed for the walk.



number of in-unit employment opportunities available to prisoners in Huon; two wardsmen positions and a laundry role.

TPS refers to Huon as a 'step down' unit – for prisoners exiting the Franklin or Tamar units. In addition to being a step down unit, Huon is also routinely used to accommodate prisoners requiring protection. These protection prisoners are also subject to the strict routines and contract levels as the other prisoners in the unit, regardless of whether their behaviour warrants it. Such prisoners may well feel that they are being punished when they are accommodated in the Huon Unit. Such prisoners should not be restricted to level 3 in the contract system if their behaviour warrants a progression. Access to phones is also limited by virtue of their placement in the Huon Unit.

According to the operating manual for Huon, each prisoner will be appointed two Correctional Case Officers within 48 hours of admission to the Huon Unit. The inspection found, however, that the majority of prisoners in Huon had only one correctional officer assigned for case management, and some did not have a correctional officer assigned at all. It appears that the prisoners are not actively case managed, as many of correctional officers assigned to prisoners in the Huon Unit were no longer working in the unit, having been transferred to duties in other facilities.

It is recommended that TPS:

- **updates the operating model for the Huon Unit, including clarifying the primary purpose of the Unit;**
- **reviews the contract system that is in place in Huon, particularly relating to protective custody prisoners; and**
- **as a priority, ensures prisoners in the Huon Unit are appropriately case managed and provided with constructive activities such as further opportunities for work, education and recreation.**

11 Complaints and Grievances

Inspection Standards 48 to 50

The inspection standards relating to Complaints and Grievances require that prisoners have an opportunity to make requests and lodge complaints. Where these are not satisfactorily resolved in a timely manner, prisoners must be able make a complaint or representation to an independent competent authority such as the Ombudsman and the Health Complaints Commissioner. The standards also require that grievances processes must be user friendly to prisoners with low levels of literacy or a disability that impacts on their ability to make a complaint. In addition, there should be regular visits by officially appointed independent visitors.

The inspection found that TPS has in place sound processes for dealing with prisoner requests, complaints and grievances. There are two relevant procedural documents. DSO Interim Director's Standing Order – Requests and Complaints, was issued on 23 October 2006 and remains the current order relating to prisoner requests and complaints.⁵⁶ In addition, TPS also has a Complaints Policy which was issued on 23 November 2005. Whilst the processing of complaints does not appear to have changed significantly since the creation of these documents, given the passage of time, they should be reviewed to ensure they are up to date and processes accord with current best practice.

There are particular challenges for prisoners with low literacy skills that require assistance to lodge a complaint. The information provided to prisoners on the complaints process is generally in writing and solely available in English. The process is also reliant on a prisoner completing a written form unless a matter is resolved in the first instance by a correctional officer or supervisor - any escalation requires the complaint to be in writing. Likewise, prisoner requests also generally require the completion of a form. Prisoner peer support workers do assist in some cases, but often prisoners with low literacy skills are loathe to ask for assistance due to feeling ashamed or embarrassed.

In all adult custodial centres, the complaints process is documented in each unit induction booklet, providing prisoners with a basic understanding of how to lodge a complaint. Some unit induction booklets require updating to include more information of the process for contacting the Ombudsman and Official Visitors, including the Arunta telephone number and postal address. It should also be clearly stated that it is possible to make a verbal complaint to the Ombudsman by telephone, as well as in writing. In addition, none of the induction booklets contain any information regarding the role of the Custodial Inspector.

The inspection team noted that overall TPS needs to place more emphasis on the confidentiality of the complaints process, which requires matters to first be raised with staff in the prisoner's unit. This first step may be uncomfortable for prisoners, particularly those seeking to raise complaints regarding performance or behaviour of a correctional officer. While complaints forms are available in units, it appears that prisoners have to ask

⁵⁶ It appears that all DSOs issued immediately preceding the opening of RPC were issued as Interim Director's Standing Orders. Where these documents have not been updated since, they remain as interim orders.



correctional officers to obtain a form. This is problematic as many prisoners believe that making a complaint will result in a 'black mark' against them, so they are reluctant to raise issues in their unit or ask for a complaint form. There is also no confidential mail box to allow a prisoner to mail complaint forms to either the Complaints Co-ordinator or an independent authority.

It is recommended that TPS:

- **provides information on the complaints and grievances process by way of an induction video or similar audio/visual format;**
- **reviews the existing complaints policy and introduces measures to ensure the complaints and grievances processes maintain prisoner confidentiality; and**
- **considers options to allow prisoners to lodge a complaint about the conduct of correctional officers outside of the existing unit management framework.**

12 Legal Resources

Inspection Standard 51

Standard 51 requires that all prisoners who are involved in civil or criminal legal proceedings should be afforded access to legal resources to assist them prepare their case.

The inspection found that prisoners in all adult custodial centres were able to have confidential meetings and telephone conversations with their lawyers, consistent with security requirements.

There is, however, a shortcoming in respect of access to law resources. Inspection standard 51.2 provides that prisoners should have access to a regularly updated library of law resources at all times during the normal prison day. The inspection found that there is no access to a library of law resources, be it hard copy or electronic, in any adult custodial centre.

It is recommended that TPS explores options, and implement measures, to ensure all prisoners have access to a regularly updated library of law resources.



13 Discipline Offences and Punishment

Inspection Standards 52 and 53

The inspection team assessed compliance with the inspection standards relating to discipline offences and punishment by conducting a desk audit of relevant documentation and discussion with relevant TPS staff.

Disciplinary offences are those that constitute breaches of prison discipline. They are primarily administrative in nature (rather than criminal) and therefore do not require intervention by external investigatory or judicial agencies. The inspection standards require that internal disciplinary procedures must be transparent, consistent, and fair and have respect for natural justice. A prisoner may only be punished for a disciplinary offence following a properly constituted adjudication process.

Section 61 of the Corrections Act sets out the significant penalties which may be imposed by TPS for prison disciplinary offences.

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 or to recover the cost of any property owned by the State that is lost by the prisoner or detainee;*
- (d) loss of remission.*

TPS has a comprehensive DSO for the disciplinary process. In accordance with that document, a prisoner convicted of a disciplinary offence may have the following penalties imposed by an investigations officer:

- confinement to their cell for up to 48 hours - approval must be obtained from a Superintendent;
- withdrawal of access to private monies;
- withdrawal of access to canteen purchase of items other than essential toiletries and clothing;
- withdrawal of access to personal telephone calls - other than to a legal representative or the Ombudsman;
- withdrawal of access to contact visits and visits in excess of 30 minutes per week if a sentenced prisoner, or three visits per week if a detainee;
- withdrawal of access to hobby activities and items;
- withdrawal of access to extended out of cell time – but this cannot extend to removing the prisoners right to be in the open air for at least an hour each day;

- withdrawal of access to cell property in excess of the minimum entitlement (with the exception of religious items already in the prisoner's possession); and
- withdrawal of access to sporting or recreational facilities, equipment or activities.

Generally, more serious matters are referred to a hearing. The hearings officer can impose additional penalties including:

- withdrawal of access to contact visits and visits for a longer period of time - not exceeding 90 days in the case of contact visits and 30 days in any other case;
- a period of separation from other prisoners not exceeding 30 days; and
- recommendation to a Chief Superintendent for a loss of remission.

An investigations officer can only withdraw privileges for a period up to 14 days, and a hearings officer for a period up to 30 days.

It is important to note that many potentially adverse administrative consequences may follow prison disciplinary proceedings. Prisoners may be denied parole, adversely reclassified, suspended from work programs with a consequent loss of income, transferred to another prison or suffer loss of remission. Such administrative consequences may occasion far greater detriment to prisoners than any disciplinary penalty. For this reason alone, it is important to ensure the integrity and transparency of any prison disciplinary proceedings.

Concerns

The inspection team identified a number of concerns relating to TPS' disciplinary process.

Presumption of guilt

There appears to be an immediate presumption of guilt, rather than innocence until proven guilty, in relation to prison offences. The inspection team witnessed an investigation report where a prisoner was charged and found guilty of having an item in their possession which was not authorised, despite the item being found outside of the prisoner's cell, in an area that could be accessed by other prisoners. Additionally, the prisoner's cell had been unsecured for several days prior to the item being found as the prisoner had lost his key and there was CCTV footage showing other prisoners accessing the cell while the prisoner was not there. The notes in the investigation report read *If the [item] was visible I find it hard to believe that [prisoner] was unaware of it's [sic] presence, however I am inclined to believe that it does not belong to him. I am finding this offence proven.*

Another example involved a prisoner being found guilty of the following offences:

- Damaging, defacing or destroying any prison property or recklessly losing any prison property
- Committing any act contrary to the good order or maintenance of prison discipline or security.



The incident report provided details regarding the alleged offence:

....noted on the external vertical metal bars at the rear of the cell window that one of the bars had been cut all the way through with what appears to be a hack saw blade and uponm [sic] placing pressure on the single bar I was able to move the meatl [sic] bar confirming the metal bar had been cut all the way through.....conducted a further search.... to check for a cutting implement which I did not locate

The matter was investigated in accordance with standard procedure. The investigations report did not have anything recorded in the *Outcome of Investigation* section. The section requires the investigating officer to detail the information obtained during the investigation that supports their reasonable belief that a prison offence has been committed or will be relied upon to prove the charge if the matter is referred to hearing. The only information recorded on the report was that an interview had been conducted with the prisoner and that the prisoner had been notified that a hearing would take place within 14 days. No evidence or rationale for referral to hearing was provided. There was, however, a case note entered in CIS which read *Inmate investigated today for the offence of cutting through a cell bar. Offence 12, and 13. Inmate said it was not him that done it. Reffered [sic] to a hearings officer.*

The hearing report indicated that interviews had been conducted with the prisoner and the investigating officer. The *Outcome of Investigation* section included the following:

Prisoner was found guilty of damaging prison property by cutting through a cell window bar and mesh. The prisoner pleaded not guilty but due to him having being [sic] housed in that cell since early July and it [not] being discovered [sic] prior to this I found his guilt was proven.

There is no evidence provided to support the finding of guilt other than the assumption that the prisoner was responsible for the damage simply because he had been housed in the cell for the previous five months. There was no reference to the *Prisoner/Detainee Admission Discharge Cell Check Form*, which is completed on each prisoner exit and entry from a cell. There was also no reference to any daily cell integrity checks conducted by correctional officers which are required each morning. It could be easily argued without that evidence that the prisoner previously occupying the cell, or any other prisoner in the unit - as cells in the unit in question are often left unlocked - damaged the cell bars. Looking at previous history, the prisoner only had two prior offences relating to tobacco and no history of damage to prison property, with largely positive case notes.

These are two examples that the inspection team found, however, there were many more examples noted.

Timeframes

Timeframes for investigations and hearings to be referred and completed are regularly not adhered to. In many cases the inspection team identified charges that should have lapsed as they were out of time but matters progressed regardless. In relation to evidence it appears that details of the evidence being relied upon is usually not provided to prisoners, with correctional officers routinely citing the safety, good order and security of the prison as the reason.

Completion of forms

Disciplinary process forms are often incomplete, with either full sections missed, significant details not recorded, or the information provided in brief detail with no evidence cited or reasons for decision given. Significantly, there is no specific section on any of the disciplinary process forms that requires reasons for the decision to be recorded.

Review of Disciplinary Process

Following the onsite inspection, a review was conducted on disciplinary offences recorded in TPS' Register of Offences over a two week period. Approximately 100 offences were reviewed and the following systemic issues were identified:

- correctional staff involved in incidents also investigated the matter;⁵⁷
- information recorded in investigation reports was inconsistent with that recorded in the *Register of Offences*;⁵⁸
- reports were investigated and referred to hearing without being recorded in the *Register of Offences*;
- Hearings Officers conducted investigations rather than Investigation Officers;
- offences were recorded in case notes on CIS but not investigated or followed up, leaving the process unfinished;
- information recorded in the *Register of Offences* was inaccurate and contained multiple errors;
- not all disciplinary reports were recorded and uploaded to CIS;
- not all disciplinary reports were entered into the *Register of Offences*;
- disciplinary reports were not uploaded to CIS or recorded in the *Register of Offences*;⁵⁹
- prisoners were not given details the offence and evidence held by TPS in order to defend their case;
- prisoners were not signing a document to confirm a plea of guilty;
- penalties were issued outside of the disciplinary process framework including:
 - prisoners were penalised twice for the same incident;
 - prisoners were sanctioned to 24 hours confined to cell without endorsement by a Superintendent as required by the relevant DSO; and
 - separation orders confined prisoners to solitary confinement for a period exceeding 30 days, which breaches legislation and the relevant DSO.⁶⁰

⁵⁷ This practise contravenes the relevant DSO and does not afford the prisoner procedural fairness.

⁵⁸ For example, the date of the interview conducted and the date of the investigation recorded in the investigation report differ from the dates recorded in the *Register of Offences*.

⁵⁹ The danger here is that there is no record at all of the report other than a Case Note, resulting in no follow up and the offence lapses but there is no corresponding record made in CIS to state that the offence was not investigated or proven.

⁶⁰ Under section 61(b) Corrections Act if a prisoner is found guilty of an offence one of the punishments that may be imposed is 'a period of separation from other prisoners not exceeding 30 days'. The DSO relating to separate confinement of prisoners provides 'Where a prisoner is found guilty of more than one prison offence, cumulative periods of separation may be imposed but must not exceed 30 days in total'.



In addition to the abovementioned issues, the inspection identified three further significant issues.

The review identified 27 reports written outside of the allowable timeframes – detailed below – that went on to investigation. In many of these cases the prisoner was found guilty and a penalty was issued. This breaches the following sections in the DSO relating to disciplinary process:

Unless extenuating circumstances apply, Reporting staff must submit a Prison Offence Report (Form 5L) to an Investigating Officer within 24 hours of the alleged offence occurring unless extenuating circumstances apply. (Section 6.4)

If the Reporting Officer is unable to submit the Prison Offence Report within 24 hours of the alleged offence occurring due to extenuating circumstances, the Reporting Officer must apply to a Hearings Officer in writing for an extension of up to three days. (Section 8.3.4)

If the Reporting Officer fails to meet the required timeframe, the matter will lapse and no further action can be taken. (Section 8.3.5)

Investigation reports, in many instances, do not contain detail to confirm a proper investigation has taken place. Commonly, there is no information indicating the evidence considered, whether interviews have been conducted and, if so, with whom. Often there is no rationale provided as to how a determination has been reached.

Written notification is not always sent to the prisoner advising them of the outcome of the disciplinary process. This is important as the outcome letter finalises the process by notifying the prisoner of the investigation or hearing outcome and provides advice on how to appeal the disciplinary process or the severity of the penalty.

It is recommended that TPS:

- **introduces a checklist to ensure all steps of the disciplinary process for prison offences have been completed;**
- **implements a quality assurance process to ensure the disciplinary process for prison offences is adhered to; and**
- **implements training for correctional officers in the disciplinary process on a regular basis to improve transparency, consistency and procedural fairness in decision making; and**
- **includes a *Reasons for Decision* section on all disciplinary process forms.**

14 Use of Force, Weapons and Restraints

Inspection Standards 54 to 57

The inspection standards require that use of force, weapons and restraints are options of last resort for the control of imminent threats to safety. Force should only be used as a last resort for the minimum period where other means have proved unsuccessful and where not to act would threaten safety, security or the good order of the prison. Comprehensive policies and procedures must be in place to define when force may be used and also to ensure that the use of force is monitored, reported, investigated and evaluated in a timely manner. These documents must assign clear responsibilities for all aspects of the use of force. The issue of weapons or restraints to general duty correctional officers should only occur in exceptional circumstances.

To assess compliance with the standards relating to use of force, weapons and restraints, the inspection team conducted interviews with relevant TPS staff, reviewed the applicable legislation, policy and procedures, thoroughly reviewed the use of force register and cross-referenced incident reports and CIS case notes.

Legislation, Policy and Procedures

Legislation

Part 4A of the Corrections Act allows correctional officers to use force that is necessary and reasonable, including for any of the following:

- to compel compliance with a direction given in relation to a prisoner or detainee by the Director;
- to carry out, in relation to a prisoner or detainee, a search or examination, or search and examination, pursuant to an order of the Director;
- to act under section 28 to order a prisoner or detainee to undergo searching or testing for alcohol or substances ;
- to prevent or stop the commission of an offence or disciplinary breach;
- to prevent the escape of a prisoner or detainee;
- to prevent unlawful damage, destruction or interference with property;
- to defend the correctional officer or someone else;
- to prevent a prisoner or detainee from inflicting self-harm;
- any other thing prescribed by the regulations.

Part 4B provides that a correctional officer may use force only if the correctional officer believes, on reasonable grounds, that the purpose for which force may be used cannot be achieved in another way. In addition, the Act provides that use of force under Part 4B includes the use of restraints and weapons in appropriate circumstances. In applying force under this Part, a correctional officer may use a restraint or weapon, including any of the following:

- body contact, impact and restraint;
- a mechanical restraining device;
- a baton;
- riot control equipment;



- a chemical agent;
- an electro-muscular disruption device or a conducted electrical weapon;
- a distraction device; and
- a firearm.

Use of weapons such as batons, tasers, less lethal launchers and firearms is restricted to the TRG only; a select group including correctional officers in first and second response, and those in positions identified as higher risk are permitted to carry chemical agent.

The types of restraints that can be used include handcuffs, arm restraints, ankle restraints, belts which restrain parts of the body and spit hoods. There is a DSO specifically covering the use and application of mechanical restraints. With the exception of handcuffs and spit hoods, the DSO restricts the use of mechanical restraints to the TRG only. Restrictions on the use of mechanical restraints are in place for juveniles, pregnant or recently post-natal prisoners, and those with medical conditions making the use of mechanical restraints problematic, such as disabilities or injuries.

In addition to the legislation, TPS has a comprehensive DSO titled *Use of Force*. This document was created in 2011 and states that *The purpose of employing control, restraint and physical force techniques is to maintain security and order within prison facilities, but only as a last resort*. This document provides detailed instructions on the following areas:

- authority to use force and physical force equipment;
- use of reasonable force – including a continuum model with force options;
- physical force equipment;
- recording use of force incidents;
- reporting of injuries sustained in use of force incidents;
- training;
- post-incident responsibilities; and
- review of use of force incidents.

Recording Use of Force

A register of firearms is maintained internally by TPS and all firearms are registered with Tasmania Police. A register for staff training is also maintained.

A central record of all use of force incidents is maintained by TPS in excel format. In the 2017-18 financial year, TPS recorded 405 instances of use of force incidents in this register. Of these 405 instances, 116 involved female prisoners and 289 involved male prisoners. The inspection team noted that one female prisoner had use of force applied against her 53 times, accounting for approximately 13% of all use of force against all prisoners, both male and female in this period.

Analysis of the data in the use of force register was difficult due to:

- manual data entry errors;
- incorrect spelling of months;
- errors in the date format (if the month is not entered in the correct format it reverts to the year 1900); and

- prisoner and correctional officer names being entered in different formats (for example, J Smith, John Smith, JR Smith and John Robert Smith).

To reduce some of these manual data errors, TPS should explore options for linking CIS to the use of force register to enable pre-populated fields, such as prisoner names and locations. Likewise, options to import correctional officer names as pre-populated fields into the database and protections around the standardised date fields should be considered.

It is recommended that the use of force register is reviewed on a regular basis to ensure greater accuracy in reporting.

The Tactical Response Group (TRG)

As indicated above, the TRG is authorised to carry and use weapons such as batons, tasers, less lethal launchers and firearms. All TRG members wear helmets with cameras. All footage from helmet cameras is stored permanently by TPS.

The inspection team was advised that the TRG had decided to no longer use bean bag guns as incidents in other jurisdictions had resulted in the bean bags entering a person's body after being shot. The TRG was using 32-calibre rubber ball ammunition instead. The rubber balls are distinguished by colour, shape and names with recommended minimum set distances from which each can be used.

At the time of the inspection the TRG consisted of a Chief Superintendent, four Commanders and 20 operational staff.

To become a TRG member, officers are subject to a range of tests, including testing while fatigued. Work history with the TPS is also considered. All team members receive the same training although some officers are more experienced with the TRG than others.

All TRG members undergo regular training one day per month, for a ten hour period, however the inspection team was advised that TRG members do not consider this is adequate. The group members are paid an allowance to keep their fitness at a required level and fitness testing is conducted every twelve months.

The TRG is made up of officers from the TPS roster. This means the availability of those on the roster on any given day impacts directly on the number of TRG members available. The group will not attend an incident with less than three members being present and it is preferable there are four members present for safety in more volatile situations.

To stay up to date with training, new innovations and to provide stable group numbers it would be beneficial for the pool of TRG members to be increased. This would improve the ability to get higher numbers of group members on each roster but it is acknowledged this would not eliminate the possibility of not enough staff being available to respond to a serious incident. This possibility could only be eliminated by making the TRG an independent group, with its own staffing levels and supporting internal structure. This would provide a more professional, responsive level of service which is less reliant on the prison staffing levels on the day.

The inspection team noted the TRG internal structure does not consist of any administrative positions, yet compliance reports and monthly audits are required to be completed.



Significant administration in the form of managing staffing numbers, maintaining contact details for members and researching new innovations is required.

It is recommended that the TRG be established as a standalone group with its own supporting internal structures, or that the pool of TRG members is increased.

Concerns

Despite the strict legislative and policy framework that is in place, a number of concerns relating to use of force were either noted by members of the inspection team, or raised by TPS staff or relevant stakeholders during the inspection.

Staff Training

The inspection team was advised that there are gaps in the training provided to Superintendents and Supervisors because these positions do not have training days rostered. The current operating model is such that Superintendents and Supervisors provide first and second response for emergency codes, and instruct the staff. In many cases, these officers have not participated in use of force refresher training for a significant period, possibly since their induction training.

The inspection found that some correctional officers carrying chemical agents are not up to date with training. TPS has a policy which requires correctional officers to undergo refresher training for chemical agents every two years, and some staff have not completed this training within the required period.

It is recommended that TPS:

- **reviews the refresher training provided to correctional officers generally and takes immediate steps to ensure all Superintendents and Supervisors have completed current refresher training; and**
- **ensures only correctional officers that are up to date with chemical agent training are permitted to draw, carry and use chemical agents.**

Reporting and Investigation of Incidents

The following concerns were noted by the inspection team in relation to reporting and investigation of incidents involving the use of force:

- inadequate case notes are entered into prisoner files on CIS. On a number of occasions, when reviewing incident reports, inspectorate staff could not find a corresponding case note in CIS relating to the reported event. This raises the question - if an incident is considered serious enough to warrant an incident report being submitted, why is there no corresponding note made on CIS?;
- not enough detail is provided in incident reports in many instances, particularly in relation to contextual information and some fields of the report are not completed at all ; and
- incident reports from multiple correctional officers are often almost identical, to the point that it was clear that officers had copied the text from other officer's reports, giving rise to the perception that there may have been collusion in reporting.

Processes for Review of Use of Force Incidents – Guidance for Assessing Use of Force

When reviewing use of force incidences, the reviewing officer is required to determine if the force used was reasonable and appropriate in the circumstances. Despite the legislative and policy framework in place, it appeared that there was little guidance provided to staff to assist with this determination; the test appears to be subjective. There was no checklist or set criteria against the force continuum, such as communication, de-escalation techniques, warnings, risks to prisoner's self and others etc, to determine whether appropriate force was used. This raises questions about consistency in decision making between different correctional officers when assessing use of force incidents.

It is recommended that TPS introduces a checklist or set criteria to assist correctional officers in determining whether force used was reasonable and appropriate in the circumstances.

General Observations

The following general concerns were also noted by the inspection team:

- escalation to use of force without appropriate warnings being given to prisoners first – that is, force not being used as a last resort;
- over utilisation of force on women prisoners;
- whether medical treatment is offered in all cases where injuries are sustained by a prisoner;
- it does not appear that medical records are checked prior to use of any planned force;
- mechanical restraints not being removed during medical tests and procedures, when appropriate and security requirements met; and
- failure to notify a prisoner's registered primary contact when an injury has been sustained and health attention provided.

Chemical Agent

It appears that chemical agents are often used too quickly by correctional officers, and as a deterrent for poor behaviour – with a prisoner being threatened with its use as an incentive to comply – instead of employing communication and de-escalation techniques.

There was no process in place to ensure that before using chemical agents or electric shock devices, checks were be made of the medical record of the intended recipient and where a prior indication of medical susceptibility exists, such weapons should not be used. When queried about this TPS advised that it is not practicable. It is recommended that if there is a known allergy or susceptibility - for example, a pacemaker, pre-existing heart condition, asthma or allergy to capsicum - there should be notifications readily available to staff in the unit stations where the prisoner is located.

Where chemical agents are used, a medical examination should immediately occur (or as soon as is practically possible) but anecdotally it does not appear that this always happens where the chemical agent is deployed by correctional officers outside the TRG.



It is recommended that TPS:

- **implements a process to ensure that correctional officers check prisoner records before planned use of chemical agents or electric shock devices;**
- **implements a process for notification of a prisoner's registered primary contact when an injury has been sustained during use of force and health attention is provided to the prisoner; and**
- **ensures that a medical examination occurs immediately (or as soon as is practically possible) after the use of a chemical agent.**

15 Emergency Management

Inspection Standards 58 to 61

TPS has a comprehensive DSO titled *Incident Management Manual and Emergency Orders* 2016. This document outlines specific procedures staff should follow during an emergency situation.

Given the complexity of emergency management and various scenarios to be covered, the DSO is 263 pages long and broken into six sections to assist with readability. Despite being broken into sections, with multiple headings, the document remains difficult to navigate and would be almost impossible to follow during an incident. The document is available online through the TPS intranet but it does not contain any hyperlinks to assist navigation.

Additionally, each adult custodial centre also has its own emergency operating procedures which reference the DSOs relevant to emergency management – incident reporting and preserving evidence and crime scenes. The inspection team noted that these procedures were issued a few years ago and all are significantly past their review date. The operating procedures are available online through the TPS intranet.

It is recommended that TPS reviews and updates the emergency operating procedures for all adult custodial centres.

Emergency Codes Training

An issue that was raised with the inspection team was that TPS staff who are not correctional officers, but rather non-uniform and Correctional Primary Health Services staff, do not receive comprehensive training in emergency codes. These staff members complete an online security induction, which covers the emergency codes from the point of view of what the different colours mean. There is, however, no specific training for these staff to inform them of what they are required to do when a code is called or where to report to during an emergency code.

It was also reported by both non-uniform TPS staff and Correctional Primary Health Services staff in RPC that they are often unaware emergency codes have been called – or when they have finished – as master control does not broadcast to the yellow radios used by these staff. Anecdotally, the staff find out about codes when they try to leave or enter an area and are chastised over the intercom at a gate or door by master control for not ceasing movement during a code. It is understood that there are similar issues with radio broadcasts in MHWP.

It is recommended that TPS:

- reviews the training provided to non-uniform staff and Correctional Primary Health Services staff in relation to emergency codes; and
- ensures that emergency codes and announcements are broadcast over all radios and, where appropriate, through the public announcement system.

Testing of Emergency Exercises and Codes

TPS undertake testing of emergency exercises and codes monthly. At the time of the inspection, TPS was revising the emergency management plan and exercises. The inspection team was advised that from April 2018, there is an annual plan requiring one live exercise and five desktop exercises to be run per year.

The Superintendent at RBMSP advised the inspection team that external emergency services are invited into the prison once a year to familiarise themselves with the infrastructure. There would be benefit in having these emergency services visit more frequently and where possible inviting them to take part in emergency exercises.

Launceston Reception Prison

There does not appear to be a full evacuation plan in place for LRP. When asked about an evacuation because of earthquake an area outside the sally port was identified. When asked about evacuation because of a fire the inspection team were told that Tasmania Police would help disperse the prisoners throughout the court house. There was no option given for a full evacuation that required the prisoners and staff to leave the building completely.

16 Transport of Prisoners

Inspection Standards 62 to 65

The transportation of prisoners occurs for many reasons. This includes the movement of prisoners to and from court, taking prisoners back and forth to medical appointments, and inter-prison transfers.

General Observations and Findings

TPS has a comprehensive DSO relating to external escorts which was implemented 29 April 2013. This DSO contains classification categories to ensure that prisoners are transported in a safe, secure manner and their individual needs are taken into consideration. Every prisoner is assigned a transportation classification⁶¹ and an escort risk assessment is undertaken prior to departure on a journey.

At the time of the inspection, the TPS vehicle fleet included eight vehicles used primarily for the transportation of prisoners.

RPC Escorts	Type of Vehicle	Prisoner Capacity
Mobile 1 – Local Escort	Hilux with plastic pod	4 Prisoners*
Mobile 2 – Launceston Escort	Multiple passenger van	14 Prisoners
Mobile 3 – Local Escort	Multiple passenger van	12 Prisoners
RBMSPP Escorts		
Toyota Tarago	People mover	7 Prisoners
Ford Transit	People mover	11 Prisoners
LRP Escorts		
LRP Escort Vehicle – NW Coast	Multiple passenger van	12 Prisoners*
MHWP Escorts		
MHWP Escort Isuzu dual cab with a baby seat	Dual cab ute**	3 Prisoners
Secure Carpark		
Disability Vehicle Toyota Hiace	Commuter Bus	8 Prisoners

* For safety reasons, no more than three prisoners are carried in Mobile 1.

** One pod is used for transporting prisoner property, bringing the prisoner capacity to 10.

*** At the time of the inspection, the MHWP ute was located at HRP.

⁶¹ High security, mainstream, protection, female, medical/disability, and Wilfred Lopes Centre.



Correctional officers on escort duties, and the driver of the transport vehicle, are required to undertake vehicle checks and fill out the appropriate paperwork before they drive the transport vehicle anywhere. There is a detailed written checklist to ensure the structural integrity and security of the vehicle is fully checked – communication devices, seat belts, locks, doors, windows, tyres, lights, fuel etc and cleanliness. In addition, the cameras and intercoms in each pod on multiple passenger escort vans are also checked, being the main forms of communication with and observation of prisoners when they are in the vehicle.

The correctional officers on escort duty, and the driver, also check that the transport vehicle is sterile and there is no contraband hidden anywhere in it. Prisoner property is kept in a separate compartment to the prisoner. Escorts to the north of the state and back carry prisoner meals in eskies, which are packed by the wardsmen in the north of the state and the Risdon kitchen in the south. These are also kept in a separate compartment.

Escort vans have contoured seating with seat belts, which are in the majority of cases rear facing and never sideways for safety reasons. The vehicles are designed so that the pod/shell can be removed and placed on another chassis when a new vehicle is purchased - providing the new vehicle has a similar chassis. None of the transport vehicles in the fleet has an on board toilet.

The inspection team was advised of various minor issues that arise from time to time, such as lights in the pods not working, but as these occur and are reported they are rectified relatively quickly. Officers indicated maintenance on the vehicles was carried out quickly. Scheduled escorts, however, have been cancelled where there are more major issues that require additional time to fix. Concern was expressed that the vehicles are aging and, as such, the issues are becoming more frequent. It was unknown what age the vehicles are, but it appears that the vehicle fleet may be due for renewal.

All prisoners are checked for identification purposes against their photograph before being loaded into an escort vehicle. The prisoner's date of birth and their identification number is also checked at this time.

If a prisoner is not being cooperative during the transport the driver will call ahead for backup from the general duties correctional officers at the destination point to assist with the unloading of the vehicle.

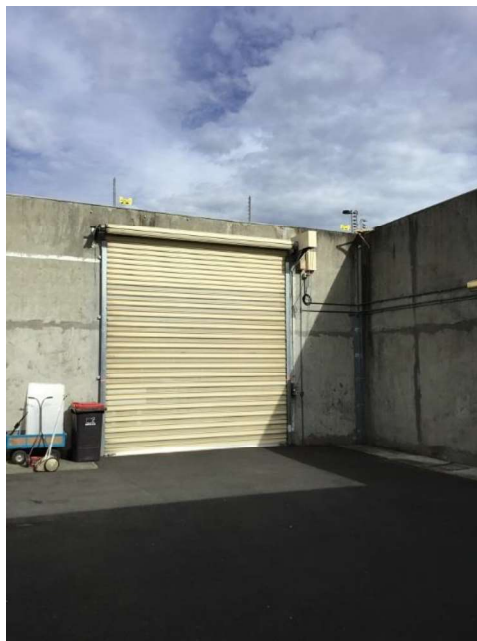


A prisoner pod in an escort van

Mary Hutchinson Women's Prison

The transport vehicle used by MHWP is a dual cab utility equipped with a car seat. At the time of the inspection, the utility had been moved to HRP – and the inspection team was advised that it had been there for the previous few weeks. As a result, there was no passenger transport available onsite at MHWP. HRP was using the vehicle to move the laundry from HRP to MHWP where the women prisoners are employed to launder it. The inspection team identified that there is a potential security issue in that HRP is a reception prison and contraband could be trafficked to MHWP with the laundry. Staff advised that MHWP does not search escort vehicles on entry to that facility, as the vehicle has already been searched at prior facilities.

The inspection team was advised that the roller door at MHWP breaks down occasionally. It is possible to manually operate the roller door but it tends to jam. The security gate has also failed before and does not operate manually, resulting in MHWP staff walking prisoners through the front gatehouse, which is not ideal from a security perspective. To avoid this in future, TPS should consider installing a gate at MHWP at the bottom of the stairs from the processing area through to the administration area.



MHWP sally port roller door

The inspection team noted that prisoners are strip searched when they leave a prison, and again when they arrive at their destination whether this be the hospital, a medical appointment, court or another prison. It is questionable whether there is a need for strip searching at the destination point if the transport vehicle is searched before use, the prisoner is searched prior to departure and remains in a secure vehicle.





MHWP escort vehicle



Risdon Prison Complex

The inspection team observed the loading of an escort van at RPC and had a general discussion with the staff rostered for escort duties. The inspection team was advised that escorts have increased and there is demand for another vehicle to be added to the fleet in the near future. The demand not only relates to capacity numbers on the vehicles, but also classification issues. To address these pressures, if there are too many prisoners, or prisoners on different regimes, to fit in the Hobart escort van (Mobile 3), then the Launceston escort van (Mobile 2) will be used if onsite at Risdon and available.

Prisoners who are going to court and who may get bail are usually highlighted in green by the processing staff, so that staff are aware of the situation and prisoner property is packed on the escort vehicle. The Hobart escort van, however, has no storage compartments for prisoner property and, on occasions, the vehicle will do an extra run into the Hobart courts specifically to convey prisoner property.

Launceston Escorts

The inspection team observed the loading of an escort van at LRP and had a general discussion with the staff rostered for escort duties.

The inspection team observed that the officer placed the prisoner into the vehicle pod but did not inform the prisoner how to use the light or intercom etc. For safety reasons, this information should be provided on every trip, whether the prisoner says that they know how the equipment works or not.

Correctional officers expressed frustration that there are a number of escorts conducted to transfer prisoners from Hobart to Launceston which end up with the prisoner being heard by the court via video link. This frustration is understandable as it is unnecessary transportation and every transportation of a prisoner carries risk. Whether the prisoner needs to attend court or appear by video link should be identified before they leave Hobart to prevent the unnecessary transport to Launceston. It was unclear whether the unnecessary transports

result from late court changes, or court appearances being incorrectly entered by the SAU. For safety reasons, the escort van remains in contact with Tasmania Police throughout the journey from Launceston to Hobart, and vice versa, with phone contact being made at least four times during the trip.



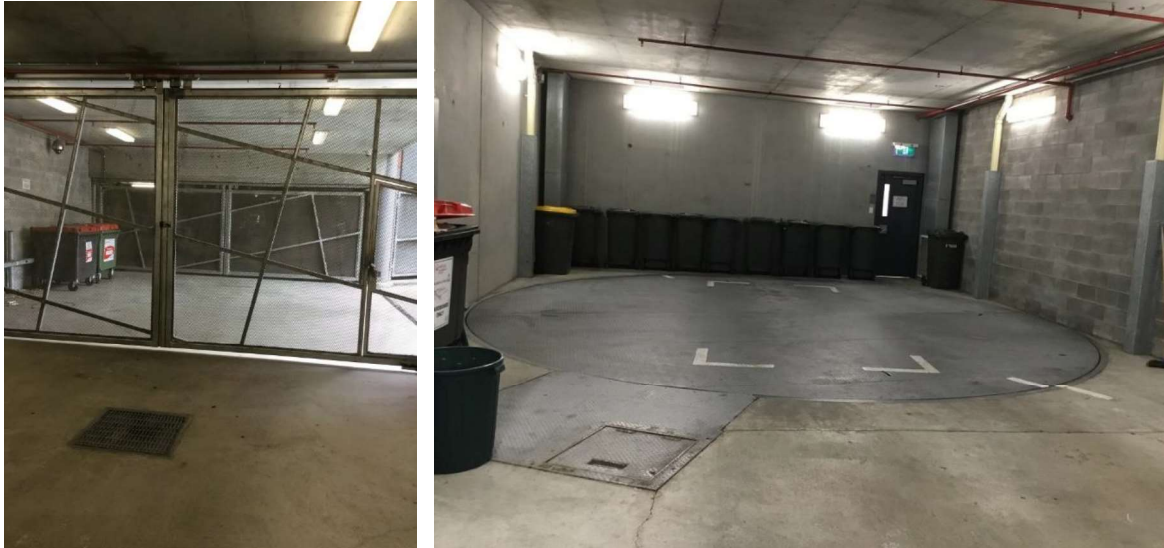
Escort van at Launceston Reception Prison



Launceston Reception Prison sally port gate

Infrastructure Issues

The size of escort vehicles is growing due to demand occasioned by increasing prisoner numbers, and the extra add-ons resulting from technology. The sally ports of most prisons and watch houses, however, have not changed and this will become more of an issue each time the fleet is renewed. Staff told the inspection team that the turntable at HRP will be an issue if the vehicles get any bigger than the current fleet.



HRP sally port gate and turntable

Toilets

Inspection standard 62.2 requires that prisoner transport journeys in "short-haul" transport vehicles must provide a comfort break for prisoners at least every two to two and a half hours. On a direct trip, with light traffic and no road works, the journey from Risdon to Launceston takes around two and half hours. The duration of this journey can be extended to up to three hours if the escort vehicle stops at MHWP, RBMSP and HRP.

There are no toilet facilities in the vehicle for prisoners and the DSO clearly states:

Escort vehicles must not be stopped between departure and destination points or deviate from established routes unless an emergency occurs or Tasmania Police or the Correctional Manager of the dispatching / receiving facility issues a specific direction.

The reality is that many prisoners being transported from the Risdon site to Launceston are unable to use toilet facilities. TPS needs to consider ways to address this shortcoming, whether it be by procuring a vehicle with facilities on board, negotiating a change to the Memorandum of Understanding with Tasmania Police to allow a toilet stop at a police station at some point during the journey, or some another alternate solution.

Staff Experience and Training

The inspection team was advised that, at the time of the inspection, there were four people from the escort area on worker's compensation, including two regular drivers, one replacement driver who was bought in to replace those drivers on workers compensation,

and one correctional officer that was on escort duties. As a result, correctional officers reported often being called on to fill in and assist with covering those escort duty positions.

Staff raised issues with the inspection team relating to training. In particular, staff noted that there was no specific training in transport and escort duties provided other than very basic information which is “glossed over” in the recruit school. Staff expressed concern that there have been few, if any, experienced officers in the escort role able to pass on appropriate training and knowledge. The inspection team was advised that, due to the high number of worker’s compensation claims at the time of the inspection, new, inexperienced drivers had to train other correctional officers, and it was not necessarily the right sort of training. Additionally, staff noted that there is no periodic refresher training offered.

The inspection team spoke to a number of correctional officers regarding prisoner transports and it was clear that many feel inadequately prepared to take on the duties. The inspection team was told that, following a death on a transport vehicle, some officers avoid having to do transports by swapping duties with other officers. The reasons provided for not wanting to undertake transport duties include that the correctional officer is not familiar with the operating procedures for transports so does not feel confident in doing the job. More concerning was the expressed belief that therapeutic staff will move a prisoner up a SASH watch level in order for the prisoner to be considered fit for transport because of pressure from TPS correctional staff to transport the prisoner on the escort van and not under supervision in a passenger vehicle. The overriding concern and fear expressed by correctional officers was that they do not feel adequately trained and do not want to have responsibility fall on them should a self-harm incident occur.

The concerns raised by staff relating to training are particularly concerning given that the limited experience and training of officers was discussed in detail in the Coroner’s report⁶² into deaths in custody, including a death which occurred on an escort van that was transporting prisoners from LRP to Risdon. In that report, the Coroner made the following findings relating to training:

Aside from training provided as part of the recruit training module undertaken by all trainee correctional officers,no specific specialised training for the role of the escort officer was provided. The only training devoted to the role of the escort officer was, as has been mentioned, in the recruit Induction Course, a course that runs for 13 weeks..... quite clear that the training with respect to the role of the escort officer is limited, apart from training received outlined above. No further training in that role is provided and specifically no refresher training is provided for officers.

The Coroner considered that *a properly resourced full-time prisoner escort unit should be established, such unit to be responsible for all regular escorts. The establishment of such a unit would likely eliminate any issues with respect to lack of training or experience on the part*

⁶²“FINDINGS, RECOMMENDATIONS and COMMENTS of Coroner Simon Cooper following the holding of an inquest under the Coroners Act 1995 (Tas) into the deaths in custody of: TROY COLIN MONSON, ROBIN MICHAEL AND SCOTT CLIFFORD MITCHELL. – 30 June 2017.



of escort officers. This has not occurred, and the inspection team is not aware of any plans for such a unit to be established.

Director's Standing Order

The inspection found that there are issues with the currency of information contained in the DSO relating to external escorts. This became apparent following the inspection team making enquiries into welfare checks on prisoners, as the DSO requires that regular monitoring must occur while an escort vehicle is in transit to ensure the safety and wellbeing of the prisoner is maintained.

The inspection team was advised that welfare checks (visual checks, by camera) are conducted during the trip and that prisoners are asked to give a 'thumbs up' if they are okay. The DSO contains no set timeframes dictating how often welfare checks are required; rather this appeared to be at the discretion of the officers on escort duty. Post-inspection, during an audit of TPS documents the inspection team identified an internal memorandum to all staff dated 3 July 2015 stating:

As of the 6 July 2015 TPS Inmate transport vehicles, (Mobile 1, 2, 3) will be issued with a laminated list of duties relating to Prisoner/Detainee Escorts.

Three points to take particular note of are:

- 1. Inspect and search the escort vehicle before and after each trip; reporting any damage and completing disciplinary reports where necessary. Ensure all cameras and intercoms are fully functional and all registers are completed. Ensure that all seat belts are in full working order (this requires an Officer to enter each pod and engage the seat belt during the vehicle inspection).*
- 2. The SASH (Suicide, self-harm) watch list is to be checked and any Prisoner/Detainee on a level 1 or 2 must undergo a risk assessment to be conducted by the Risk Intervention Team before being transferred.*
- 3. After departing for the escort there is to be constant visual checks, as well as irregular contact with the inmates through the intercom no less than three times per hour and with intervals of no less than ten minutes. These checks are to be recorded in the register supplied.*

The inspection team queries why this internal memorandum relates only to Mobile 1, 2 and 3 and not all vehicles used for prison transportation. Significantly, it does not apply to the LRP Escort Vehicle – NW Coast, a multiple passenger escort van.

A further internal memorandum to staff was issued on 18 October 2017 containing more specific direction regarding visual checks, irregular contact and SASH. In regard to SASH the memorandum was explicit and stated that the information it contained overrides the provisions in the DSO for external escorts and that the arrangements set out in the memorandum will be incorporated when the DSO is reviewed. The last paragraph of the memorandum reads This memo will remain valid for 12 month's from today's date

It is concerning that the DSO for external escorts has not been updated to include the significant information contained in either of the above mentioned internal memoranda. It should be noted that the memorandum issued on 18 October 2017 is no longer valid due to

the passage of time. In addition, there were a further two memoranda issued on 8 May 2017 and 7 July 2017 that contain relevant information for escorts that should be included in the DSO. It is not reasonable for correctional staff to remember information distributed in multiple internal memoranda over a period of time. The point of reference should be the DSO and this must be updated in a timely manner to reflect any changes, ensuring that all relevant information is consolidated and accessible in one document. It is important to note that numerous recruit schools have graduated over this period of time, and the correctional officers graduating from those recruit courses will not have received any of those internal memoranda directly.

In relation to the laminated list of duties referred to in the 3 July 2015 memo, the inspection team did not see laminated list of duties during the onsite inspection in any of the vehicles, nor was it pointed out by any correctional staff at that time. This is not to say that the lists were not in the vehicles at the time of the inspection, simply that the inspection team did not sight them. Given the significance of the information, inspectorate staff conducted post-inspection unannounced visits in February 2019 to check if the laminated sheets were in Mobile 1, 2 and 3 and found:

- Mobile 3 – did not have the laminated sheet in the vehicle;
- Mobile 2 – did have the laminated sheet in the vehicle; and
- Mobile 1 – did not have the laminated sheet in the vehicle.

Registers and Documentation

Escorting officers are using multiple sources of information, including Court Sheet, Seating Plan, Prisoner episode Summary and SASH documentation, to determine:

- the security levels of prisoners;
- where prisoners will be seated in the escort vehicle;
- where prisoners are located and being loaded from; and
- where prisoners are being escorted to.

For ease of reference, and reasons of efficiency, this information should be collated in a single document. Additionally, information on prisoners and reporting on seating, journey times and welfare checks is being manually recorded in multiple documents.

The registers that are used for recording prisoner checks are not consistent, with different formats being used in different escort vehicles. Regardless of vehicle type, the information recorded should be the same. That it is not causes confusion for escorting officers, particularly those who are filling-in and not familiar with the role.

The inspection team found that the quality of information recorded is inconsistent with welfare checks not recorded in some instances and destination arrival times not recorded in others.

The format and content of registers needs to be reviewed to ensure that all appropriate information is captured to avoid staff making amendments to the registers to make them work. Escorting staff had amended the register for Mobile 3 by hand, to be able to record the time of checks and a comment on the prisoner's welfare, rather than simply the time of the check. The register for Mobile 1 is not designed for a passenger vehicle and should be reformatted.



Training is required to ensure that escorting officers are completing the registers in full detail on every single trip.

With the above information in mind, it is possible that the required checks and information will not be correctly recorded, particularly if the escorting officer is new or has not performed in the role recently.

Use of Force Policy

Inspection standard 62.18 requires that there must be a policy and procedure in place for the use of force in relation to transportation of prisoners specifically. The DSO for external escorts contains some references to restraints and physical force equipment, but nothing relating to use of force generally. The DSO relating to use of force contains no information specifically relevant to escorts, transport or vehicles. The inspection team was unable to find any other relevant policy or procedural document.

It is recommended that TPS:

- **considers installing a gate at MHWP at the bottom of the stairs from the processing area through to the administration area;**
- **reassesses the need to strip search at the end of a journey if a prisoner was strip searched immediately prior to being transported;**
- **considers better storage options on escort vans for prisoner property when procuring the next fleet of vehicles;**
- **reviews the training provided to correctional staff in relation to transport of prisoners to ensure it is adequate, specific and detailed, and that periodic refresher training is routinely scheduled;**
- **explores options for ensuring that prisoners are able to access toilet facilities whilst travelling between Hobart and Launceston;**
- **updates as a matter of urgency the DSO relating to external escorts to include all information contained in staff internal memoranda issued between 2015 and the present time;**
- **reviews the format and content of registers used for recording information relevant to prisoner transportation; and**
- **implements a policy and procedure for use of force in transportation of prisoners.**

Appendix I - Glossary of Terms and Acronyms

Arunta	Arunta is the name for the prisoner payphone system used by Tasmania Prison Service.
CPHS	Correctional Primary Health Service
Contract system	The contract system is an incentive and reward system that encourages prisoners to set goals, make sound choices, demonstrate positive behaviour and actively participate in the case management process.
CIS	Custodial Information System, a prisoner record management system for adult custodial centres, used by the Tasmania Prison Service
DSO	Director's Standing Orders are standing orders made by the Director of Corrective Services or his delegate for the management and security of prisons and for the welfare, protection and discipline of prisoners and detainees.
Dynamic Security	Dynamic security refers to security that involves movement, as well as the roles of prison staff relating to security, which may include searches and patrols. Dynamic security can involve the movement or relocation of the security measure itself
Criminogenic programs	Treatment programs for offenders should focus their resources on targeting criminogenic needs in order to have the greatest impact on reducing recidivism. Criminogenic needs are characteristics, traits, problems, or issues of an individual that directly relate to the individual's likelihood to re-offend and commit another crime – for example, lack of respect for authority, anti-social behaviour, substance abuse and addiction, lack of literacy or job skills, self-control skills etc. ⁶³
HRP	Hobart Reception Prison
Leave permit	Section 42 of the <i>Corrections Act 1997</i> provides that a prisoner or detainee may be granted a <i>leave permit</i> allowing for a temporary absence from prison for a number of purposes, such as educational purposes, work experience, rehabilitation programs, pre-release, family re-socialisation, re-integration, cultural reasons, etc. This leave is commonly referred to in custodial centres as <i>Sections</i>
LRP	Launceston Reception Prison
MHWP	Mary Hutchinson Women's Prison
Pharmacotherapy	Pharmacotherapy is the term used to describe the use of medication (such as methadone, buprenorphine) to assist in the treatment of opioid addiction.

⁶³ For further information on criminogenic needs refer - https://www.correctiveservices.justice.nsw.gov.au/Documents/What_Are_Criminogenic_Needs.pdf.



Procedural security	Procedural security controls are security controls that mitigate identified risks by way of policies, procedures or guidelines. Procedural security relies on users to follow rules or perform certain steps that are not necessarily enforced by technical or physical means
RB MSP	Ron Barwick Minimum Security Prison
RPC	Risdon Prison Complex RPC comprises medium and maximum security units
SASH	Suicide and Self Harm
SAU	Sentence Administration Unit
Schedule 8	Drugs and poisons which are substances and preparations for therapeutic use which have high potential for abuse and addiction listed in Schedule 8 (s8) to the Poisons Standard October 2017 (Commonwealth).
Strip Search	For the purposes of this report, the term strip search is used throughout to be clear about when policies and procedures relate to an unclothed search. It is acknowledged that TPS has recently changed terminology to refer to strip searches as 'personal searches', however, the relevant DSO for searches uses the term 'strip search' and this terminology is well understood throughout the prison service and in the community.
s8 Program	A colloquial reference to the Pharmacotherapy Program run in selected Tasmanian custodial centres. CPHS administer s8 substances - buprenorphine/ suboxone/ subutex/ methadone/ morphine sulphate equivalents - to approved prisoners with drug addictions or chronic pain.
TPS	Tasmania Prison Service
VRC	Visitor Reception Centre

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