

**NEW SOUTH WALES GOVERNMENT  
RESPONSE**

to the Report of

**The Legislative Council  
Standing Committee on Social Issues**

**CHILDREN OF IMPRISONED PARENTS**

March 1998

**NSW GOVERNMENT RESPONSE TO THE LEGISLATIVE COUNCIL STANDING  
COMMITTEE ON SOCIAL ISSUES' INQUIRY INTO CHILDREN OF IMPRISONED  
PARENTS**

On 22 August 1995 the Legislative Council Standing Committee on Social Issues received a reference from the Minister for Corrective Services to inquire into the adequacy of policies and services to assist the children of imprisoned parents in NSW.

The Committee's report was tabled in September 1997.

The Government welcomes the Report's recommendations. It puts forward compelling arguments for the improvement of Government services for children of imprisoned parents, and provides some useful suggestions for how this might be achieved.

The following is the Government's response to the recommendations of the report.

**RECOMMENDATION 1: (Chapter 1)**

**That the Premier direct the Office of the Status of Children and Young People to consult regularly with officers of relevant government and non-government organisations, including those recommended in this Report (see Recommendations 14 and 17) to develop policies and initiatives to meet the needs of children of imprisoned parents.**

Implemented.

The Office of Children and Young People chairs the Senior Officers Group on Child Protection. Officers of relevant government departments are represented at the meetings. The Senior Officers Group will continue to develop policies and initiatives to meet the needs of children of imprisoned parents for Government to consider as required.

**RECOMMENDATION 2: (Chapter 1)**

**That the Minister for Community Services establish and maintain a data system on all children whose parents are in prison and who are in the substitute care system or are wards of the state. The data system should be used to assist the Department of Community Services in formulating practical and sensitive policies for this group of children.**

Implemented.

The Department of Community Services already maintains a data system which includes all children in substitute care and wards of the State. This system includes information on children whose parents are in prison.

It is possible for data on children of imprisoned parents to be identified and aggregated within this system for specific purposes, as determined.

### RECOMMENDATION 3: (Chapter 3)

That the Minister for Corrective Services collect data on the number of inmates in prison who are parents. Such data should be used to establish appropriate policies and practices that facilitate contact between these inmates and their children.

Implementation underway.

Corrective Services has introduced a new form for completion at court for all new receptions. At this stage the form applies to female inmates only. The form has been revised to apply to all inmates but has not yet been reprinted. Pending reprinting of the form, Corrective Services staff have been instructed to ask the questions on the form of all male and female offenders. Inmates are asked:

Have you any children?

If yes, what ages are they?

Do you have legal custody?

Were you the prime carer of the children prior to coming into custody?

### RECOMMENDATION 4: (Chapter 3)

That the Attorney General, the Minister for Corrective Services and the Minister for Juvenile Justice establish a program to ensure that all options for court diversion and non-custodial penalties are thoroughly exhausted before incarceration of Aboriginal and Torres Strait Islander offenders is considered. The Committee urges that this recommendation be treated as urgent and that particular attention be paid to primary carers of children.

Partly implemented.

Options for court diversion and non custodial penalties are covered in the pre-sentence report prepared by the Probation and Parole Service of Corrective Services. The Law Reform Commission is now investigating sentencing of disadvantaged people, including Aborigines and Torres Strait Islanders and juveniles. It is anticipated that a Discussion Paper on these issues will be released later in 1998. The Government will consider any issues arising from the discussion paper when it is released.

In relation to young people, legislation is already in place, with the introduction of the *Young Offenders Act, 1997*, to direct diversion from custodial sentences wherever possible. Aboriginal and Torres Strait Islander young people are not excluded under the *Young Offenders Act 1997*, which will commence in April 1998. The Act provides for a hierarchy of four different levels of interventions into juvenile offending, beginning with police warnings and cautions and graduating through to conferencing and finally, attendance at court. A young person will be entitled under the Act to have their matter dealt with by a warning, caution or conference provided the matter meets the relevant criteria. How a matter is dealt with will depend upon the *type of offence* that has been committed, *how serious* it is, the *amount of violence* involved and the *harm* caused to the victim.

Under the *Act*, a number of juveniles who are repeat offenders or who have committed serious offences will be directed to participate in a Youth Justice Conference rather than appearing before a Court. Conferences will take place within local communities with the

young person's family, other relevant community members and, wherever possible, with the victim in attendance.

Reparation made by a young offender to a victim pursuant to a conference may take the form of a verbal and/or written apology to the victim, restoration to the victim (whether monetary or otherwise) or participation in a relevant program (for example, a drug and alcohol program or community work). It is not intended that this list be exhaustive or that there be any limitation on the nature or variety of conference outcomes. In addition, conferences are able to make recommendations which, while not tied to an outcome plan, promote the reintegration of the young person into the community (for example, attending a literacy course).

Under the *Young Offenders Act*, the fact that a young person has been warned, cautioned or participated in a conference for a previous matter should not necessarily preclude them from being warned or cautioned or from participating in a conference for future matters (sections 14 (3), 20(6), 37(5)).

However, the number and nature of any offences committed by a child and the number of times the child has been dealt with under the Act, is a factor to be considered by prosecuting authorities in deciding whether or not a caution or conference is appropriate.

At each stage of the juvenile justice process, police, prosecuting authorities and judicial officers will, before proceeding, be required to consider whether the intervention being suggested is appropriate or whether some other form of intervention should be used. At each level of decision making, safeguards have been built in to the legislation in order to ensure that the most appropriate decision making is being made and that matters are not ending up unnecessarily before the courts.

Provisions have also been included to ensure that the needs of Aboriginal and Torres Strait Island children, children from a NES background and children with communicative and/or cognitive disabilities are taken into account, that they are able to participate fully in the cautioning or conference process and that they are not disadvantaged by these processes.

The Department of Juvenile Justice has employed Nine Aboriginal Program Development Officers (APDOs) across the State, primarily for the purpose of consulting with Aboriginal communities to develop new programs to meet identified needs, or to enhance existing programs to meet those needs. The APDOs regularly inform local Magistrates and Children's Magistrates of local initiatives. The Nardoola Bail Program and the Ja-Biah Bail Program have been developed as an alternative to remand for Aboriginal young people. They were developed following consultation with local communities.

Alternatives to custody, such as Community Service Orders (CSOs) and supervised probation/recognizance orders are available statewide for young offenders. A number of new non custodial options, such as the extension of CSOs up to a maximum of 250 hours, have increased the range of diversionary sanctions available to sentencing authorities. The Department of Juvenile Justice arranges for Aboriginal juveniles to perform community service work with local Aboriginal organisations wherever possible. Aboriginal sessional supervisors are employed, on a fee for service basis, to supervise Aboriginal young people

in their performance of CSOs. These measures enable Aboriginal children in rural and remote areas to have more equitable access to CSOs.

**RECOMMENDATION 5: (Chapter 3)**

**That the Attorney General ensure that repeat offenders who are Aboriginal and Torres Strait Islander are not automatically excluded from any diversionary or non-custodial sentencing option.**

Under consideration.

The Law Reform Commission is now investigating sentencing of disadvantaged people, including Aborigines and Torres Strait Islanders. It is anticipated that a Discussion Paper on these issues will be released later in 1998. The Government will consider any issues arising from the discussion paper when it is released.

See response to recommendation 4 in relation to the *Young Offenders Act 1997*.

**RECOMMENDATION 6: (Chapter 3)**

**That the Attorney General, Minister for Corrective Services and Minister for Juvenile Justice ensure that Aboriginal and Torres Strait Islander Offenders are eligible for diversionary and non-custodial programs close to their communities by providing funds necessary for community service programs or for Youth Conference outcomes.**

Partly implemented.

Options for court diversion and non-custodial penalties for adults are covered in the pre-sentence report prepared by the Probation and Parole Service of Corrective Services. For juveniles, such services are provided by the Department of Juvenile Justice. Periodic detention centres currently operate at 10 locations, with a further two centres to open at Bathurst and Broken Hill. Community Service Orders are available throughout the State. Home detention has initially been introduced in the Lower Hunter, Central Coast, Greater Sydney and Wollongong areas. Periodic detention and home detention are not available to juveniles in NSW.

See response to recommendation 4 in relation to the *Young Offenders Act 1997*.

**RECOMMENDATION 7: (Chapter 3)**

**That following the implementation of the program stated in Recommendation 4 the Attorney General monitor the outcomes to determine whether the courts are utilising diversionary and non-custodial options for Aboriginal and Torres Strait Islander people, and in particular primary carers.**

Supported in principle.

Under s. 70 of the Act Young Offenders Act, the Youth Justice Advisory Committee has been established to undertake monitoring and evaluation of implementation of the Act.

The Police Service, Department of Juvenile Justice and the Attorney General's Department have organised all data which needs to be provided to the Committee on a regular basis.

**RECOMMENDATION 8: (Chapter 3)**

**That the Minister for Community Services recruit appropriate Aboriginal foster carers to care for Aboriginal children coming from rural areas to visit their parents in custody.**

Implemented.

The Department of Community Services, and Aboriginal non-government agencies funded by the Department, recruit Aboriginal carers for Aboriginal children. In the case of Aboriginal children who are subject to care proceedings and are to be placed other than with their immediate family, Section 86 of the Children (Care and Protection) Act establishes a scheme under which the vast majority of such children will be placed with Aboriginal carers. This principle has been carried through into the Department and agencies' general practice in making alternative care arrangements for Aboriginal children.

**RECOMMENDATION 9: (Chapter 3)**

**That the Minister for Health expand the availability of detoxification and treatment services throughout New South Wales to make them more accessible to drug and alcohol dependent people and to provide the courts with appropriate options.**

Implementation underway.

The availability of detoxification and treatment services has been the subject of review (*Review of NSW Detoxification Services, November 1995, Prof Ian W. Webster*). The recommendations of this review are currently being implemented, including:

- Fairfield Hospital is to build a new 20 bed detoxification facility;
- Home and ambulatory care detoxification services are part of the recently announced Drug Intervention Service Cabramatta (DISC).
- Detailed planning is already underway for a withdrawal and detoxification facility, to be built in Lismore;
- Home detoxification services are being developed from growth funds provided to Central Coast Area Health Service in 1997/98;
- Wentworth Area Health Service are undertaking three initiatives:
  - (i) The development of a new approach to detoxification, a "managed care plan" for use with alcohol, benzodiazepine and opioid detoxification in public hospitals. This is a clinical pathway for assessment and admission, and will be trialed for alcohol, in the first instance, from 1 October 1997.
  - (ii) The provision of home ambulatory detoxification is being expanded under a shared care arrangement in collaboration with General Practitioners.

(iii) The increased availability of detoxification services is expected following a review of Wisteria House (Western Sydney Area Health Service).

- \$1.3 million has been allocated for a new adolescent drug dependency treatment centre to be located in the Western Sydney region.
- A current review of the methadone program is intended to develop and improve access to this program.
- A proportion of growth funds allocated to Area Health Services are being directed to the development of drug and alcohol treatment services.

#### **RECOMMENDATION 10: (Chapter 3)**

**That the Minister for Corrective Services and the Minister for Health establish drug and alcohol detoxification and treatment facilities in all New South Wales prisons. The facilities must be adequately resourced and staffed to meet the needs of inmates and their establishment should proceed as a matter of urgency particularly in relation to Mulawa Correctional Centre.**

Partly implemented.

Drug and Alcohol counsellors are employed by the Department of Corrective Services at Correctional centres. Health staff refer inmates to them for ongoing rehabilitation and counselling. However, Health staff are responsible for the clinical treatment of persons with drug and alcohol problems, such as medical problems, detoxification regimes, management of overdoses and intoxication and the methadone program. The liaison between Health and Corrective Services Drug and Alcohol workers has significantly improved over recent years and is continuing to improve. Agreement of the Privacy Committee has been obtained to transfer responsibility for compiling the section of the Corrections Health Service Reception Assessment, which addresses drug and alcohol history, to Drug and Alcohol workers.

It is not appropriate to establish detoxification facilities in every Correctional centre; they are only needed in reception centres and can only be provided in major reception centres such as Mulawa Correctional Centre for females and the Metropolitan Remand and Reception Centre (MRRC) at Silverwater for males.

At Mulawa, new receptions remain in an induction unit for a period of time and this includes supervision of detoxification. The Department of Corrective Services is refurbishing the multi-purpose unit at Mulawa to accommodate a separate detoxification facility which will be a substantial improvement on the current facilities. This will mean that those needing a longer observation or a better supervised detoxification can be transferred there. It is expected that refurbishment will be completed by November 1998 and treatment protocols are being developed by Corrections Health Service.

The MRRC has adequate detoxification facilities. At the MRRC, the initial reception pod is to commence a special detoxification focus as many of the receptions are detoxifying. Those needing to remain longer in this pod prior to transfer will be designated by health

staff on the basis of their symptoms. Both of these prisons have medical staff present 24 hours per day. The most difficult detoxifications are transferred to general hospitals. The protocols being defined and evaluated for the MRRC and Mulawa units will be extended to other reception prisons in the State.

This improved detoxification focus aims to give existing Corrective Services custodial staff, Drug and Alcohol Counsellors and existing Health staff a better focus on those who are detoxifying and to have a facility where they are together with specific protocols and policies.

#### **RECOMMENDATION 11: (Chapter 3)**

**That the Minister for Corrective Services and the Minister for Health ensure that inmates who are released from prison have access to necessary and continuing treatment for either their drug or alcohol dependency or both (see Recommendations 36 and 37).**

Implementation underway.

Corrective Services has established a Transitional and Post Release Project Steering Committee. The Committee was established to improve the preparation of inmates for release to the community and to facilitate the linking up, where necessary, of inmates with government and non-government community agencies.

The primary objective of the committee is the development of an effective transitional service for all inmates which uses best practice.

The committee has two aims:

1. The development of an effective transitional service which:
  - commences at pre-sentence assessment stage or when an inmate is received into custody;
  - continues through custodial development and management;
  - is available to all inmates;
  - culminates, for some, in post-release supervision;
  - is appropriately flexible and culturally responsive;
  - uses best practice; and
  - has its own in-built system of evaluation and review.
2. The development of an integrated approach (intra and inter-departmental) to the provision of services to assist inmates during the period of transition, pre and post release, by:
  - integrating all developmental programs, including Corrective Services Industries programs, for each inmate;
  - establishing protocols/procedures for the effective and efficient transfer of relevant information (including all source material - eg. Probation and Parole Service case histories);



- establishing procedures for the effective transfer of individual developmental, employment, medical and educational objectives and/or programs into post-release case management plans for offenders subject to post release supervision;
- establishing protocols for community involvement and the use of Government and non-Government agencies;
- developing an evaluation process for the Department's use of such agencies ;and
- evaluating the need for pre-release co-ordination function/positions.

NSW Health is responsible for the provision of appropriate and adequate drug and alcohol services. The response to recommendation 9 refers to the expansion of services to address increased availability and access. These and existing services are available to all groups, including those recently released from prison.

**RECOMMENDATION 12: (Chapter 4)**

**That the Minister for Community Services introduce a training course to overcome negative stereotypes of parents who are prisoners for all District Officers who work with children of those parents. The proposed training program should be implemented as a matter of urgency and without delay.**

Under consideration.

Compulsory training is provided to all District Officers through the Department's current training program. This training includes how to provide effective case plans for families where children are coming into care and how to maintain contacts with parents. There are special issues that relate to children whose parents are in prison and these are incorporated into the mainstream of the training package. There is also strong focus on these issues in the permanency planning component of the training.

**RECOMMENDATION 13: (Chapter 4)**

**That the Minister for Community Services ensure that District Officers arrange for children in their care to make regular visits to meet their parents in prison or detention. The visit should not be arranged however, when it is judged to be contrary to the child's best interests or when the child expresses the wish to avoid such visits.**

Implemented.

Organising ongoing contact with parents is a substantial component of all casework practice and planning undertaken by Department of Community Services officers. The frequency and circumstances surrounding any contact visit between a child and parent is assessed on the basis of the needs of the child. Children who are in the care of the Department and whose primary caregiver is in detention are taken to visit that parent on a regular basis.

**RECOMMENDATION 14: (Chapter 4)**

**That the Minister for Community Services establish a comprehensive network of Children of Prisoners' Officers throughout New South Wales, with at least one designated Officer in each administrative region.**

Implementation underway.

The Department of Community Services has identified one central position to coordinate services for children of prisoners. The Department also has several District Officer positions throughout the State which, although not specifically identified positions, have expertise and interest in the provision of support to children whose parents are prisoners at nearby detention centres.

**RECOMMENDATION 15: (Chapter 4)**

**That the Minister for Community Services direct the network of Children of Prisoners Officers to have regular liaison with the Office of the Status of Children and Young People and the proposed Children's Officer in the Women's Unit of the Department of Corrective Services so that policies and procedures are constantly monitored and reviewed (see Recommendations 1 and 17).**

Partly implemented.

The Office of Children and Young People chairs the Senior Officers Group on Child Protection. Officers of the Departments of Corrective Services and Community Services are represented at the meetings. The Senior Officers Group will continue to develop policies and initiatives to meet the needs of children of imprisoned parents for Government to consider as required.

See comments for recommendation 14 in relation to the proposed network of Children of Prisoners Officers. The identified designated position related to children whose parents are entering the prison system will have responsibilities for liaison, monitoring and review, built into its job description.

See comments for Recommendation 17 on the proposed establishment of a Children's Officer in the Womens' Services Unit of the Department of Corrective Services.

**RECOMMENDATION 16: (Chapter 4)**

**That the Minister for Education develop guidelines for teachers and school counsellors to assist them to recognise children whose parents are in prison and respond in an appropriate and sensitive manner.**

Supported.

It is appropriate for school counsellors and principals to be the focus of information which will help to ensure that students whose parents are in gaol are appropriately supported at school. On many occasions this is happening already.

Caregivers should be encouraged to consider the pro-active support that will be possible at school if the principal is made aware of the parent's situation as soon as possible. Staff should only be advised on a 'need to know' basis, in consultation with the student and caregiver.

Government schools have a range of policies, procedures and strategies in place to promote safety and respect for all individuals within the school community. Specific strategies target bullying and harassment of any kind.

The Department of Education and Training will, in 1998:

- issue a memorandum to principals alerting them to the difficulties experienced by students whose parents are imprisoned and the need to provide these students with ongoing support;
- develop support material for inclusion in the *School Counsellor Manual*.

This information will be developed in consultation with the Departments of Community Services and Corrective Services and the Children of Prisoners Support Group.

The Department of Education and Training will also, in 1998, provide the Children of Prisoners Support Group with information about the support available through schools and district offices so that they can advise their members of these services.

#### **RECOMMENDATION 17: (Chapter 4)**

**That the Minister for Corrective Services appoint a Children's Officer to the Women's Unit in the Department of Corrective Services to ensure that the needs of children residing with their mothers in Corrective Services facilities are being appropriately met. To facilitate this role that Officer would have regular liaison with the network of Children of Prisoners' Officers in the Department of Community Services and with the Office of the Status of Children and Young People (see Recommendations 1 and 14).**

Implemented.

The duties of the proposed Children's Officer, as outlined in the report, are included in the duties of the Co-ordinator, Mothers and Children's Program. It is not considered that a separate position is required. The key accountabilities of the Co-ordinator, Mothers and Children's Program position are:

- dissemination of information about the Mothers and Children's Program to inmates, staff, community organisations, the police and the judiciary;
- liaison with Corrective Services staff, other government departments and non government organisations involved in the care and well being of children of inmates;
- development of partnership with community organisations to provide opportunities for children residing in correctional centres to participate in off site programs and childcare;
- administering and co-ordinating the Mothers and Children's Committee; and
- administering applications for the Program.

See also response to recommendations 1 and 14.

#### RECOMMENDATION 18: (Chapter 4)

That the Minister for Corrective Services review the visiting arrangements in all New South Wales Correctional Centres as a matter of urgency. Action should be taken to:

- standardise visiting hours;
- develop a scheme to notify families when visiting arrangements are altered;
- provide appropriate funds to assist families to visit inmates in correctional centres that are some distance away from their home;
- ensure that when school days or public holidays interfere with all-day visits, alternative arrangements are introduced; and
- provide child-friendly and appropriate visiting areas.

#### Visiting hours

Visiting hours are generally between 9am and 3pm (as evidenced by the times quoted in Appendix 1 of the Report). Given the geographical locations of some centres and the differences in the structured days between centres, it is not practicable to further standardise visiting hours. [Note: Each inmate is expected to complete a "structured day". Requirements vary depending on the facilities at each correctional centre and the needs and abilities of each inmate.]

#### Alteration of visiting arrangements

Corrective Services has appointed a Placements Officer who has a dedicated telephone number (9890 2150). In every correctional centre there is a sign advising visitors to ring this number if they are unsure of the correctional centre which houses the inmate whom they wish to visit, or for any other information about visits.

Implementation of a scheme to notify families when visiting arrangements are altered is not practicable. Generally, changes to visiting arrangements occur when there is industrial action, staff shortages or a security search of the centre. A Visits Management Plan was developed in 1995 with the aim of improving facilities and services for visitors. Changes to visit times are displayed on the visits notice board as soon as possible.

#### Funds to assist families to visit inmates in correctional centres that are some distance away from their home

Implemented

Corrective Services operates a Travel and Accommodation Assistance Scheme and funds CRC Justice Support to run fare-subsidised buses from Sydney to: Maitland/Cessnock; Oberon; Lithgow/Bathurst/Kirkconnell; Berrima/Goulburn; and Junee.

#### Alternative arrangements when school days or public holidays interfere with all visits

Implemented

It is current practice to make alternative arrangements when public holiday and school days interfere with all-day visits.

Provide child-friendly and appropriate visiting areas

Supported.

The Visits Management Plan has resulted in significant improvements to the visiting facilities throughout the State. Corrective Services plans to establish a children's playroom with toys and a baby change area in every correctional centre. Of the 25 correctional centres in NSW, 23 currently have children's playrooms (either dedicated for the purpose or used for the purpose during visits) and 20 have at least a baby change table.

**RECOMMENDATION 19: (Chapter 4)**

**That the Minister for Corrective Services institute a training program for all staff to develop positive methods of interaction with the families, particularly the children, of inmates.**

Supported.

Corrective Services intends to include a module in the Women in Prisons Training Course for correctional officers and other staff who have recently taken up duties in female correctional centres in New South Wales. This will be completed by March 1998. Corrective Services is also considering including the module in the basic training course for probationary correctional officers.

**RECOMMENDATION 20: (Chapter 4)**

**That the Minister for Corrective Services prohibit invasive security checks of children under the age of 16 years.**

Implemented.

Corrective Services does not conduct invasive security checks of any visitors. Only police officers are permitted to strip search visitors. To reduce the necessity of searching some of the belongings of visitors, many correctional centres provide equipment, such as basins and prams, for use by visitors.

**RECOMMENDATION 21: (Chapter 4)**

**That the Minister for Corrective Services ensure that children are not prevented from visiting their parent in custody because of any disciplinary action taken against the parent. In the event that drugs are brought into a prison via a child the prisoner responsible for the action is to be disciplined and the child should not be disadvantaged by a suspension of visits to a parent.**

Supported in principle.

The Corrective Services' Operations Procedures manual states:

"In recognition that maintenance of inmate contact with family and friends is integral to the effective management of inmates, the deprivation of telephone calls and visits to

inmates as punishments are to be used as a last resort...Governors should strive to ensure that contact between inmates and their family, particularly children, is maintained." This is consistent with the recommendation in the Ombudsman's *Mulawa Report* that "the deprivation of phone calls to prisoners with children be used as a punishment of last resort, in recognition of severity of punishment" to which Corrective Services agreed.

Corrective Services is currently developing a computer generated quarterly report showing charges laid against inmates and disciplinary action taken. This report will enable Operations Branch staff to monitor accurately the number of times an inmate is deprived of phone calls as a punishment.

See also response to recommendation 22.

**RECOMMENDATION 22: (Chapter 4)**

**That the Minister for Corrective Services ensure that children are at all times permitted to have contact with their parents when on visits to prisons and that the practice of 'boxed visits' be discontinued when children are involved.**

Under consideration.

Following a trial period at the John Morony Correctional Centre it is now standard procedure at that centre for children to be permitted to visit their imprisoned parent when their visitor parent has been placed on box visits. The child is taken to the doorway separating the visiting cubicles and the inmate is escorted to the same doorway. The child is then transferred to the inmate parent. The physical 'handover' of the child is made by the parents under the close supervision of officers.

Such a procedure has not been introduced at any other correctional centre at this stage. Many 'box visits' consist of a screen placed between a number of inmates and the visitors wishing to visit those inmates. If the child is allowed behind the screen the child is in contact not only with his/her parent but also with other inmates. It is not always possible for staff to see what is going on behind the screen and to attend to their other duties during visits.

Only when Corrective Services is sure that no child will be at risk will the Department expand the trial presently being conducted at John Morony Correctional Centre.

Staff at John Morony Correctional Centre are currently exploring ways in which a visit by the children of an inmate could be made in a case where the child's parent is a banned visitor.

**RECOMMENDATION 23: (Chapter 4)**

**That the Minister for Corrective Services direct that the use of biometric identification technology as it applies to child visitors to prisons be terminated as a matter of urgency.**

Implemented.

Clause 131A(6) of the *Prisons (General) Regulation 1995* specifically excludes persons under the age of 18 years from biometric identification except where:

- the person has previously been barred from visiting an inmate or correctional centre
- the person has been convicted of an offence in relation to a previous visit
- the person's physical appearance is considered similar to an inmate at the correctional centre.

This clause came into force on 1 November, 1997, when the *Prisons (General) Amendment (Biometric Identification System) Regulation 1997* commenced.

**RECOMMENDATION 24: (Chapter 4)**

**That the Minister for Corrective Services institute regulations to ensure that uniform policies governing telephone contact are adopted across New South Wales Correctional Centres.**

Under consideration.

Use of telephones by inmates is covered by clauses 122 to 130 of the *Prisons (General) Regulation 1995*.

In accordance with the Regulation, Corrective Services has written procedures (contained in section 3 of the Corrective Services' Operations Manual) which must be followed by all correctional centres. These procedures are quite detailed. Essentially an unconvicted inmate may make up to three local calls per week at departmental expense and a convicted inmate may make one local call per week at departmental expense.

The controlled telephone system, which has now been installed in every correctional centre, permits an inmate to make as many telephone calls as he/she wishes to predetermined numbers. Further details about this system are set out in the response to recommendation 25.

Corrective Services intends to review the relevant clauses of the Regulation by December 1998 and, in doing so, will take into account the comments and recommendations made by the Standing Committee.

**RECOMMENDATION 25: (Chapter 4)**

**That the Minister for Corrective Services increase the number of telephones in each correctional centre to maximise the opportunities for children to speak with their inmate parent.**

Implemented.

In August, 1996, Corrective Services entered a five-year contract with Telstra for provision of a controlled telephone system for inmates. The system has been installed in every correctional centre in the State at a rate of approximately one phone per 28 inmates. Some centres have had a greater number of phones installed reducing the ratio to one phone per

25 inmates. This increase in the number of telephones has effectively increased the opportunity for inmates to have contact with their families.

A trial of the system at the former Parramatta Correctional Centre revealed that one phone per 50 inmates was sufficient and that the duration of a phone call averaged 3.5 minutes. The time limit for a telephone call is currently 6 minutes and Corrective Services is considering increasing the time limit to 10 minutes. There is also an "over-ride" facility which enables officers to extend the time limit when requested to do so by an inmate in an emergency or crisis.

The controlled telephone system provides the following advantages:

- officers are no longer required to oversee phone calls
- inmates can make as many calls as they like to predetermined numbers
- inmates may call up to six approved or authorised numbers at any time the phones are available
- the public is protected as a message is generated at the beginning of each call stating that the call emanates from a correctional centre
- inmates are always notified of their current phone account balance and the duration of the call is continuously displayed.

Area Managers have been given authority to override the block on additional inmate telephone calls and also authority to bill an additional call to the Department to enable inmates to make special calls to their families in addition to their normal allocation.

**RECOMMENDATION 26: (Chapter 4)**

**That the Minister for Corrective Services direct the Children's Officer (see Recommendation 17) to prepare a protocol for use throughout the prison system so that children have telephone access to their inmate parent in the event of an emergency or in a crisis. The protocol should also make provision for children to have reasonable telephone access to their parents at other times. Consideration should be given to the use of hand-held telephones for this purpose.**

Supported in principle.

Generally, incoming calls are not permitted to inmates as it would be disruptive to the security and good order of the correctional centre. In the event of an emergency or crisis a message will be passed to the inmate for that inmate to contact a particular person. In other instances the contact may be arranged through the welfare officer. The inmate takes the call in the office of the welfare officer which enables support to be available to the inmate should it be necessary.

**RECOMMENDATION 27: (Chapter 4)**

**That the Minister for Corrective Services increase the time limits for STD calls between inmate parents and their children to 15 minutes.**

See response to Recommendation 25.



**RECOMMENDATION 28: (Chapter 4)**

**That the Minister for Corrective Services ensure that all telephone conversations between inmates and their children take place in private.**

See response to Recommendation 25.

Since the introduction on the controlled telephone system Corrective Services has received no complaints regarding privacy during phone calls.

**RECOMMENDATION 29: (Chapter 5)**

**That the Minister for Police provide continuing instruction and training to all police officers throughout New South Wales on the use of court attendance notices, particularly in situations where the accused is a primary carer of dependent children, and the offence in question does not involve violence.**

Implemented.

The Police Service initially developed and presented an education package on the use of court attendance notices for one region. Due to its success, the exercise has now been replicated in all regions of the Service and articles have been included in Policing Issues and Practice Journal ("CANS - Myths and Facts") as well as the Police Service Weekly.

The discretion of the Police Officer in issuing a court attendance notice is based on community expectations, organisational expectations, and the level of response needed to maintain the peace. Court attendance notices have benefits when dealing with Aboriginal offenders (by reducing the risk of self harm in custody) and female offenders who have small children. A further advantage is the reduction in confrontation with Police which is desirable particularly when small children are involved.

This approach has been successful as evidenced by the increased use of CANS from 22% in April 1996 to in excess of 50% by October 1996. The Service has indicated that it is intended to monitor the use of CANS and continue the training process as required.

**RECOMMENDATION 30: (Chapter 5)**

**That the Minister for Police immediately implement a pilot project throughout New South Wales to evaluate the effectiveness of field court notices particularly in relation to the benefits of dispensing with the procedures associated with the arrest of primary carers of dependent children. The pilot project should be assessed within 12 months.**

Implemented.

The Police Service recognises the advantages of FCANS, particularly in instances where the arrest and attempted removal of an offender would distress small children present at the scene. The first trial of FCANS was conducted between October 1993 and January 1994 in the Local Court precincts of Taree, Narrandera, Sutherland, Waverley and Manly. FCANS are currently used in Dubbo and Parramatta, the Western Region which encompasses Bourke, Wilcannia and Broken Hill, Newcastle, the Northern region, Sydney

city CBD and the Endeavour region. It is anticipated that they will be introduced throughout all areas of the state by the second half of 1998. They are also being used by the Department of Corrective Services for situations where members of the public attempt to smuggle contraband items into prison.

**RECOMMENDATION 31: (Chapter 5)**

**That the Minister for Police and the Minister for Community Services collaborate to ensure that a strong liaison is developed between the Police Service and the network of Children of Prisoners' Officers within the Department of Community Services so that police officers make appropriate reference to the Children of Prisoners' Officers for the benefit of children when a parent is arrested. The Minister for Community Services should ensure that access to the network of Children of Prisoners' Officers is available at all times (see Recommendation 14).**

Implemented.

Procedures are in place to ensure police officers contact Community Services officers whenever there are children at risk or in need of care and support if a parent is arrested. Interagency guidelines provide detail for liaison between the two agencies in these circumstances. In June 1997 the Policing Issues and Practice Journal which is distributed to all police officers, contained these guidelines as well as NSW Police Service Child Protection Procedures for recognising, notifying and responding to child abuse and neglect. A mandatory continuing education package has also been distributed to Police Education Development Officers and reports from the field indicate that the procedures are working well.

**RECOMMENDATION 32: (Chapter 5)**

**That the Attorney General immediately introduce legislation based on s. 429A of the *Australian Capital Territory Crimes Act, 1900* and in particular, incorporating subsection "m", which provides that when sentencing a person the court shall have regard to the probable effect that any sentence or order under consideration would have on any of the person's family or dependents.**

Not supported.

The ACT legislation is the same as the *Crimes Act 1914* (Cth) s. 16A (2)(p). When a person is sentenced in NSW for a Commonwealth offence, the court must take s. 16A(2)(p) into account: *Van de Heuvel* (1992) 63 A Crim R 75.

NSW law is governed by common law. The Law Reform Commission in its 1997 report recommended that the common law should not be codified.

Family considerations may only be taken into account when sentencing for NSW offences where there will be 'exceptional hardship': *R v T* (1990) 47 A Crim R 29. Loss of housing and custody of children is not usually regarded as exceptional: *Agius* (unrep, NSW CCA, 15 December 1997). However the test may be satisfied if the accused is a mother with

children who are very young (*Niga CCA*, 13 April 1994) or intellectually disabled (*Woolsey* (Newman J, 19 August 1997).

At this stage it is not intended that the common law position in NSW be codified.

**RECOMMENDATION 33: (Chapter 5)**

**That the Attorney General ensure that prior to sentencing an offender the courts are provided with reports from the Department of Community Services on the impact of a custodial sentence of a parent on any dependent children of that parent.**

Not supported.

The Department of Community Services currently provides placement reports to the court in cases where there are concerns about the welfare and safety of children and there is a need to plan for the child's future. It would not be appropriate to provide reports for children who do not have reported risk or wellbeing issues. Not all children whose parents are given a custodial sentence are at risk of injury or harm.

**RECOMMENDATION 34: (Chapter 5)**

**That the Attorney General develop material and implement training for members of the magistracy and judiciary to enable them to take into account the impact which a custodial sentence of an accused person may have on his or her dependent children.**

The Judicial Commission is responsible for training and education for the judiciary. The Attorney General will write to the Judicial Commission and suggest that these issues be considered for inclusion in the Commission's education and training programmes.

**RECOMMENDATION 35: (Chapter 5)**

**That the Minister for Corrective Services ensure that any inmate involved in a custody dispute in relation to their children has access to legal assistance, is granted leave and is provided with transport to attend any court proceedings regarding the case.**

Implemented.

Escort to court is given priority, however, written notification from the court that an inmate should attend a hearing is necessary. Corrective Services will liaise with the courts to ensure that such notification is sent to the relevant correctional centre when child custody is in dispute. All inmates may apply for legal aid.

**RECOMMENDATION 36: (Chapter 5)**

**That the Minister for Corrective Services require a post-release plan for all inmates to be developed and in particular, for inmates with children, to assist in the reintegration of the inmate into the community and the reunification with his or her family. The plan for each individual should commence when the inmate is inducted into the designated correctional facility.**

Supported in principle.

Corrective Services has established a Transitional and Post Release Project Steering Committee - see response to recommendation 11.

The Committee is aware that many inmates, upon release, resume their pre-imprisonment roles as carers of children and that, if such an inmate needs assistance from community agencies upon release, it is likely that the children of that inmate will also need assistance. It should be noted, however, that the committee's focus is on the inmate rather than any children as it is the inmate who is in the care of the Department (until release).

**RECOMMENDATION 37: (Chapter 5)**

**That, as soon as possible, the Minister for Corrective Services establish post-release support services for inmates released from gaol throughout New South Wales, especially services which assist family reunification.**

Partly implemented.

Each year Corrective Services makes grants to various community organisations (eg, Prisoners' Aid Association, Children of Prisoners Support Group) who assist ex-inmates and their families. In 1996 these grants totalled \$1,155,970.

Corrective Services has established a Transitional and Post Release Project Steering Committee - see response to recommendation 11.

Corrective Services operates an Aboriginal Post Release Program to assist Aboriginal inmates make the transition from custody back into their respective communities. The program officers provide support, guidance and counselling as well as assessment and referral for employment or other services (eg. drug and alcohol counselling).

Aboriginal Post Release Officers are located at Bathurst, Dubbo, Metropolitan Regional Office, Morriset (mid north coast) and Grafton (north coast).

It should be noted, however, that provision of family support services in the community is more properly the responsibility of the Department of Community Services, not the Department of Corrective Services.

**RECOMMENDATION 38: (Chapter 5)**

That the Minister for Transport ensure that adequate and accessible public transport is available to and from New South Wales Correctional Centres. Such public transport should be established to facilitate:

- visits between inmates and their children; and
- the reunification process between inmate and his/her children following release.

Supported.

The Government is committed to providing the community with accessible and efficient transport services.

The importance of transport services in facilitating contact between inmates and their children is fully appreciated and the Transport entities will continue to give full consideration to these needs in future transport planning. In addition, for any new prison facilities, access to public transport will be considered at the planning stage.

**RECOMMENDATION 39: (Chapter 5)**

That as part of a prisoner's post-release plan (see Recommendation 36) the Minister for Corrective Services ensure that all inmates, and particularly those with children, have suitable accommodation upon their release.

Partly implemented.

Corrective Services has established a Transitional and Post Release Project Steering Committee - see comments for Recommendation 11. Corrective Services also liaises with the Department of Housing Specialist Client Service Officers regarding accommodation - see response to recommendation 41.

It should be noted, however, that the Department of Corrective Services cannot be responsible for ensuring provision of suitable accommodation for inmates after release into the community.

**RECOMMENDATION 40: (Chapter 5)**

That the Minister for Housing ensure that inmates who are the primary carers of children receive priority housing from the Department of Housing once they are released from prison.

This recommendation has significant implications for allocations policies for priority housing. If implemented, it would entitle offenders who are primary carers of children to be approved for priority housing purely because they are recently released from prison. Generally, criteria for priority housing are related to housing circumstances and the same criteria apply to all types of applicants. A person recently released from prison can access priority housing in accordance with these criteria the same as other groups of clients. It is not considered that it would be appropriate for priority housing to be approved on the grounds of being released from prison alone. No other applicants are able to access public housing purely because they belong to a specific client group.

**RECOMMENDATION 41: (Chapter 5)**

**That the Minister for Housing and the Minister for Corrective Services establish a Department of Housing client service team for all prisons in New South Wales and in particular, Mulawa and Emu Plains Correctional Centres.**

Partly implemented.

The Department of Housing has taken the following action to ensure that existing client service teams in the vicinity of correctional centres adequately serve prisoners:

- Specialist Client Service Officers (SCSOs) in relevant client service teams have been made the contact person for all prisoners at the centres in their areas. SCSOs are a recently created position to cater for clients with complex needs. A total of 11 SCSOs have been appointed to date in a number of locations. Another intake and associated training of SCSOs will be completed within the next few months. This will ensure that most metropolitan locations and the Hunter have coverage.
- In a few locations, particularly in country areas, SCSOs will not be appointed to relevant teams in the near future. In these situations the Department has appointed another senior staff member to liaise with correctional centres.

Corrective Services staff at Emu Plains have established excellent liaison with the Department of Housing Client Services Officers in the respective areas.

**RECOMMENDATION 42: (Chapter 5)**

**That the Premier urge the Federal Minister for Social Security to ensure that clear guidelines are provided to prisoners on the social security benefits to which prisoners are entitled upon their release or when subject to community-based sanctions.**

The Premier has written to the Federal Minister for Social Security and has brought this recommendation to her attention.

**RECOMMENDATION 43: (Chapter 5)**

**That the Premier urge the Federal Minister for Social Security to provide all information on social security entitlements for prisoners in their own languages.**

See response to recommendation 42.

**RECOMMENDATION 44: (Chapter 5)**

**That the Premier urge the Federal Minister for Social Security to urgently address the payment of the Sole Parents Pension to women conditionally released under s. 29(2)(c) of the NSW *Prisons Act, 1952* or sentenced to community-based orders.**

Any offender sentenced to a community based order is able to obtain social security benefits if that offender meets the eligibility criteria.

**RECOMMENDATION 45: (Chapter 5)**

**That the Premier urge the Federal Minister for Health and the Federal Minister of Social Security to allow women released from New South Wales prisons under s.29(2)(c) of the *NSW Prisons Act, 1952* or sentenced to a community-based order to obtain social security benefits and Medicare entitlements.**

As explained in the response to recommendation 44, any offender sentenced to a community based order is able to obtain social security benefits if that offender meets the eligibility criteria, and a female inmate released under section 29(2)(c) is paid the equivalent of the Sole Parent Pension plus pharmaceutical benefit.

**RECOMMENDATION 46: (Chapter 5)**

**That the Premier urge the Federal Minister for Social Security to liaise with the Federal Minister for Health to ensure that children of parents released under s.29(2)(c) of the *NSW Prisons Act, 1952* or other community-based sentences are entitled to Medicare.**

The children of an imprisoned parent, the children of a parent released under section 29(2)(c), and the children of a parent serving a community based sentence, are entitled to Medicare. Any incidents of difficulties in obtaining Medicare would be the result of administrative misunderstandings.

**RECOMMENDATION 47: (Chapter 6)**

**That the Attorney General ensure that, through judicial education, magistrates and judges always use the option of prison as a last resort when sentencing an offender who is the parent of dependent children irrespective of the existence of mothers and children's units in prison.**

See response to recommendation 34.

**RECOMMENDATION 48: (Chapter 6)**

**That the Attorney General monitor the sentencing patterns of magistrates and judges to ensure that prison is being used only as a last resort for parents of dependent children.**

See response to recommendation 7.

**RECOMMENDATION 49: (Chapter 6)**

**That the Attorney General develop and implement an education program for judges and magistrates to encourage the use of non-custodial sentencing options for drug and other non-violent offenders. The research to develop this program should be undertaken by the NSW Judicial Commission.**

See response to recommendation 34.

**RECOMMENDATION 50: (Chapter 6)**

**That the Minister for Corrective Services implement the mid-week periodic detention program for women at Emu Plains Correctional Centre, currently under consideration, as a matter of urgency.**

Implementation underway.

Following the closure of Norma Parker Correctional Centre in January 1998, staffing is available for the introduction of mid-week periodic detention at Emu Plains Correctional Centre. Negotiations are now taking place with the Corrections Health Service for the provision of the necessary medical services to meet the needs of a mid-week periodic detention program.

**RECOMMENDATION 51: (Chapter 6)**

**That the Minister for Corrective Services explore the possibility of introducing child care facilities at periodic detention centres for women in order to ensure that a periodic detention sentence is realistically available to women.**

Not supported.

Periodic detention centres have a variety of detainees who may well be volatile. The safety of children in this environment would be a major concern. A person sentenced to periodic detention is required to undertake work and this would not be viable while supervising a child.

**RECOMMENDATION 52: (Chapter 6)**

**That the Minister for Corrective Services expedite current plans to expand the periodic detention program across New South Wales with a particular focus on establishing centres for female offenders.**

Implementation underway.

Periodic detention is available at 10 locations in the State. Facilities for female periodic detainees are available at Emu Plains, Grafton, Mannus and Tomago. Corrective Services' capital works program includes facilities for female periodic detainees at Bathurst, Broken Hill and Wollongong.

**RECOMMENDATION 53: (Chapter 6)**

**That the Attorney General introduce legislation to allow for the requirement of attendance at a drug and alcohol treatment centre as an alternative to imprisonment, with appropriate safeguards.**

Under consideration.

A court is already able to include as a condition of a bond a requirement that the offender must attend a drug and alcohol treatment centre. Whether or not a conviction is recorded,



an offender may be remanded for sentence for a lengthy period and released on conditions, known in this context, as a 'Griffith's Bond' or a 'Griffith's remand', which may include any of the usual probation conditions, such as attendance at a drug and alcohol centre. A court will take this action to allow an assessment of the offender's behaviour and capacity to be rehabilitated over a period of time before the appropriate sentence is passed. Consideration is currently being given to the provision of a legislative base for Griffith's Bonds.

This recommendation is one of a series of recommendations (50-53) in a section of the Report entitled **6.1 Periodic Detention**. There are several factors which may make implementation of a drug and alcohol treatment program in the periodic detention scheme impractical. These factors are: a program may need continuous attendance for a length of time and periodic detainees would only be available to attend two days in every seven; the length of sentence may not cover the time required for treatment; and the number of detainees at a particular centre required to attend the program may not be sufficient to make operation of the program viable.

**RECOMMENDATION 54: (Chapter 6)**

**That the Attorney General ensure that information about the Home Detention Program be included in the judicial education program proposed in Recommendation 49 .**

See response to recommendation 34. The Department of Corrective Services has provided information on Home Detention to the Judicial Commission.

**RECOMMENDATION 55: (Chapter 6)**

**That the Attorney General ensure that the definition of 'residence' in the *Home Detention Act, 1996* should not be limited to a family home but includes appropriate treatment and counselling services.**

Implemented.

The *Home Detention Act* is administered by the Minister for Corrective Services not the Attorney General.

The *Home Detention Act 1996* does not confine "residence" for a home detainee to the family home. Corrective Services has supervised home detainees who have, at the time, been full-time residents at drug and alcohol rehabilitation facilities. Corrective Services will again supervise such offenders in such facilities whenever the circumstances of the offender make it feasible to do so.

**RECOMMENDATION 56: (Chapter 6)**

**That the Attorney General introduce legislation to give a statutory base for Griffiths Bonds, an option now available under common law.**

Under consideration. See response to recommendation 53.

**RECOMMENDATION 57: (Chapter 6)**

That the Attorney General extend the application of Griffiths Bonds to include the deferral of sentences during pregnancy and further, until after breastfeeding, when admission to the Mothers and Children's Program is not possible.

Griffith's Bonds do not involve deferral of a sentence, but involves placing the offender on remand, during which time the offender's behaviour and capacity to be rehabilitated over a period of time is assessed, before the appropriate sentence is passed. Beyond providing a legislative base for Griffith's Bonds, it is not intended to codify the types of situations in which a Griffith's Bond may be considered. See also response to recommendation 53.

Inmates who are pregnant or breastfeeding would be eligible to apply for release under section 29(2)(c) of the Correctional Centres Act. This would allow them to serve the remainder of their sentences in the community caring for their children. See also response to recommendations 63 and 64.

**RECOMMENDATION 58: (Chapter 6)**

That the Attorney General ensure that the judicial education program proposed in Recommendation 49 includes material about Griffiths Bonds.

See response to recommendation 34.

**RECOMMENDATION 59: (Chapter 6)**

That the Attorney General direct the NSW Bureau of Crime Statistics and Research to collect and publish data on whether there is a discrepancy in Community Service Orders being given to men and women.

Under consideration.

**RECOMMENDATION 60: (Chapter 6)**

That, subsequent to the first annual evaluation, the Minister for Corrective Services extend the Mothers' and Children's Program, including the Fulltime Residence Program and the Occasional Residence Program, to Mulawa Correctional Centre. The establishment of special facilities needed to properly accommodate children at Grafton Correctional Centre should also be expedited. Extension of the Program should not jeopardise an inmate's opportunity for conditional release under s. 29(2)(c) of the NSW *Prisons Act, 1952*.

The geography of Mulawa Correctional Centre and the type of inmates at that centre do not make this centre a suitable venue for the Mothers and Children's Program. It is much better to fast track appropriate inmates to Emu Plains Correctional Centre so that they can participate in the program at that centre. The *Prisons (General) Amendment (Classification of Female Inmates) Regulation 1997* which introduced a new classification for female inmates, has facilitated this fast tracking. A proposal to extend the Mothers and Children's Program to Grafton Correctional Centre is under consideration; however, it will require construction of accommodation.

**RECOMMENDATION 61: (Chapter 6)**

**That the Attorney General provide a bail officer to operate within the New South Wales women's prison system to assist inmates with applications for bail. Priority should be given to those inmates who are the primary carers of children.**

Under consideration.

This is a matter for the Minister for Corrective Services. Department of Corrective Services officers currently assist remandees with bail applications and liaison to meet bail conditions. The Department is currently investigating the need for a dedicated position.

**RECOMMENDATION 62: (Chapter 6)**

**That the Minister for Corrective Services allow women on remand to access the Mothers' and Children's Program.**

Under consideration.

Corrective Services is investigating the possibility of accommodating a number of long-term remandees at Emu Plains Correctional Centre, rather than at Mulawa Correctional Centre, to allow them access to the program.

**RECOMMENDATION 63: (Chapter 6)**

**That the Minister for Corrective Services develop publicly available guidelines setting out the circumstances and conditions which must be satisfied for an inmate to obtain a conditional release under s.29(2)(c) of the NSW Prisons Act, 1952.**

Implemented.

The minimum criteria for release under section 29(2)(c) of the *Correctional Centres Act 1952* is set out in the "Mothers and Children's Program Information Pamphlet" (copy attached).

**RECOMMENDATION 64: (Chapter 6)**

**That the Minister for Corrective Services make suitable arrangements to expedite approvals for section 29(2)(c) of the NSW Prisons Act, 1952 recommendations, particularly for women in the latter stages of their pregnancy.**

Implemented.

A Mother and Children's Program Committee has been established to streamline the processing of s.29(2)(c) applications by reducing the number of officers who need to comment on the applications. Since December 1996 all s.29(2)(c) applications have been processed in accordance with this revised procedure.

**RECOMMENDATION 65: (Chapter 6)**

**That the Minister for Corrective Services ensure all pregnant women in custody receive appropriate and adequate ante-natal care and that such care be commensurate to that which a pregnant woman receives in the community.**

Implemented.

The provision of antenatal and postnatal care is available to all women in custody and is managed by the Corrections Health Service (CHS) with reference to community standards. CHS is the responsibility of the Minister for Health.

Corrections Health Service (CHS) has developed and implemented a gender specific reception form to ensure that pregnant women are identified upon reception into custody, as well as several specific policies relating to pregnancy.

Pregnant women in custody receive appropriate antenatal care meeting community standards including regular checkups, antenatal tests and medications etc. Female general practitioners with special interest and training in women's health issues attend Mulawa and Emu Plains correctional centres regularly. Inmates are also cared for by the Women's Health Nurse and other nursing staff with qualifications in women's health or midwifery.

CHS liaise closely with the local Area Health Services to which pregnant women in custody will be referred for specialist tests, and for drug and alcohol issues.

If the woman is to give birth while in custody CHS complete booking procedures for the hospital and refer the woman to the antenatal clinics of the hospital for a routine visit at 32-34 weeks gestation or at any other time when specialist care is required.

If a woman is released from custody before delivery of her baby CHS will arrange for her to be booked into an antenatal clinic and delivery suite of her choice and will transfer all relevant records to the clinic and to the inmate.

The use of antenatal care by pregnant inmates before being received into custody is often very low. A vast majority of the women at Mulawa and Emu Plains Correctional Centres are injecting drug users and often poly-drug users and because of this and their psychosocial circumstances they often do not access antenatal care in the community.

**RECOMMENDATION 66: (Chapter 6)**

**That the Minister for Corrective Services ensure that when a pregnant woman is escorted to an outside medical practitioner or hospital she is afforded appropriate privacy. Under no circumstances should a departmental escort be present during a woman's labour.**

Implemented.

Corrective Services already follows this practice; further, pregnant inmates are not handcuffed during transport. A departmental officer will only be present during the

labour at the woman's request. A copy of section 6.10.3.d of the Corrective Services' Operations Procedures Manual is attached.

**RECOMMENDATION 67: (Chapter 6)**

**That the Attorney General encourage magistrates and judges to use the option of sentencing a person who is pregnant to a term of imprisonment as a last resort and only in extreme circumstances.**

See response to recommendation 34.

**RECOMMENDATION 68: (Chapter 6)**

**That the Minister for Corrective Services ensure that pregnant inmates serving a custodial sentence may apply for release under s.29(2)(c) of the NSW *Prisons Act, 1952* at the time of and following the birth of their child and that the appropriate post release supports are available to those women who are successful in their application to assist them with the care of the baby (see Recommendations 36 and 37). In carrying out this recommendation the best interests of the baby must be paramount.**

Implemented.

Corrective Services already takes this course of action. The Coordinator, Mothers and Children's Program, monitors the women released under s29(2)(c) to ensure they have access to appropriate support.

**RECOMMENDATION 69: (Chapter 6)**

**That the Minister for Corrective Services ensure all pregnant inmates, whether on remand or serving a sentence, who are not released under s.29(2)(c) of the *Prisons Act 1952* are given access to the Fulltime Residence Program. In carrying out this recommendation the best interests of the baby must be paramount.**

Partly implemented.

While every effort will be made to accommodate pregnant inmates in the Full-time Residence Program at Emu Plains Correctional Centre, there may be rare instances where this is not possible for security reasons.

**RECOMMENDATION 70: (Chapter 6)**

**That the Minister for Corrective Services examine the option of allowing imprisoned fathers, as primary carers, to be detained with their children at Jacaranda Cottages on the site of Emu Plains Correctional Centre.**

Not supported.

It would not be appropriate to accommodate male inmates in the Jacaranda Cottages at Emu Plains Correctional Centre. Corrective Services will examine the option of

accommodating male inmates who are primary carers with their children at another correctional centre.

**RECOMMENDATION 71: (Chapter 6)**

**That the Minister for Corrective Services examine the feasibility of amending s.29(2)(c) of the NSW *Prisons Act, 1952* to make provision for the conditional release of approved male primary carers.**

Under consideration.

**RECOMMENDATION 72: (Chapter 6)**

**That the Minister for Corrective Services establish a Community Corrections Division within the Department of Corrective Services. The Division should be headed by a Deputy Commissioner who is directly responsible to the Commissioner.**

The Probation and Parole Service has previously been known as the 'Community Corrections Service'; the title was changed in 1991. The Probation and Parole Service is headed by an Assistant Commissioner who reports direct to the Commissioner. A recent departmental restructure eliminated the position of Deputy Commissioner. The Assistant Commissioner, Probation and Parole is a member of Corrective Services' Board of Management. Membership of the Board is limited to the Commissioner, Assistant Commissioners and the Executive Director, Office of the Commissioner.

**RECOMMENDATION 73: (Chapter 6)**

**That the Minister for Corrective Services develop appropriate responsibilities for the Community Corrections Division. Those responsibilities should include the management of offenders serving community based sentences that require supervision and the management of inmates released under s. 29(2)(c) of the NSW *Prisons Act, 1952*.**

The Probation and Parole Service is responsible for managing offenders sentenced to, *inter alia*, probation, community service, home detention or Griffith Bonds. Women released under s.29(2)(c) of the *Correctional Centres Act 1952* are managed by the Probation and Parole Service.

**RECOMMENDATION 74: (Chapter 6)**

**That the Minister for Corrective Services ensure that the Community Correction Division is adequately resourced and sufficiently staffed to effectively manage offenders in the community effectively.**

The Probation and Parole Service staffing resources were increased in 1995/96 and 1996/97 to better meet work demands. The Service recently received funding for Offender Management and Development programs and is seeking recurrent funding to cover the on-going operation of these programs.

**RECOMMENDATION 75: (Chapter 6)**

That the Minister for Corrective Services institute a policy to maximise staff experienced in the Department of Corrective Services. Custodial and community staff should be able to rotate their positions so to enhance their career options.

Salary structures and gradings inhibit this proposal; however, Corrective Services supports secondments and some correctional officers have taken up this option. Probation and Parole staff seem to be more interested in working in the community and very few express interest in custodial roles although some opt to work in correctional centres in a pre-release role.

**RECOMMENDATION 76: (Chapter 7)**

That the Minister for Community Services and Juvenile Justice ensure that statistics are maintained on the number of young offenders who are parents in order that appropriate policies and programs are developed for these young people and, in particular, their children.

Implemented.

The Department of Juvenile Justice currently records client information on its Client Information System (CIS). Information on young offenders who are parents is registered on the CIS.

**RECOMMENDATION 77 (Chapter 7)**

That the Attorney General ensure that, through judicial education, and consistent with the provisions of the *Children (Criminal Proceedings) Act, 1987*, community-based sentencing options should always be a first response of magistrates when sentencing a young offender and that custodial sentences be used only as a last resort. This should particularly be the case for young offenders who are pregnant or the primary carers of children.

See response to recommendation 34.

The Department of Juvenile Justice takes prime responsibility for informing and advising sentencing authorities of the availability, scope and effectiveness of non custodial alternatives to detention.

The Department of Juvenile Justice regularly discusses with the Senior Children's Magistrate the availability and utility of various non custodial sentencing options, and the court's use of such options, particularly in rural NSW and for Aboriginal young people and young people from non English speaking backgrounds.

In the event that the court is considering sentencing a young person by way of a custodial order, a court report is prepared by a juvenile justice officer prior to determination of sentence. Reports include all relevant information regarding the young person's circumstances and outline a comprehensive case plan, taking into account such issues as the young person's health and pregnancy status. Staff advocate for the least intrusive

appropriate penalty, and provide the court with information on the availability and suitability of non custodial options in the local area.

**RECOMMENDATION 78: (Chapter 7)**

**That the Attorney General ensure, through judicial education, that children's magistrates in rural areas make every effort to find relevant solutions to issues of sentencing young offenders and particularly, those with children, so as to avoid the option of incarceration and the removal of young offenders from their communities.**

See response to recommendation 34.

The Judicial Commission of NSW has a facilities database which allows Magistrates to see what community options and services (for example, CSO placements; drug treatment centres) are available to divert young offenders from custody and keep them in their local community.

See also response to recommendation 77.

**RECOMMENDATION 79: (Chapter 7)**

**That the Minister for Juvenile Justice ensure that, when a magistrate makes an order for supervision of a community based sentencing option, the supervision should be consistent with, and relevant to, the circumstances and needs of the young offender.**

Implemented.

The Department of Juvenile Justice currently uses case management as the principal process for ensuring that a juvenile offender has his or her individual needs met through the provision of services in a supportive, effective and efficient manner. Case management recognises that juvenile offenders often have multiple and complex problems and that the potential solutions to these problems require a combination of social, familial, psychological, behavioural, medical and educational interventions. This individualised and multidisciplinary approach ensures that supervision of young offenders remains relevant to their needs and circumstances and prepares the young person for community re-integration.

**RECOMMENDATION 80: (Chapter 7)**

**That the Minister for Juvenile Justice ensure that young offenders with children and particularly those who are pregnant are made thoroughly aware of their opportunity to elect to have their matter determined by a Youth Conference.**

Implementation underway.

Under the Young Offenders Act, 1997 a young person will be entitled to have their matter dealt with by a warning, caution or conference provided their matter meets the relevant criteria. Police will be required under the Act to advise young people who have been apprehended of their right to obtain legal advice and where that advice may be obtained



so that they may be able to make an informed choice as to their options. In addition, cooling off periods have been provided for in the Act, and Commissioners Instructions and practice directions for Conference Administrators are being developed to ensure that young people are made aware of their rights under the Act. Implementation of the new procedures will be carefully monitored. It should be noted that conferences will also be made available to young people after conviction and young people in custody.

See also response to recommendation 4.

**RECOMMENDATION 81: (Chapter 7)**

**That the Attorney General amend s.24 (1A) of the *Children (Detention Centres) Act, 1987*, to include an express provision that leave may be granted to pregnant young detainees to allow them to pursue an activity that is relevant to the birth and well-being of their baby.**

Any amendment to the *Children (Detention Centres) Act, 1987*, is the responsibility of the Minister for Community Services. There have been no obstacles to the provision of leave to pregnant young women under s.24 (1A) of the Act.

**RECOMMENDATION 82: (Chapter 7)**

**That the Minister for Community Services revise the classification system for juvenile detainees to reflect their needs and provide access to programs without compromising security requirements. The new classification system should ensure that young people on remand or classified persons, especially those that have children or who are pregnant, are eligible for appropriate leave.**

Under consideration.

The Department of Juvenile Justice is currently establishing a Serious Young Offender Review Panel (SYROP) to oversee certain decisions regarding detainees who have been charged or convicted of serious violent offences.

SYROP is to be established on a trial basis and in an advisory role to the Director-General. However, if successful it will be established with a statutory base through amendments to the *Children (Detention Centres) Act 1987*.

This recommendation will be brought to the attention of SYROP when it first meets.

**RECOMMENDATION 83: (Chapter 7)**

**That the Minister for Juvenile Justice introduce the Mother-Child Residency Program at Yasmar Juvenile Justice Centre as a matter of urgency.**

Under consideration.

The Department of Juvenile Justice has developed and released a draft policy on young mothers or pregnant young women in custody for consultation. An earlier draft of the

policy and a proposed model for a Mother-Child Residency Unit was made available to the Standing Committee on Social Issues Inquiry into Children of Prisoners. The policy and the model have subsequently been revised, and there remain a multitude of complex issues that must be addressed prior to the policy being implemented.

Issues such as management and security procedures, staff selection and training, additional staffing requirements, supervision during school time, the responsibility of dispensation of medication to the child and protocols regarding the roles of external agencies still need to be clarified.

Feedback from consultation on the draft policy has indicated there is a high degree of concern that the development of a Mother-Child Residency Program may exacerbate the possible isolation of a young mother in a discrete unit, particularly in the event that there is only one mother in custody at the time. Young mothers in such a Unit may be at greater risk of post natal depression. There is also the possibility that other young female detainees may perceive that mothers receive special treatment and further isolate or victimise the mother. Issues around a father's rights and access to children in custody must also be resolved.

As the majority of young women entering Yasmar have relatively short sentences it would be appropriate to focus resources initially on non custodial sentences, such as a modified home detention program. Case management plans for young mothers in detention would ensure access to pre natal services in the area of the Centre that the young woman was residing.

The development of policy and procedures for mothers and young pregnant women in custody is a priority for the Department of Juvenile Justice and requires ongoing consultation, monitoring and evaluation. A commitment to staff training, support and special recruitment practices, the collaboration of all sections of the juvenile justice system, and an emphasis on pre and post release planning and support are all important aspects for the successful implementation of this program.

**RECOMMENDATION 84: (Chapter 7)**

**That the Attorney General provide judicial education to inform magistrates and judges that the existence of the Mother-Child Residency Program should not influence them in their sentencing decisions in regard to young women with children and young pregnant women. Detention should always be a sentencing option of last resort.**

See response to recommendation 34.

**RECOMMENDATION 85: (Chapter 7)**

That the Minister for Community Services and Juvenile Justice ensure that, in cases where young offenders are the primary carers of children, the Department of Community Services prepare a report for the presiding magistrate about the effect that any sentence may have on the children. Such a report should be prepared in addition to any report prepared on the young offender by officers of the Department of Juvenile Justice.

Not supported.

The Department of Juvenile Justice and the Department of Community Services work closely on issues that affect clients of both departments.

The Department of Community Services currently provides placement reports to the court in cases where there are concerns about the welfare and safety of children and there is a need to plan for the child's future. It would not be appropriate to provide reports for children who do not have reported risk or wellbeing issues. Not all children whose parents are given a custodial sentence are at risk of injury or harm.

**RECOMMENDATION 86: (Chapter 7)**

That the Minister for Juvenile Justice institute regulations to ensure that uniform policies governing telephone contact are adopted across New South Wales juvenile justice centres.

Implemented.

Policies and procedures relating to telephone contact are uniform across all juvenile detention centres in NSW and are in accordance with the *Children (Detention Centres) Regulation 1995*.

**RECOMMENDATION 87: (Chapter 7)**

That the Minister for Juvenile Justice increase the number of telephones in each juvenile justice centre to maximise the opportunities for children to speak with their detained parent.

Not supported.

In current policy and procedures, a detainee is permitted to make one phone call when admitted to a juvenile justice centre, and has the right to make two telephone calls per week, with the possibility of earning one additional telephone call per week through good behaviour. Telephone calls for casework purposes are not included in the weekly telephone call allocation. There is no current shortage of available telephones in juvenile justice centres for detainees to make these calls.

**RECOMMENDATION 88: (Chapter 7)**

**That the Minister for Juvenile Justice increase the time limits for STD calls between inmate parents and their children to 15 minutes.**

Telephone calls related to family issues are made as casework calls, which are not included in the weekly telephone allocation. These calls can be made at any time and detainees are not restricted in the number of calls they make. In the event that a detainee wishes to make a private call to family, friends or significant others, they would liaise with their caseworker who would arrange for such a phone call to take place. The caseworker would make allowances for an extended phone call if this was required.

See Recommendation 27 regarding length of calls for inmate parents.

**RECOMMENDATION 89: (Chapter 7)**

**That the Minister for Juvenile Justice ensure that all telephone conversations between detainees and their children take place in private.**

For security reasons, all detainees making telephone contact with other people, either outgoing or incoming, must be supervised by staff. Staff are required to initiate the call, and be the first contact with the person being called. Staff supervision of telephone calls is conducted in a manner which is the least intrusive to the detainee. For instance, the staff member may be outside the room whilst the phone call is taking place.

**RECOMMENDATION 90: (Chapter 7)**

**That the Minister for Juvenile Justice ensure that visits by children of detainees be of unrestricted length and number, as long as sufficient notice is given, and staff are available for supervision. Visiting areas should be child-friendly and have appropriate facilities for children.**

Under consideration.

Regulations regarding visits and communication to detainees are stipulated in the Juvenile Justice Centres Policy Manual and guided by the *Children (Detention Centres) Regulation 1995*. There are currently no specific guidelines regarding visits by children of detainees, although this will be reviewed in the development of policies regarding parents in juvenile justice centres. The department has allocated funds to subsidise family visits including payment for travel and accommodation costs. In 1995/96 \$137,000 was spent on supporting family members to visit young people in custody.

**RECOMMENDATION 91: (Chapter 7)**

**That the Minister for Juvenile Justice expand the number of residential accommodation units for visitors and, in particular for the children of detainees, at all Juvenile Justice Centres. Such units are to be used for those visitors who are required to travel long distances to visit a detainee.**

Additional money has been made available under White Paper Initiatives to provide assistance to families in need who wish to visit young people in detention centres. Funding is available for travel as well as accommodation where there is insufficient accommodation available on centre sites. Financial assistance for families to visit detainees in juvenile justice centres is organised by the Co-ordinator Casework or by the relevant Juvenile Justice Officer.

The Department of Juvenile Justice has recently made a contribution to the Vietnamese Welfare Association to assist with the purchase of a bus to enable children to visit parents in prison.

The NSW Ombudsman's *Inquiry into Juvenile Detention Centres* identified that most of the nine centres have inadequate facilities for many of the core functions performed within the centres, and that nearly every centre required urgent upgrading of its physical environment. The department's priority is to improve the physical accommodation of the centres and create newer, safer detention centres. The department does not consider that the building and provision of accommodation units for visitors and children of detainees in juvenile justice centres is a reasonable expenditure of scarce capital works money. Most centres have established accommodation arrangements with local motels to cater for visits of family members to young people in detention.

**RECOMMENDATION 92: (Chapter 7)**

**That the Minister for Community Services and Juvenile Justice include a specialist post release service in the Mother-Child Residency Program to provide appropriate and continuing assistance to young offenders who are parents or who are pregnant at the time of their release from a juvenile justice centre.**

Under consideration.

The establishment of a post release service to young offenders who are parents or who are pregnant is a priority and will be incorporated into the policy relating to young mothers or pregnant young women in custody.

**RECOMMENDATION 93: (Chapter 7)**

**That the Minister for Corrective Services ensure that adult inmates are incarcerated in facilities that are near to those where their child is detained in order to facilitate visits between them, wherever such arrangements are possible.**

Implemented.

Wherever possible, Corrective Services places an inmate in a correctional centre near to a facility which houses the inmate's child, if requested to do so by the inmate.

**RECOMMENDATION 94: (Chapter 8)**

**That the Premier urge the Prime Minister to ensure that the educational rights and needs of children held in Westbridge Detention Centre are met through the immediate employment of a teacher.**

The Premier has written to the Prime Minister and has brought this recommendation to his attention.

**RECOMMENDATION 95: (Chapter 8)**

**That the Premier urge the Prime Minister to ensure that the needs of children held in Westbridge Detention Centre to access recreational, artistic and cultural activities be met.**

See response to recommendation 94.

**RECOMMENDATION 96: (Chapter 8)**

**That the Premier urge the Prime Minister to ensure children detained at Westbridge Detention Centre have their health needs met through ready access to a general practitioner and the provision of adequate interpreting services.**

See response to recommendation 94.

**RECOMMENDATION 97: (Chapter 8)**

**That the Premier urge the Prime Minister to abolish the 20 minute time limit on visits by their children to Stage One detainees at Westbridge Detention Centre.**

See response to recommendation 94.