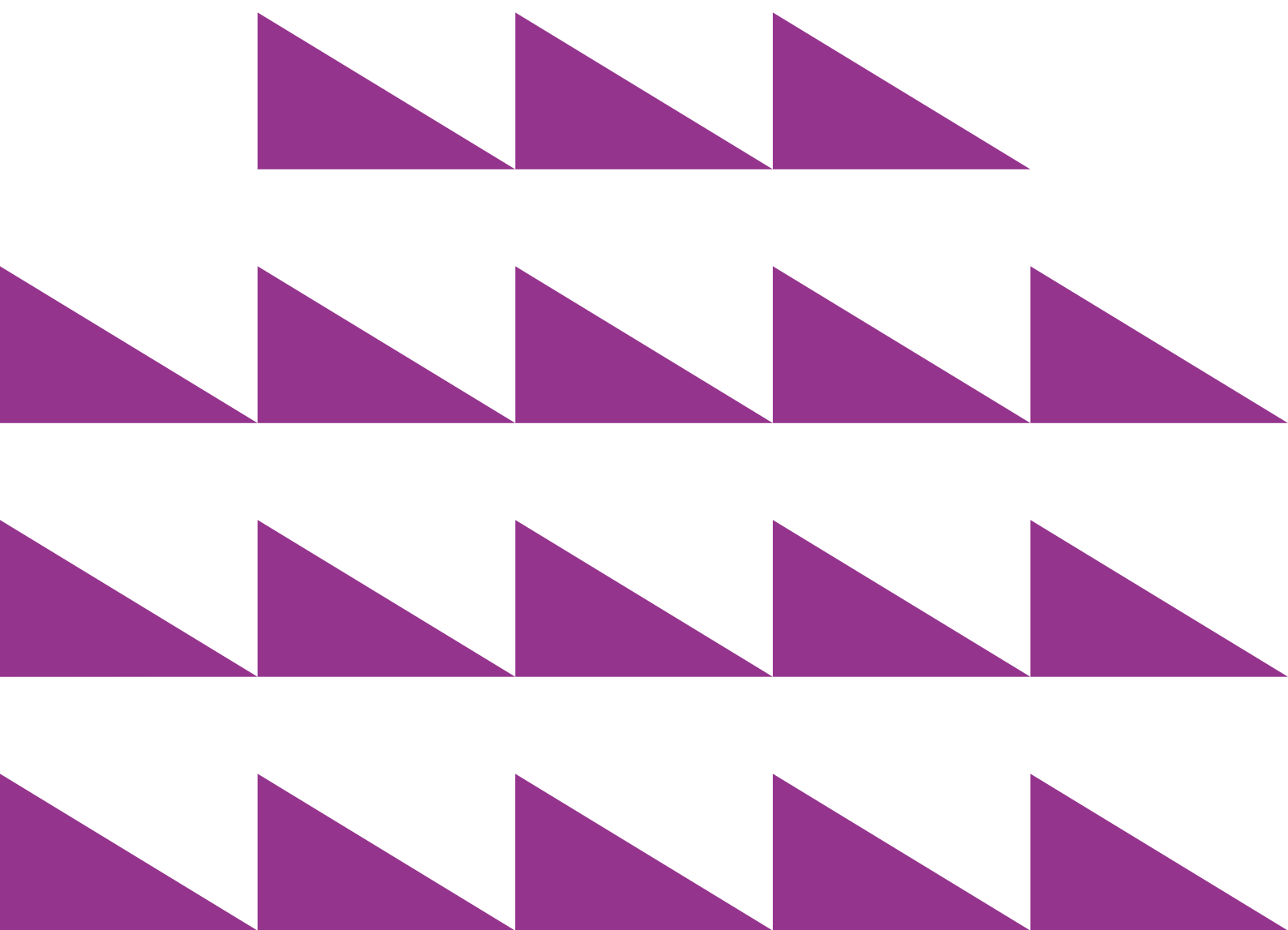


Special report on corrections

IBAC Operations Rous, Caparra, Nisidia and Molara

June 2021



Authorised and published by the
Independent Broad-based Anti-corruption Commission,
Level 1, 459 Collins Street, Melbourne

June 2021

If you need this information in an accessible format,
please telephone 1300 735 135 or email
communications@ibac.vic.gov.au. This document
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***Ordered to be published by the Victorian Government
Printer [PP 236, Session 2018–21]***

ISBN 978-1-922349-16-3 (print)
ISBN 978-1-922349-15-6 (online)

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Letter of transmittal

To

The Honourable President of the Legislative Council

and

The Honourable Speaker of the Legislative Assembly

In accordance with section 162(1) of the *Independent Broad-based Anti-corruption Commission Act 2011* (IBAC Act) I present IBAC's report on its investigations into allegations of corrupt conduct in corrections: Operations Rous, Caparra, Nisidia and Molara.

IBAC's findings and recommendations are contained in the report.



Yours sincerely

The Honourable Robert Redlich AM, QC
Commissioner

List of abbreviations

Term	Explanation/expanded abbreviation
AWO	Aboriginal Welfare Officer
Bangkok Rules	United Nations Rules for the Treatment of Women Prisoners and Offenders
BWC	Body-worn camera
CCS	Community Correctional Services
Centurion	Centurion Intelligence System
CVIU	Corrections Victoria Intelligence Unit
CVOD	Corrections Victoria Operations Directorate
DJR	Department of Justice and Regulation
DJSC	Department of Justice and Community Services
DPFC	Dame Phyllis Frost Centre
GEO	GEO Group Australia Pty Ltd
IBAC	Independent Broad-based Anti-corruption Commission
IBAC Act	<i>Independent Broad-based Anti-corruption Commission Act 2011</i>
JARO	Justice Assurance and Review Office
Nelson Mandela Rules	United Nations Standard Minimum Rules for the Treatment of Prisoners
NPM	National Preventative Mechanism
NSW ICAC	New South Wales Independent Commission Against Corruption
OPCAT	Convention Against Torture and associated Optional Protocol
OVIC	Office of the Victorian Information Commissioner
PBT	Preliminary breath test
PID	Public Interest Disclosure
PIMS	Prisoner Information Management System
Queensland CCC	Queensland Crime and Corruption Commission
SDO	Service Delivery Outcomes
TOG	Tactical Operations Group
UN	United Nations
VAGO	Victorian Auditor-General's Office
VO	Victorian Ombudsman
VPS	Victorian Public Service
VPSC	Victorian Public Sector Commission
Western Australian CCC	Western Australian Corruption and Crime Commission

1 Summary of investigations and key findings

1 Summary of investigations and key findings

1.1 Introduction

Currently more than 7000 people are held in custody in Victoria's publicly and privately managed prisons,¹ overseen by Corrections Victoria, a business unit of the Department of Justice and Community Safety (DJCS). Many of these prisoners struggle with complex issues including mental health conditions, drug addiction and a history of trauma.²

Corrections Victoria's primary purpose is to manage these prisoners and the corrections system in a way that keeps the Victorian community safe.³ Corrections Victoria is also responsible for the health and safety of prisoners and staff, prisoner rehabilitation to reduce reoffending, the building of a sustainable system, and delivering value for money for the Victorian community.⁴

This work is occurring in a challenging environment. Victoria's prison population grew by almost 80 per cent from 30 June 2010 to 30 June 2019, although the prison population decreased in the 12 months to 30 June 2020 due to impacts associated with the COVID-19 pandemic.⁵ To manage this growth, Victoria has increased the number and average size of prisons,⁶ recruited more corrections officers, and increased reliance on privately managed prisons.⁷

These factors, coupled with the unique nature of prison environments, mean that the corrections sector faces significant corruption risks. These risks include excessive use of force, smuggling of contraband, inappropriate relationships and issues associated with the performance reporting of privately managed prisons.

In 2017, the Independent Broad-based Anti-corruption Commission (IBAC) issued a research report on corruption risks associated with the corrections sector.⁸ Since that report, IBAC has completed a number of investigations into allegations of corrupt conduct in corrections. This special report focuses on four of those investigations – Operations Rous, Caparra, Nisidia and Molarra. However, IBAC considers that the corruption vulnerabilities and the conduct of concern highlighted in these investigations exist more broadly within the corrections sector.

These concerns are shared by the Victorian Ombudsman (VO). Consequently, IBAC and the VO are planning to collaborate on further work to prevent misconduct and corruption within corrections. This ongoing work is critical to ensure the corrections sector strengthens its policies, systems and practices to improve corruption detection, reporting and prevention.

The term 'corrections staff' is used in this report to refer to all custodial officers and other corrections staff, such as property officers and welfare staff.

¹ Corrections Victoria 2021, *Corrections statistics: quick reference*, <www.corrections.vic.gov.au/prisons/corrections-statistics-quick-reference>; DJCS 2020, *Annual Report 2019/20*, p 130.

² VAGO 2018, *Safety and cost effectiveness of private prisons*, p 7; DJCS 2019, *Women in the Victorian prison system*, pp 10-12; DJR 2015, *Corrections Victoria Strategic Plan 2015-2018: Delivering effective correctional services for a safe community*, p 3. This complexity includes prisoners with mental health conditions, drug addiction, victims of family violence, physical and/or intellectual disability.

³ Corrections Jobs, *Our role in the community*, <www.correctionsjobs.vic.gov.au/about-us/working-with-us/our-role-in-the-community>.

⁴ DJR 2015, *Corrections Victoria Strategic Plan 2015-2018: Delivering effective correctional services for a safe community*.

⁵ Corrections Victoria 2020, *Annual statistical profile 2009-10 to 2019-20*, <www.corrections.vic.gov.au/annual-prisoner-statistical-profile-2009-10-to-2019-20>; DJCS 2020, *Annual report 2019/20*, p 130.

⁶ Monash University 2019, *Victoria's prison system: rising costs and population, little accountability*, <lens.monash.edu/@politics-society/2019/06/28/1375605/victorias-prison-system-rising-costs-and-population-little-accountability>.

⁷ Monash University 2019, *Victoria's prison system: rising costs and population, little accountability*, <lens.monash.edu/@politics-society/2019/06/28/1375605/victorias-prison-system-rising-costs-and-population-little-accountability>; VAGO 2018, *Safety and cost effectiveness of private prisons*, pp 7-8.

⁸ IBAC 2017, *Corruption risks associated with the corrections sector*.

1.2 IBAC's investigations

IBAC performs an important role in exposing, investigating and preventing corruption across the public sector, including the corrections sector. Since becoming fully operational in 2013, IBAC has undertaken a number of investigations in relation to alleged corruption in corrections settings. This report focuses on four investigations – Operations Rous, Caparra, Nisidia and Molara – outlining the corruption issues involved, factors that may contribute to these issues recurring, and ways to reduce corruption risks. Where relevant, the report discusses other investigations and inquiries conducted by IBAC and other integrity agencies. Based on our analysis of complaints and notifications, along with other investigations and inquiries, the investigations detailed in this report provide important case studies of serious and systemic corruption risks facing the corrections sector in Victoria.

The common goal of IBAC and the Victorian Ombudsman (VO) is to protect the integrity of the Victorian public sector. IBAC is responsible for identifying, exposing and preventing corrupt conduct across the public sector. This includes receiving and investigating complaints about serious and systemic corrupt conduct in the corrections sector. The VO investigates the actions, decisions and conduct of public sector organisations and their staff in relation to maladministration. This includes looking at whether a public sector organisation has acted in accordance with the *Charter of Human Rights and Responsibilities Act 2006*. The VO is the primary complaint avenue for prisoners and also investigates protected disclosures referred to it by IBAC.

1.2.1 Operation Rous

In December 2017, IBAC commenced Operation Rous, which investigated allegations of assault by corrections staff at Port Phillip Prison against several prisoners, as well as incidents of threatening comments and abusive language. Port Phillip Prison is a maximum security facility in Melbourne's west, privately managed by G4S Australia Pty Ltd (G4S). The allegations related to three different prisoners – Prisoner A, Prisoner B and Prisoner C.

As a result of its investigation, IBAC found the alleged assaults of Prisoner A and Prisoner B to be substantiated, however the available evidence was not sufficient to pursue criminal prosecution. IBAC was unable to substantiate the allegations relating to Prisoner C.

1.2.2 Operation Caparra

In April 2018, IBAC commenced Operation Caparra, an investigation into allegations concerning a property officer at the Melbourne Assessment Prison, a maximum security remand and reception prison located in West Melbourne. It was alleged that the property officer had failed to disclose associations with current and former prisoners in Victorian correctional facilities and had misused Corrections Victoria databases on multiple occasions to access information about people known to her.

IBAC substantiated these allegations and identified a number of corruption vulnerabilities associated with Corrections Victoria's practices and procedures related to:

- pre-employment probity checks
- declarable associations and conflicts of interest
- access to information
- record-keeping.

1 Summary of investigations and key findings

1.2.3 Operation Nisidia

In April 2017, IBAC commenced Operation Nisidia, which investigated allegations of corrupt conduct by an Aboriginal Welfare Officer (AWO), Lyndon Turvey, who worked at the Loddon Prison Precinct (Loddon Prison), a publicly managed, medium-security prison near Castlemaine, central Victoria.

It was alleged that Mr Turvey had:

- arranged the introduction of contraband (tobacco) into Loddon Prison and sold it to prisoners
- provided prisoners with access to and use of his work mobile telephone
- taken artwork created by a prisoner out of the prison to sell and received a portion of the proceeds of sale.

IBAC did not substantiate the allegations related to use of Mr Turvey's work mobile phone or regarding sale of a prisoner's artwork. However, IBAC did substantiate the allegation related to trafficking contraband and also found that Mr Turvey had unlawfully received bribes from family members of prisoners.

Mr Turvey resigned from Corrections Victoria in February 2018. In June 2018, IBAC charged Mr Turvey with one count of bribery and one count of misconduct in public office. Mr Turvey pleaded guilty to the offences and was sentenced to 15 months' imprisonment with a non-parole period of seven months.⁹ In May 2020, his sentence was reduced on appeal to 13 months' imprisonment with a non-parole period of five months.¹⁰

1.2.4 Operation Molarra

IBAC commenced Operation Molarra in September 2017 to investigate allegations that Tracie Badcock, a corrections officer at Dhurringile Prison – a publicly managed, minimum-security prison near Murchison – had engaged in corrupt conduct.

IBAC substantiated a number of allegations against Ms Badcock – namely that she had corruptly received cash payments from associates of Dhurringile prisoners to smuggle tobacco into the prison and had maintained improper relationships with prisoners and their associates.

Ms Badcock resigned from Corrections Victorian in March 2018. In September 2018, IBAC charged Ms Badcock who pleaded guilty to one count of misconduct in public office and one consolidated count of bribery. In March 2019, Ms Badcock was sentenced to six months' imprisonment with a 12-month corrections order.¹¹

⁹ *Bendigo Advertiser*, 19 June 2019, 'Former Loddon Prison worker Lyndon Turvey jailed for bribery and misconduct', viewed 14 April 2021, <www.bendigoadvertiser.com.au/story/6226290/corrupt-former-prison-worker-jailed-over-contraband-scheme/>.

¹⁰ *Turvey v IBAC* (County Court of Victoria, Lawson J, 21 May 2020).

¹¹ *Riverine Herald*, 26 March 2019, 'Corrupt Dhurringile prison officer sentenced to six months behind bars', viewed 4 April 2021, <www.riverineherald.com.au/2019/03/26/507105/corrupt-dhurringile-prison-officer-sentenced-to-six-months-behind-bars>.

1.3 Key corruption risks and issues

Operations Rous, Caparra, Nisidia and Molara, and other IBAC investigations, highlight systemic corruption risks in the corrections sector. These risks are not unique to Victoria and have been the subject of review by corrections bodies and integrity agencies both nationally and internationally.

1.3.1 Excessive use of force

While corrections officers are permitted to use a reasonable amount of force against prisoners when it is necessary to do so, misuse of this authority is a corruption risk, given the power dynamic that exists between prison staff and prisoners, and the closed nature of prison environments.¹²

In Operation Rous, IBAC found that certain corrections officers at Port Phillip Prison had used excessive force against two prisoners, one of whom has an intellectual disability. The investigation highlighted a culture of excessive use of force among Tactical Operations Group (TOG) officers,¹³ evidence of masking behaviours seeking to cover up wrongdoing by work mates, and limited staff awareness of human rights.

1.3.2 Inappropriate strip searching practices

The law in Victoria allows prisoners to be strip searched when there is a belief based on reasonable grounds that the search is necessary for the security or good order of the prison, or the safety or welfare of any prisoner, or that the prisoner being searched is hiding something that may pose a risk.¹⁴ However, corrections officers conducting strip searches must comply with regulations and guidelines governing how strip searches are to be conducted. They must also comply with human rights obligations.¹⁵

In Operation Rous, IBAC found that certain corrections officers at Port Phillip Prison had used inappropriate strip searching techniques and had a poor understanding of the human rights considerations relevant to strip searching.

1.3.3 Issues with internal investigations and reporting

Strong incident reporting and oversight cultures are essential to ensuring that wrongdoing is uncovered and appropriate action is taken. Timely and effective investigations are an important deterrent, but identifying and responding to wrongdoing is much more difficult when incident investigations and reporting are deficient and there is deliberate collusion and cover-up by staff.

In Operation Rous, IBAC found that certain corrections staff at Port Phillip Prison failed to follow procedures related to internal investigations and reporting on use of force incidents. They failed to provide prisoners with a genuine opportunity to tell their account, and submitted incomplete incident reports that failed to draw on all the evidence and critically examine the incidents.

It is critical that corrections officers understand the importance of reporting misconduct and corruption, that appropriately trained corrections staff undertake internal investigation of allegations, and there are appropriate checks in place to ensure reporting and oversight expectations are upheld.

¹² Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 12; Also see Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', pp 9-10; Also see Naylor B, Debeljak J and Mackay A 2015, 'A strategic framework for implementing human rights in closed environments', *Monash Law Review*, vol. 41(1), pp 218-270.

¹³ TOG officers respond to emergency situations at Port Phillip Prison. They receive specific training in, among other things, use of force and restraints, cell extractions, riot formations, use of firearms and escort techniques. TOG officers are mobilised for a range of purposes including, but not limited to, cell extractions, after-hours and high-profile escorts, prison security searches, administration of chemical agents and responding to general disturbances at the prison.

¹⁴ *Corrections Act 1986* (Vic) s 45; *Corrections Regulations 2019*, r 87, previously *Corrections Regulations 2009*, r 69.

¹⁵ *Corrections Regulations 2019*, r 86, previously *Corrections Regulations 2009*, r 69; *Commissioner's Requirement 1.2.3 - Strip searches in prisons: Charter of Human Rights and Responsibilities Act 2006* (Vic), s 22 confers a right to humane treatment when deprived of liberty.

1 Summary of investigations and key findings

1.3.4 Interference with body-worn cameras and CCTV

CCTV has long been used in prisons to detect and prevent specific behaviours, such as self-harm, suicide and smuggling contraband.¹⁶ It generally contributes to prison safety and is useful in capturing evidence of serious incidents and corrupt behaviour, which can assist investigations.¹⁷

Body-worn cameras (BWCs) are used in prisons for similar reasons. They help maintain a secure environment for corrections staff and prisoners, and are a useful de-escalation tool during specific procedures such as cell extractions. Surveillance footage from CCTV and BWCs can also be used as a training tool for corrections staff.¹⁸ However, while these technologies can improve safety and increase transparency and accountability, they also present unique integrity challenges.

As a result of Operation Rous, IBAC found that during two critical incidents at Port Phillip Prison a number of corrections officers failed to comply with surveillance-related policy and guidelines, including by failing to activate their BWCs, failing to announce they were wearing a BWC and recording the incident, or by intentionally interfering with BWC recordings.

1.3.5 Conflicts of interest

A conflict of interest arises when a public officer's private interests conflict with their public duties and their responsibility to act in the public interest. The conflict creates a risk that the public officer cannot separate their decision-making from the influence of their private interest. For example, if a relative of a Corrections Victoria employee applies for a position at the prison where that employee works, the employee must be completely divorced from the recruitment process.

Some conflicts of interest are unique to the corrections context, such as the conflict that arises when corrections staff develop a friendship or intimate relationship with a prisoner or a prisoner's family members, friends or associates. Another form of conflict relevant to corrections, though not unique to the sector, arises from relationships between staff members.

As a result of Operation Caparra, IBAC found that a property officer at the Melbourne Assessment Prison failed to disclose associations with current and former prisoners of Victorian correctional facilities and accessed restricted information for 15 individuals known to her or her then partner. More generally, IBAC found that corrections staff at the Melbourne Assessment Prison had a poor understanding of their obligations around the declaration and management of conflicts of interest.

As a result of Operation Molar, IBAC found that Ms Badcock, a former corrections officer at Dhurringile Prison, had failed to take reasonable steps to avoid conflicts of interest and that her declarable associations notifications were incomplete. More generally, IBAC found that a number of corrections officers and supervisors at Dhurringile Prison had a poor understanding of the requirements around declarable associations and conflicts of interest.

¹⁶ Allard T, Wortley R and Stewart A 2006, 'The purposes of CCTV in prison', *Security Journal*, vol.19(1), 1-24, p 16.

¹⁷ Beales N and Marsh L 2016, 'On body cameras in prison', *Practice: The New Zealand Corrections Journal*, vol.4(1), <www.corrections.govt.nz/resources/newsletters_and_brochures/journal/volume_4_issue_1_august_2016/on_body_cameras_in_prison>; Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 39.

¹⁸ Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 39; Beales N and Marsh L 2016, 'On body cameras in prison', *Practice: The New Zealand Corrections Journal*, vol.4(1), <www.corrections.govt.nz/resources/newsletters_and_brochures/journal/volume_4_issue_1_august_2016/on_body_cameras_in_prison>.

1.3.6 Inappropriate relationships

Certain features of prison environments create a risk of inappropriate relationships developing.¹⁹ For instance, given the closed nature of the prison environment, corrections staff and prisoners tend to have frequent interactions over an extended period of time.

Inappropriate relationships may be cultivated by corrections staff or by prisoners and/or their associates, and can often be maintained through 'manipulation, intimidation, threats, coercion and cooperation.'²⁰

In Operations Nisidia and Molar, IBAC found that corrections staff at Loddon and Dhurringile Prisons engaged in inappropriate relationships with prisoners, their family members and associates, and trafficked contraband into the prison for prisoners' use.

1.3.7 Trafficking contraband

Prison environments create strong incentives for prisoners to access prohibited items including alcohol, tobacco and mobile phones.²¹ Having access to contraband items may allow prisoners to influence the power dynamic in prisons and continue their illegal activities.²² Since there is high demand for contraband items in prison and supply is low,²³ prisoners can pay a premium for smuggled goods and corrupt corrections officers can make considerable profits for facilitating access to these items.

This risk has been heightened as a result of COVID-19-related restrictions on prison visitation. On 21 March 2020, Corrections Victoria suspended personal visits to all Victorian public and private prisons to reduce the risk of COVID-19 entering the prison system.²⁴ Suspension of personal visits at Victorian corrections facilities significantly reduced the opportunity to smuggle contraband into prisons. This increased the risk of prisoners seeking to manipulate corrections staff to smuggle contraband items into prison facilities. In-person personal visits resumed on 11 December 2020, were suspended again on 1 January 2021, then recommenced on 6 March 2021. Issues related to grooming and manipulation of corrections staff by prisoners are discussed in more detail at 4.6.1.

In Operations Nisidia and Molar, IBAC found corrections staff at Loddon and Dhurringile Prisons corruptly received cash payments to smuggle tobacco into the facilities. Security measures at each facility did not prevent Mr Turvey or Ms Badcock from bringing contraband into the facilities over an extended period despite multiple credible intelligence reports indicating they were doing so.

¹⁹ Also see Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 3.

²⁰ Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 11.

²¹ McCarthy B 2020, 'Prison corruption' in Braswell M, McCarthy BR and McCarthy BJ, *Justice, crime and ethics*, 10th edn, Routledge, Ch 15.

²² Ellison A et al 2018, 'The demand for and use of illicit phones in prison', *Ministry of Justice Analytical Series - HM Prison and Probation Service*, pp 1-63, 3. For instance, prisoners with access to contraband mobile devices can run illegal operations from prison and intimidate witnesses.

²³ This is especially pronounced when it comes to illicit drugs, as there is a large number of drug users in prison. Indeed, numerous studies show 'high incarceration rates among problematic drug users': Penington Institute 2017, 'Doing time: Drug use in Australian prisons', *Anex Bulletin*, vol.4(1), <penington.org.au/wp-content/uploads/2017/01/bulletin_vol4_1.pdf>. Also see Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 7.

²⁴ Corrections Victoria 2021, *Our response to coronavirus (COVID-19)*, <www.corrections.vic.gov.au/covid19>.

1 Summary of investigations and key findings

1.3.8 Misuse of information

Unauthorised access to and disclosure of information consistently arises in investigations of corruption across Australia. It is a key issue for public sector agencies in Victoria, particularly Corrections Victoria which holds personal, sensitive and security classified information. Corrections staff might access restricted information inadvertently, out of curiosity, with the aim of benefitting financially or for some other malevolent purpose.²⁵ Unauthorised access to and release of prisoners' confidential information can have serious consequences for safety and security, and can enable other corrupt conduct.

In Operation Caparra, IBAC found a property officer at the Melbourne Assessment Prison accessed restricted information on numerous occasions, outside the scope of her official duties. Despite completing training on the use of the Prisoner Information Management System (PIMS) and the E-Justice system,²⁶ the property officer said she believed she was allowed to search for information on any individual provided she did not release the information unlawfully. More generally, IBAC found that record-keeping in relation to use of the PIMS and E-Justice system was inadequate.

1.4 Opportunities to strengthen prevention and detection

The four investigations highlighted in this report, and other investigations conducted by IBAC, have identified opportunities for DJCS and Corrections Victoria to strengthen the ways they prevent and detect corrupt conduct.

These opportunities include addressing issues related to workplace culture, ensuring thorough recruitment and vetting procedures, and providing comprehensive training and guidance to staff, identifying and addressing risks associated with staff use of illicit substances and drugs of dependence, and ensuring IBAC is promptly notified of suspected corrupt conduct as required by section 57 the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic) (IBAC Act).

²⁵ Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', pp 12-13.

²⁶ *E-Justice* is a case management system, mainly used by Corrections Victoria's Community Corrections Officers for offenders on community-based orders. It contains case information for each offender and is used by staff to upload notes, documents and manage past and future reporting; PIMS is a reporting system used by all prison staff. It contains information related to offenders within Victorian adult prisons. Information on PIMS includes, but is not limited to, prisoners' personal details, sentence calculation, incident reports, visitor information, parole information and meeting notes.

1.4.1 Drug testing of corrections staff

Illicit drug use by corrections staff is a driver of corrupt conduct. It can make staff more susceptible to manipulation by offenders and their family members, friends and associates, and signal a willingness to engage in corrupt conduct. In addition, there are health and safety implications for staff using drugs as well as their colleagues. As noted in *Commissioner's Requirement 1.4.8 – Conduct and ethics*, illicit drug use by corrections staff can 'seriously compromise [staff] effectiveness in the correctional environment'.

IBAC's Operation Ettrick found that several corrections officers at Port Phillip Prison were using illicit drugs. Following this investigation, in 2016 IBAC highlighted that there was no regime in Victoria's publicly managed prisons for drug testing of corrections staff. In 2020, DJCS advised it has established a project team to work towards introducing a drug-testing regime in Victoria's public prisons. The regime will initially include random testing of staff in high-risk roles and targeted testing for general duties corrections officers. Both public and private prisons in Victoria conduct drug testing when custodial staff commence employment. While private prisons can also conduct further testing, DJCS understands that this is not a regular occurrence.

The action DJCS is taking to establish a more comprehensive drug testing regime of corrections officers aligns with the approach taken in a number of other Australian jurisdictions. New South Wales, Western Australia and the Northern Territory have regimes that include randomised testing, targeted testing and testing after critical incidents for officers. In addition, work to introduce drug testing of corrections officers is underway in South Australia and Queensland.

1.4.2 Mandatory notifications

In December 2016, section 57(1) of the IBAC Act came into effect. This section provides that the relevant principal officer of a public sector body must notify IBAC if they suspect, on reasonable grounds, that corrupt conduct has occurred or is occurring.

Despite this requirement, IBAC was not notified in a timely manner about suspected corrupt conduct on the part of Mr Turvey (Operation Nisidia) or Ms Badcock (Operation Molara).

Failing to promptly notify IBAC can allow corrupt conduct to continue over an extended period and can adversely affect IBAC investigations, particularly if the suspect is confronted about the allegations by prison management.

1 Summary of investigations and key findings

1.5 Conclusions

IBAC's Operations Rous, Caparra, Nisidia and Molarra highlight a range of corruption risks and vulnerabilities in Victoria's corrections sector. This report discusses various ways that the sector can strengthen its policies, systems and practices to mitigate these corruption risks.

In particular, there is a need for a clear and enforceable requirement that corrections staff report suspected corrupt conduct. Workplace cultures must actively encourage reporting and must support those who do report. When an allegation is made, internal investigations must be rigorous, impartial, honest and transparent. DJCS and Corrections Victoria must play a pivotal role in developing such a culture.

The risks highlighted in this report are not unique to Victoria and have been raised in reports from interstate anti-corruption commissions and other integrity agencies.²⁷ This report draws on work conducted across Australia and the strategies that have been recommended across multiple jurisdictions to address risks and strengthen integrity in corrections.

In addition to highlighting corruption vulnerabilities, this report also highlights certain features of corrections settings that affect these risks. Corrections staff work in a unique environment, which is to a large extent closed off from public scrutiny. They work with people who are dealing with a range of complex issues, including trauma, addiction and mental illness, as well as people who are highly practised at manipulating and grooming others to engage in criminal conduct.

Corrections staff should be supported through sufficient training, guidance and supervision to carry out their duties. IBAC welcomes the opportunity to collaborate with DJCS and Corrections Victoria to support further development of their integrity training.

²⁷ See, for example, Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*; Western Australia CCC 2018, *Report into inadequate use of force reporting at Eastern Goldfields regional prison in May 2017*; VO 2017, *Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre*.

1.6 Recommendations

Following Operations Rous, Caparra, Nisidia and Molará, IBAC made a number of recommendations to DJCS and Corrections Victoria pursuant to section 159 of the IBAC Act.

In addition, IBAC makes the following recommendations:

Recommendation 1

That the Department of Justice and Community Safety and Corrections Victoria review and strengthen training, policies, systems and practices to address the corruption vulnerabilities identified in this report, including by ensuring:

- a. regular training is provided in relation to grooming behaviours to equip staff to identify and resist attempts to form inappropriate relationships with prisoners as well as prisoners' family members, friends and associates
- b. physical and technical security vulnerabilities that can allow corrupt conduct (including the smuggling of contraband) to continue undetected are addressed, including corrections officers failing to activate their body-worn cameras or interfering with body-worn camera recordings
- c. staff vetting is thorough and involves both an initial assessment and regular reviews so new risks are identified as they arise
- d. IBAC is provided with six-monthly progress reports on the development and implementation of the new drug testing regime to be rolled out in Victoria's publicly managed prisons
- e. information systems are fully auditable and relevant staff are properly equipped to conduct regular and widespread database audits of employees' system access to deter inappropriate access to and misuse of information

- f. obligations to identify, report and manage conflicts of interest and declarable associations are understood, and supervisors and senior officers understand their obligations to implement and monitor management plans
- g. the risk of Service Delivery Outcomes data manipulation associated with privately managed prisons is reassessed and appropriate mitigation strategies put in place
- h. the new Integrity Strategy being developed by DJCS addresses the corrections-related corruption vulnerabilities identified in this report
- i. corrections employees in Victorian prisons with responsibility for conducting internal investigations during or immediately after a prisoner-related incident are appropriately trained and supported.

Recommendation 2

That the Victorian Government amend section 22 of the *Corrections Act 1986* (Vic) to introduce a statutory obligation on corrections officers to report to the prison governor or to IBAC if they have a reasonable belief that another officer has engaged in corrupt conduct, and that an appropriate penalty for failing to comply with section 22 be imposed.

Recommendation 3

That the Department of Justice and Community Safety and Corrections Victoria take action to embed a culture of integrity across the corrections system, including ensuring staff across all Victorian prisons understand the importance of reporting suspected corrupt conduct and how they will be supported and protected if they do so.

IBAC notes that DJCS has already commenced work to address vulnerabilities identified in this special report, including work to strengthen Corrections Victoria's workplace culture and safety, inclusion and integrity within the Victorian custodial corrections system.

2 Context

2 Context

2.1 The corrections system in Victoria

2.1.1 Victoria's adult prisons

Corrections Victoria manages 11 public prisons and one transition centre,²⁸ and oversees the state's three privately managed prisons.²⁹ In addition to these facilities, a new maximum-security men's prison is being built at Chisholm Road near Barwon Prison and other facilities, such as Ravenhall Correctional Centre in Melbourne's west, are undergoing expansion.³⁰

This expansion is necessary to accommodate Victoria's growing prison population, which steadily increased from 4537 prisoners in June 2010 to more than 8000 prisoners in 2019.³¹ One factor contributing to the growth of Victoria's prison population has been the increase in denial of bail applications following legislative amendments in 2018.³²

Other factors include the introduction of mandatory sentences,³³ the abolition of suspended sentences,³⁴ and changes to parole laws.³⁵ The Victorian Government committed \$1.8 billion over four years in its 2019/20 budget for capital spending on prison infrastructure to provide 1600 additional beds.³⁶

As a result of the expansion in correctional facilities, Victoria's corrections workforce has grown. The sector has undertaken high-volume recruitment over the past five years as highlighted in the following table.

²⁸ Victoria has one transition centre. The Judy Lazarus Transition Centre is a minimum security facility that provides a 'supervised pathway back into society for selected prisoners nearing the end of their sentence'. Corrections Victoria 2021, *Judy Lazarus Transition Centre*, <www.corrections.vic.gov.au/prisons/judy-lazarus-transition-centre>.

²⁹ Corrections Victoria 2021, *Prisons: List of prisons in Victoria*, <www.corrections.vic.gov.au/prisons>. DJR 2015, *Corrections Victoria - Strategic Plan 2015-18: Delivering effective correctional services for a safe community*, p 5. Corrections Victoria runs the publicly managed prisons and oversees the privately managed prisons.

³⁰ DJCS 2019, *Annual report 2018/19*, p 115; *Corrections Victoria 2020, Corrections budget for 2019/20 released*, <www.corrections.vic.gov.au/corrections-budget-for-2019-20-released>; Engage Victoria 2020, *Chisholm Road prison project*, <engage.vic.gov.au/chisholmroadprison>. DJCS aim to have the Chisholm Road prison operational by 2022.

³¹ Sentencing Advisory Council 2021, *Victoria's prison population*, <www.sentencingcouncil.vic.gov.au/statistics/sentencing-trends/victoria-prison-population>. Corrections Victoria 2021, *Annual prisoner statistical profile 2009-10 to 2019-20*, Table 1.3, <www.corrections.vic.gov.au/annual-prisoner-statistical-profile-2009-10-to-2019-20>. DJCS 2019, *Annual Report 2018/19*, p 116.

³² McMahon M 2019, 'No bail, more jail? - Breaking the nexus between community protection and escalating pre-trial detention', *Parliamentary Research Paper No 3*, p 2.

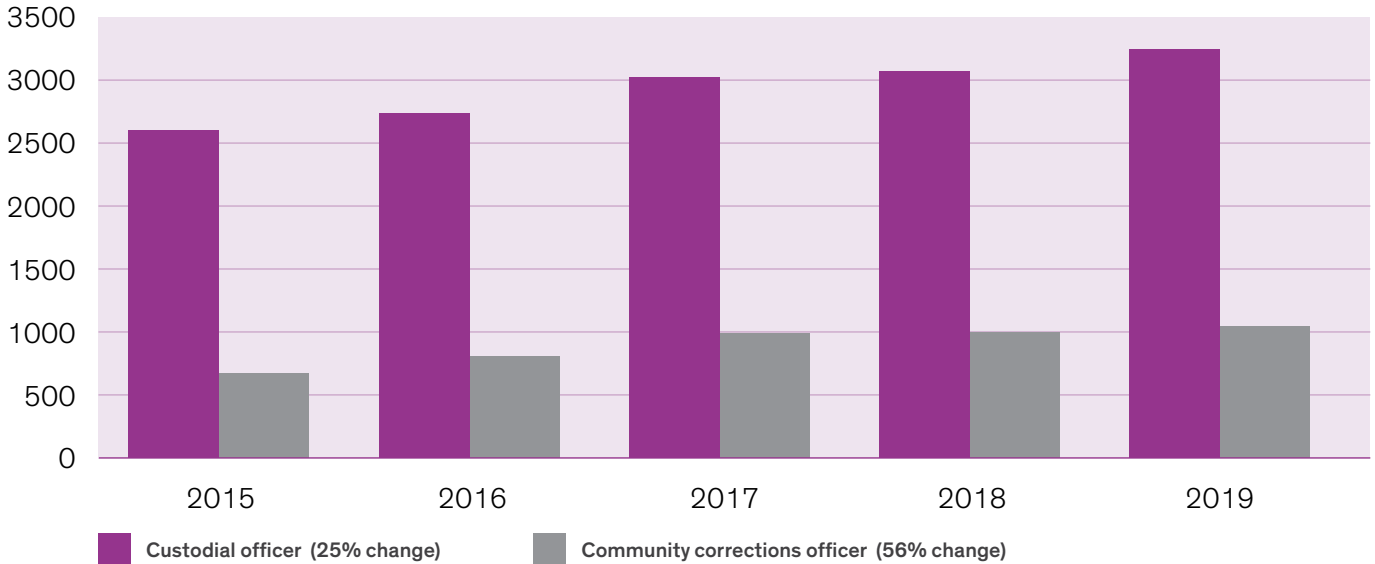
³³ Sentencing Advisory Council 2020, *Imprisonment*, <www.sentencingcouncil.vic.gov.au/about-sentencing/imprisonment>.

³⁴ Sentencing Advisory Council 2014, *Phasing out of suspended sentences complete from today*, <www.sentencingcouncil.vic.gov.au/news-media/news/phasing-out-suspended-sentences-complete-today>.

³⁵ Ford C 2013, 'Parole up for review', *Law Institute Journal*, vol. 87(8), p 28; DJCS 2019, *Annual Report 2018/19*, p 22.

³⁶ Premier of Victoria 2019, *A stronger prison system to keep people safe*, Media Release, 24 May 2019, <www.premier.vic.gov.au/a-stronger-prison-system-to-keep-people-safe-0>. *The Age*, 27 June 2019, 'Prisons are booming as Victoria pays for its "tough on crime" stance', viewed 20 April 2021, <www.theage.com.au/national/victoria/prisons-are-booming-as-victoria-pays-for-its-tough-on-crime-stance-20190627-p5220f.html>. By way of comparison, in its 2016/17 state budget, the New South Wales government provided \$3.8 billion funding to create an addition 7000 prison beds over four years, see *The Sydney Morning Herald*, 16 June 2016, 'NSW Budget 2016: \$3.8 billion for new jail capacity to cover surge in prison population', viewed 20 April 2021, <www.smh.com.au/national/nsw/nsw-budget-2016-38-billion-for-new-jail-capacity-to-cover-surge-in-prison-population-20160616-gpkhd5.html>.

FIGURE 1: FULL-TIME EQUIVALENT STAFF EMPLOYED AS CUSTODIAL OR COMMUNITY CORRECTIONS OFFICERS AS AT 30 JUNE EACH YEAR:³⁷



Rapid workforce expansion presents challenges in attracting suitable applicants, thoroughly vetting applicants and establishing strong integrity cultures. Section 5.2.2 discusses corruption risks associated with recruitment and vetting practices.

During the COVID-19 pandemic, however, Victoria experienced a significant decline in its prison population, particularly in its women’s prisons. Between the end of February 2020 and the end of June 2020, the overall prison population in Victoria fell by almost 13 per cent, while the number of women in Victorian prisons dropped 22.6 per cent to 404 prisoners.³⁸ The overall prison population in Victoria in June 2020 was 7151. One factor contributing to this decline was judges’ consideration of COVID-19 related health risks associated with incarceration when making bail decisions.

In addition to increasing prisoner numbers prior to the COVID-19 pandemic, other challenging aspects of Victoria’s corrections system include:

- a tripling of the remand population since June 2013³⁹
- greater numbers of female prisoners in prison⁴⁰
- the complexity of the prison population, including victims of family violence as well as prisoners with disability, mental illness and/or drug addiction⁴¹
- significant reliance on privately managed prisons – over 40 per cent of Victoria’s prisoners are held in private facilities.⁴²

³⁷ VPSC, *State of the public service reports, 2014/15 to 2018/19*.

³⁸ ABC News, 9 August 2020, ‘Coronavirus triggers drop in prisoner numbers and an opportunity to reinvent the criminal justice system, lawyers say’, viewed 20 April 2021, <www.abc.net.au/news/2020-08-09/remarkable-declines-prisoner-numbers-coronavirus-pandemic/12533218>.

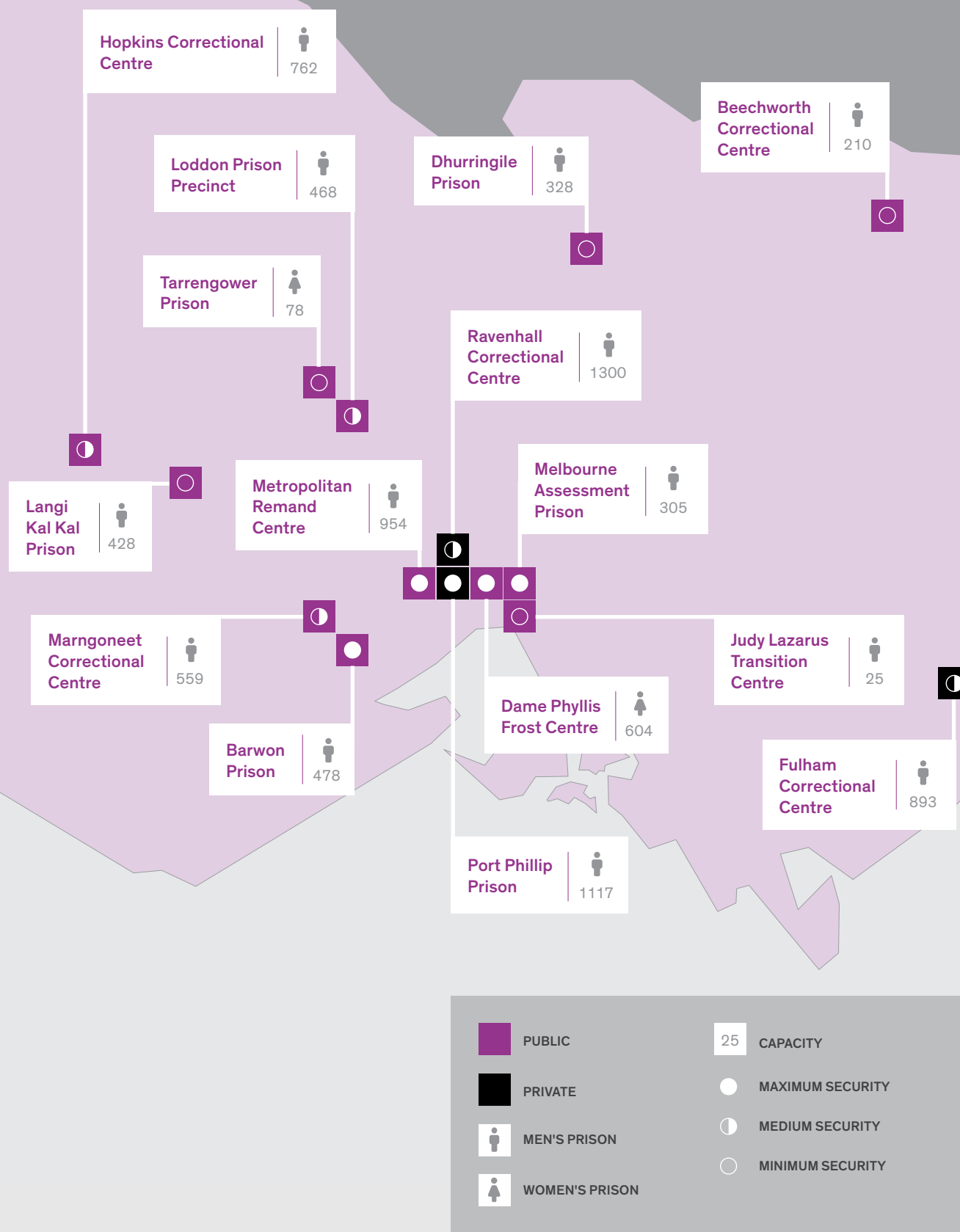
³⁹ VAGO 2020, *Ravenhall prison: Rehabilitating and reintegrating prisoners*, p 15; DJCS 2019, *Annual Report 2018/19*, p 116; DJR 2015, *Corrections Victoria Strategic Plan 2015-2018: Delivering effective correctional services for a safe community*, p 3; DJCS 2019, *Women in the Victorian prison system*, pp 3-4.

⁴⁰ DJCS 2019, *Women in the Victorian prison system*, pp 3-7. The number of women in prison in Victoria increased from 340 women on 30 June 2012 to 507 on 30 June 2017 (an increase of 49 per cent). Further, ‘[b]etween 2012 and 2017, the number of women entering prison on remand increased by 155 per cent, from 525 to 1,341’.

⁴¹ Monash University 2019, *Victoria’s prison system: rising costs and population, little accountability*, <lens.monash.edu/@politics-society/2019/06/28/1375605/victorias-prison-system-rising-costs-and-population-little-accountability>. Approximately 40 per cent of Victoria’s prisoners are in privately managed facilities and Victoria has the largest proportion of privately managed prisoners in Australia; VAGO 2018, *Safety and cost effectiveness of private prisons*, p 7; DJCS 2019, *Women in the Victorian prison system*, pp 10-12; DJR 2015, *Corrections Victoria Strategic Plan 2015-2018: Delivering effective correctional services for a safe community*, p 3.

⁴² Monash University 2019, *Victoria’s prison system: rising costs and population, little accountability*, <lens.monash.edu/@politics-society/2019/06/28/1375605/victorias-prison-system-rising-costs-and-population-little-accountability>; VAGO 2018, *Safety and cost effectiveness of private prisons*, pp 7-8.

FIGURE 2: ADULT CORRECTIONAL FACILITIES IN VICTORIA:⁴³



⁴³ Corrections Victoria 2019, *Prisons*, <www.corrections.vic.gov.au/prisons>. As at 30 June 2019.

2.1.2 Youth justice and non-custodial corrections

In addition to the state's adult custodial services, DJCS has oversight of youth justice and community corrections in Victoria.⁴⁴

DJCS manages several youth justice facilities in Victoria, including Parkville and Malmsbury Youth Justice Custodial Precincts. Responsibility for youth justice in Victoria, including custodial services, transitioned to DJCS from the then Department of Health and Human Services in April 2017.⁴⁵

Community Correctional Services (CCS), a division of Corrections Victoria, has oversight of community corrections in Victoria.⁴⁶ CCS manages offenders on court orders, offenders on post-sentence supervision, and individuals on parole.⁴⁷

This report does not specifically consider youth justice or community corrections, given the different priorities and challenges presented by those areas, and the fact that the investigations highlighted by this report do not involve these sectors. However, IBAC notes that some of the corruption risks and prevention opportunities identified in this report may also apply to youth justice and community corrections, and warrant consideration by DJCS and Corrections Victoria.

2.1.3 The purpose and management of Victoria's corrections system

Corrections Victoria's primary purpose is to 'deliver a corrections system that keeps our community safe'.⁴⁸ It aims to do this by:

- building and managing a sustainable and adaptable corrections system
- managing risk and enhancing community safety, while upholding human rights
- reducing reoffending by rehabilitating offenders, providing case management and delivering programs that engage offenders in positive behavioural change.⁴⁹

To ensure a sustainable and adaptable corrections system, Corrections Victoria develops the policies and standards for the management of Victoria's corrections facilities. Its responsibilities include:⁵⁰

- ensuring the safe and secure operation of Victoria's corrections facilities
- responding to system pressures, risks and emergencies within the system
- developing and delivering a corrections strategy
- establishing service standards for the system and monitoring performance against those standards.

⁴⁴ Corrections Victoria 2020, *Community corrections*, <www.corrections.vic.gov.au/community-corrections>.

⁴⁵ Premier of Victoria 2017, *Building a stronger and more secure youth justice system*, Media Release, 6 February 2017, <www.premier.vic.gov.au/building-stronger-and-more-secure-youth-justice-system>.

⁴⁶ Corrections Victoria 2020, *Community corrections*, <www.corrections.vic.gov.au/community-corrections>.

⁴⁷ DJCS 2019, *Annual Report 2018/19*, p 117.

⁴⁸ Corrections Jobs, *Our role in the community*, <www.correctionsjobs.vic.gov.au/about-us/working-with-us/our-role-in-the-community>.

⁴⁹ Corrections Victoria 2019, *Discussion Paper: Corrections Regulations 2019*, p 5.

⁵⁰ Corrections Victoria 2021, *Corrections Victoria*, <www.corrections.vic.gov.au/corrections-victoria>. DJR 2015, *Corrections Victoria - Strategic Plan 2015-18: Delivering effective correctional services for a safe community*, p 5.

2 Context

MANAGEMENT STRUCTURE

The Commissioner for Corrections Victoria oversees corrections services across the state and is responsible, together with the Secretary DJCS, for assessing how well corrections services are achieving the 'safe custody and welfare of prisoners and offenders'.⁵¹

DJCS previously used a federated management approach to corrections. Under this approach, policy and coordination was centrally overseen by Corrections Victoria while each prison was managed by a General Manager who reported through their relevant DJCS regional director.

However, Corrections Victoria has been restructured, with prisons no longer reporting to regions in a federated model. This provides greater operational oversight of the prisons through three Corrections Victoria Assistant Commissioners. DJCS has also restructured its integrity and reviews function to better align with corruption and misconduct investigations, integrity culture and reportable conduct.

The Victorian Government has engaged two private corporations, G4S and the GEO Group Australia Pty Ltd (GEO), to manage three of the state's prisons. The contracts for these engagements outline how responsibilities and risks are allocated between the private provider and the state. Corrections Victoria measures the performance of private prisons against Service Delivery Outcomes (SDOs) related to a range of factors, including safety and security. The performance of private prisons is measured on a monthly basis and performance-related payments are calculated each quarter.⁵²

The contractual agreements with the state's private prisons give the Victorian Government the right to access the prisons to review, inspect, test and monitor services, and to examine and audit their accounts and records.

2.2 Legislation, regulations and guidelines

The corrections system in Victoria is regulated by a hierarchy of instruments including legislation and regulations, international conventions, codes of conduct, the Commissioner's Requirements and other operating protocols.

2.2.1 Legislation and regulations

The *Corrections Act 1986* (Vic) provides the statutory basis for Corrections Victoria's delivery of correctional services.⁵³ It outlines the broad framework for the regulation of corrections in the state. The *Corrections Regulations 2019* (Vic) prescribe requirements for specific matters including:

- the conduct of corrections officers
- management and security
- prisoner discipline
- prisoner searches
- seizure of property
- testing prisoners for use of alcohol and other drugs.

The *Public Administration Act 2004* (Vic) also imposes obligations on corrections staff, including the obligation to uphold the values of responsiveness, integrity, impartiality, accountability, respect, leadership and human rights.⁵⁴

The *Charter of Human Rights and Responsibilities Act 2006* (Vic) (the Charter) outlines the rights afforded to all people in Victoria, including specific rights for people who are deprived of liberty.⁵⁵ The Charter requires public authorities to act compatibly with the Charter rights and to properly consider human rights when developing policies, making decisions and delivering services.

⁵¹ *Corrections Act 1986* (Vic), ss 7(1), 8A(2).

⁵² VAGO 2018, *Safety and cost effectiveness of private prisons*, pp 8-9.

⁵³ Corrections Victoria 2019, *Discussion Paper: Corrections Regulations 2019*, p 5.

⁵⁴ *ibid*

⁵⁵ For example, section 22 of the Charter provides for the right to humane treatment when deprived of liberty.

2.2.2 International conventions and instruments

Australia is a party to several international conventions that are relevant to corrections in Australia, including the:

- International Covenant on Civil and Political Rights
- Convention Against Torture
- Optional Protocol to the Convention Against Torture
- Convention on the Rights of the Child.

The rights in these instruments apply to all individuals within a state party's territory and subject to its jurisdiction, including prisoners and other detainees. They guarantee a number of rights and freedoms that are especially relevant to corrections, such as:

- freedom from discrimination
- the inherent right to life
- freedom from torture or cruel, inhuman or degrading treatment or punishment
- the right for persons deprived of liberty to be treated with humanity and respect for their inherent dignity.

In addition to these conventions and protocols, the international instruments listed below provide specific rules for the treatment of prisoners. While non-binding, these instruments are nonetheless internationally accepted standards. They include:

- the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) – which provide specific instruction on prison procedures such as the use of restraints, solitary confinement and strip searches
- the United Nations Rules for the Treatment of Women Prisoners and Offenders (the Bangkok Rules) – which draw particular attention to the needs of women prisoners in relation to healthcare, personal hygiene, and safety and security.

⁵⁶ The United Nations General Assembly adopted the Nelson Mandela Rules in December 2015 and the Bangkok Rules in December 2010.

2 Context

2.2.3 Codes of conduct

The Victorian Public Service (VPS) Code of Conduct is binding on all VPS employees, including staff in Victoria's publicly and privately managed prisons.⁵⁷

The VPS Code of Conduct describes the sorts of behaviours that demonstrate the public sector values prescribed in the Public Administration Act. Breaches of the VPS Code of Conduct may lead to performance management and disciplinary processes.⁵⁸ Sections that are particularly relevant to corrections include:

- Section 3.2 which prohibits employees from using their powers for their own private benefit and requires powers to be exercised fairly and reasonably
- Section 3.7 which requires employees to avoid conflicts of interest wherever possible and to ensure their personal and financial interests do not influence and could not be seen as influencing their performance of their duties
- Section 8.3 which requires employees to act in a manner that is consistent with the Charter.

Supplementing the VPS Code of Conduct, the *Corrections Conduct and Ethics Policy* provides guidance for corrections staff on how to maintain professional boundaries, model appropriate behaviour, avoid inappropriate relationships and contribute to a safe and secure working environment. The policy acknowledges that 'the responsibility for the management, care and supervision, both direct and indirect, of prisoners and offenders imposes special responsibilities on employees'.

As well as being subject to the VPS Code of Conduct, corrections staff working in Victoria's privately managed prisons are also subject to their organisational Code of Conduct. For instance, employees at Port Phillip Prison are bound by the G4S Code of Conduct and Operational Instructions.

2.2.4 Guidelines, Commissioner's Requirements and Operating Protocols

The *Guiding Principles for Corrections* in Australia apply in all Australian jurisdictions and aim to support continuous improvement in corrections services across the nation.⁵⁹ Some of the key guiding principles relevant to reducing corruption risks include those related to governance, respect, safety and security.

Specific operational and management guidance for corrections facilities is available through:

- the Commissioner's Requirements, produced by the Commissioner for Corrections Victoria
- the *Victorian Correctional Management Standards for Men's Prisons*
- various Deputy Commissioner's Instructions (public prisons) and Operating Protocols (private prisons).

The Commissioner's Requirements apply to both public and privately managed prisons in Victoria and are promulgated on particular operational issues when specific instruction is required to ensure consistency in practice and service delivery. *Commissioner's Requirement 1.4.8 – Conduct and Ethics* – requires processes to be in place to ensure certain matters are reported, including correctional staff using illicit drugs or interacting with prisoners in a manner that blurs professional boundaries.⁶⁰

The *Management Standards for Men's Prisons* reflect the requirements of the Corrections Act and associated Corrections Regulations, and provide the framework against which Corrections Victoria monitors prison services. Some of the areas covered by the Management Standards include:

- use of force, tactical options, instruments of restraint and chemical agents
- disciplinary processes
- separation of prisoners
- incident reporting.

⁵⁷ VPSC 2015, *Code of conduct for Victorian public sector employees*, p 1. Corrections Victoria Commissioner 2019, *Commissioner's requirements: Conduct and ethics* 1.4.8, [2.1].

⁵⁸ VPSC 2015, *Code of conduct for Victorian public sector employees*, p 4.

⁵⁹ Australian Government Corrective Services Administrators' Council 2018, *Guiding principles for corrections in Australia*, p 4.

⁶⁰ Corrections Victoria Commissioner 2019, *Commissioner's requirements: Conduct and ethics* 1.4.8, [2.4].

2.3 Current status of integrity in Victoria's corrections sector

2.3.1 How DJCS monitors the performance of corrections and deals with integrity issues

Corrections Victoria is part of the Corrections and Justice Services Group of DJCS. When an integrity issue arises in a prison, including suspected corrupt conduct, it should be reported to prison management after which it is referred to the Integrity and Investigations team.

If a matter meets the threshold of suspected corrupt conduct, DJCS is required to notify IBAC pursuant to section 57(1) of IBAC Act. Other matters that do not meet this threshold may be reported to Victoria Police where appropriate.

Corrections Victoria business areas that play a key role in identifying and responding to integrity issues include the Corrections Victoria Intelligence Unit (CVIU) and the Corrections Victoria Operations Directorate (CVOD).

CVIU's functions include:

- receiving intelligence reports on activities in publicly and privately managed prisons, including reports on potentially corrupt conduct
- assessing information reports about staff conduct on the Centurion Intelligence System (Centurion)⁶¹
- performing probity checks on all corrections staff, including private prison staff, prior to employment or promotion
- conducting random and targeted audits of access to PIMS and Centurion to detect any inappropriate activity
- meeting regularly with IBAC and Victoria Police to discuss active investigations and intelligence probes, and to present intelligence regarding professional boundary matters.⁶²

CVOD's functions include:

- reviewing all allegations of assault by staff, in addition to such matters being reported to Victoria Police
- reviewing a random sample of use of force incidents each month and reporting the outcomes to the Commissioner.⁶³

⁶¹ This system is available to all staff who are encouraged to report matters in accordance with *Commissioner's Requirement 1.4.8 – Conduct and ethics*.

⁶² This alerts IBAC and Victoria Police early on and feeds into DJCS's mandatory notification reporting.

⁶³ The results of these reviews lead to referrals to a range of internal and external bodies where concerning conduct is identified and can also influence training and communication efforts.

2 Context

The Regulation, Legal and Integrity Group at DJCS has oversight and investigative responsibilities in relation to integrity issues, suspected corrupt conduct and misconduct, and includes the following business areas:

- Integrity and Investigations, which handles integrity and staff misconduct matters, including investigations, advice, education and policy.
- The Justice Assurance and Review Office (JARO), which advises the Secretary on ways to achieve higher performing, safer and more secure youth justice and adult corrections systems, providing information on areas of risk and opportunities to improve. JARO also coordinates Victoria's Independent Prison Visitor Scheme, which is discussed in more detail at section 5.1.2.⁶⁴

All DJCS Groups are also subject to the Department's corporate governance arrangements. The Corporate Governance and Support Group collaborates with the Integrity and Reviews area and is responsible for matters relating to finance and procurement, security management, risk, governance and technology solutions.

DJCS is in the process of developing a new Integrity Strategy, which will apply across the Department, including to Corrections Victoria and the Justice Services Group. Much of the work program to be detailed in the strategy has commenced, including training, communications, policy updates and annual processes around the declaration of private interests and gifts, benefits and hospitality. The updated strategy will also highlight new integrity risks that have become relevant as a result of staff working remotely during the COVID-19 pandemic.

2.3.2 Complaints about corruption in the corrections sector

Complaints about prisons in Victoria can be made to a number of bodies including Corrections Victoria, the VO and IBAC.⁶⁵ The VO takes complaints related to a range of issues including, but not limited to, access to medical treatment, visitation, facilities, lost or damaged property, harassment, drug testing and assaults by officers.⁶⁶

Any individual, including any prisoner, can make a complaint to IBAC about suspected corrupt conduct in the corrections system. This includes complaints about privately managed prisons as well as public prisons.⁶⁷

Additionally, the Secretary of DJCS must notify IBAC of any suspected corrupt conduct related to corrections. Under section 57A of the IBAC Act, heads of departments (and other relevant principal officers) must notify IBAC of any matter where they suspect on reasonable grounds that corrupt conduct has occurred or is occurring.⁶⁸

⁶⁴ The scheme involves Independent Prison Visitors, appointed by the Minister for Corrections, visiting prisons, speaking to prisoners and staff, and providing independent advice on the operation of Victoria's correctional facilities.

⁶⁵ Corrections Victoria 2019, *Making a complaint*, <www.corrections.vic.gov.au/making-a-complaint>.

⁶⁶ Victorian Ombudsman 2021, *Prisons*, <www.ombudsman.vic.gov.au/complaints/prisoner-complaints/>.

⁶⁷ IBAC Act, ss 51, 54.

⁶⁸ IBAC 2020, *Mandatory notifications*, <www.ibac.vic.gov.au/reporting-corruption/notifications>.

'Corrupt conduct' is defined in section 4 of the IBAC Act and includes, among other things, conduct of a public officer or public body that:

- involves dishonest performance of their functions
- constitutes or involves knowingly or recklessly breaching public trust
- involves misuse of information or work-related material.

When a complaint or notification is received, IBAC assesses the allegations and may:

- investigate
- refer the matter to another agency, such as the VO or Victoria Police
- refer or return the matter to DJCS for investigation or further assessment
- dismiss the matter or take no further action.

In Victoria, protections are available under the *Public Interest Disclosures Act 2012* (Vic) to people who make a disclosure of information that shows, or that the discloser reasonably believes shows, improper conduct or detrimental action by a public officer or public body. If a disclosure is assessed as being in the public interest, the following protections are available:

- the discloser's name will not be published
- the discloser and their family, friends and colleagues will be protected from being fired or bullied for making a complaint
- the discloser will receive protection from defamation and detrimental action in reprisal for making a public interest disclosure
- the discloser will receive immunity from:
 - civil or criminal liability as well as administrative action (including disciplinary action) for making the disclosure
 - committing an offence under the *Constitution Act 1975* (Vic) or any other Act that imposes obligations of confidentiality or otherwise restricts the disclosure of information
 - breaching any other obligation (made by oath or rule of law or practice) requiring the maintenance of confidentiality or otherwise restricting the disclosure of information.

IBAC receives 'complaints' from the public and 'notifications' from public sector agencies about alleged corruption and police misconduct. A complaint or notification may include multiple allegations, which are assessed individually. This report includes allegations data received by IBAC to illustrate some key points. IBAC notes there are limitations with the use of allegations data, including:

- allegations are unsubstantiated at the time of receipt
- allegations can be incomplete, lack detail, from an anonymous source or may not individually name the subject of the allegation
- allegation data is not a comprehensive or reliable indicator of the actual prevalence of particular activities, or the risk mitigation practices and compliance activities already in place.

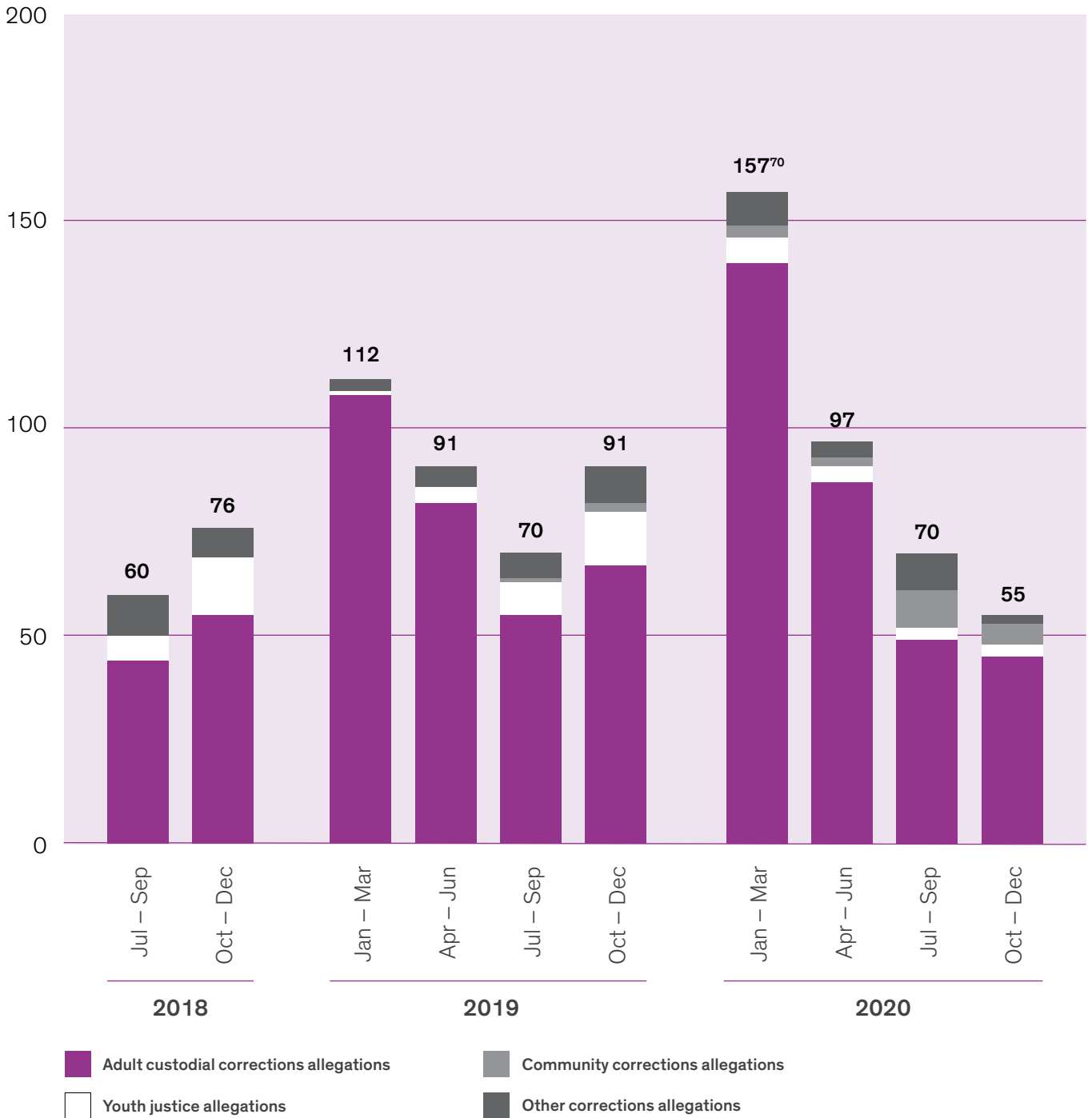
Despite these limitations, analysing allegations can help to identify trends or patterns and provide practical examples of these trends. For further information on how IBAC assesses allegations, please visit www.ibac.vic.gov.au/reporting-corruption/what-happens-to-your-complaint.

2 Context

2.3.3 Data on corruption allegations in Victoria’s corrections sector

From 1 July 2018 to 31 December 2020, IBAC received 879 allegations in relation to the corrections sector, as outlined in the graph below. These 879 allegations account for almost 14 per cent of the 6494 public sector allegations⁶⁹ IBAC assessed over this period.

FIGURE 3: CORRUPTION ALLEGATIONS IN VICTORIA’S CORRECTIONS SECTOR FROM JULY 2018 TO DECEMBER 2020



⁶⁹ This figure excludes allegations about Victoria Police.

⁷⁰ Forty-eight of these allegations were part of a series of related allegations linked to the Melbourne Remand Centre and received by IBAC in February 2020.

In late 2018, IBAC raised concerns with DJCS regarding the timeliness and appropriateness of how the it notified IBAC of suspected corruption in the corrections sector. Since that time, IBAC has identified an increase in the number of notifications received from DJCS. Mandatory notifications received from DJCS are discussed in more detail in section 5.3 of this report.

Inaction, use of force and breaches of professional boundaries (such as bullying, discrimination and inappropriate relationships) were the subject of most of the allegations assessed by IBAC. The table below outlines the number of allegations received between 1 July 2018 and 31 December 2020 according to behaviour type.

TABLE 1: NUMBER OF ALLEGATIONS RECEIVED BETWEEN 1 JULY 2018 AND 31 DECEMBER 2020 ACCORDING TO BEHAVIOUR TYPE

Behaviour type	Allegations Jul-Dec 2018	Allegations Jan-Dec 2019	Allegations Jan-Dec 2020	Total allegations
Inaction	42	77	91	210
Use of force	17	85	84	186
Breach of professional boundaries ⁷¹	33	54	43	130
Misuse of resources	10	34	41	85
Obstruction of justice	13	36	13	62
Favouritism	5	7	29	41
Trafficking or smuggling contraband	4	23	10	37
Theft	1	10	22	33
Collusion	3	8	12	23
Sexual harassment or offences	1	11	9	21
Fraud	1	2	15	18
Criminal associations	2	6	3	11
Use of drugs	2	5	2	9
Extortion	0	4	1	5
Bribery and inducements	2	2	1	5
Other	0	0	3	3
Total	136	364	379	879

Many of these issues are interrelated – for example, breaches of professional boundaries, such as inappropriate relationships between corrections staff and prisoners, may be linked to the trafficking or smuggling of contraband into prisons. The relationships between some of these corruption and misconduct behaviours are explored further in section 4 of this report.

⁷¹ Including bullying, discrimination and inappropriate relationships.

3 Operations Rous, Caparra, Nisidia and Molara

3 Operations Rous, Caparra, Nisidia and Molarra

In Operations Rous, Caparra, Nisidia and Molarra, IBAC used a broad range of powers and capabilities under the IBAC Act, the *Telecommunications (Interception and Access) Act 1979* (Cth) and the *Crime (Controlled Operations) Act 2004* (Vic). This included summonses, search warrants, telecommunications intercepts, physical surveillance, witness interviews, financial analyses, open source social media analysis, private examinations and criminal interviews. The extent to which these powers were used varied between the four investigations.

3.1 Operation Rous

In November 2017, the then Department of Justice and Regulation (DJR) notified IBAC of a number of allegations against corrections officers employed at Port Phillip Prison – a maximum-security prison in Melbourne’s west, privately managed by G4S.

The notification related to the alleged assaults of Prisoner A and Prisoner B by Port Phillip Prison officers in late 2017. A further allegation, initially reported to the VO in September 2017, was investigated as part of the operation, as it also involved an alleged assault of another prisoner (Prisoner C) by Port Phillip Prison corrections staff.

3.1.1 IBAC’s investigation and key findings

Operation Rous commenced in December 2017. During its investigation, IBAC conducted interviews and reviewed CCTV and BWC footage, along with other material.

After the investigation commenced, IBAC received further allegations of assaults by unidentified corrections officers against Prisoner C and incidents of threatening comments and abusive language by TOG officers.

As result of its investigation, IBAC found the alleged assaults of Prisoner A and Prisoner B to be substantiated, however the available evidence was not sufficient to lay criminal charges.

The alleged assault of Prisoner C was not substantiated.

3.1.2 Use of force incidents

PRISONER A

On 24 September 2017, two male corrections officers attended Prisoner A's cell and conducted a strip search within the sight of a female officer, contrary to policy. While routine strip searches take about one minute, this search took over seven minutes, during which time the prisoner protested that he was being degraded.

When Prisoner A was ordered to turn around, he raised his arms in apparent non-violent protest at which point the officer who had been directing the strip search grabbed his arm and forced him to the floor. Once Prisoner A was restrained on the ground, two additional male officers entered the cell. At this point Prisoner A says he was punched and kicked in the head, stood on and had a knee dropped onto his back.

BWC footage shows the body movements and noises of one of the additional officers, Officer 1, were consistent with the application of excessive force. Officer 1 appeared to strike the prisoner with his hand or fist, while the prisoner could be heard saying, 'What are you punching me in the head for?' After the incident, Prisoner A had visible swelling to his right eyebrow, among other injuries.

PRISONER B

On 4 October 2017, Prisoner B, a prisoner with an intellectual disability, assaulted a corrections officer without provocation. Several other officers, including Officer 2, responded to an emergency radio call. As Officer 2 arrived, Prisoner B's hands were being cuffed behind his back. Officer 2 forcibly grabbed the prisoner's head, pushed it down and delivered up to four knee strikes to the prisoner's torso.

Prisoner B was then taken to the ground and restrained. CCTV footage shows Officer 2 delivering hand strikes to the prisoner's head region. Once Prisoner B was secured, Officer 2 and his colleagues lifted him to his feet and escorted him to a unit elsewhere in the facility. Throughout the escort, Prisoner B was bent forward at the waist with his hands cuffed and his arms forced high up his back, a position Officer 2 stated was used to prevent the prisoner from spitting at others.

3 Operations Rous, Caparra, Nisidia and Molara

IBAC found:

- The force used against Prisoners A and B, was excessive and inconsistent with Port Phillip Prison policy, which requires officers to use the minimum amount of force necessary to achieve control.
- The manner in which Prisoners A and B were strip searched contravened Port Phillip Prison policy, which requires prisoners to be treated with dignity when strip searched and for any female officers present to position themselves so they cannot see the prisoner.
- The strip searches of Prisoners A and B were inconsistent with section 22(1) of the Charter, which upholds the right of those deprived of liberty to be treated with humanity and respect for their inherent human dignity.
- The physical treatment of Prisoner B breached section 10(b) of the Charter, which prohibits the use of cruel, inhuman or degrading treatment.

3.1.3 Interference with body-worn cameras and CCTV

During the incidents involving Prisoners A and B, a number of TOG officers failed to activate their BWCs, despite the incidents being announced at the time as critical incidents. According to Port Phillip Prison policy, BWCs must be activated during critical incidents. Further, those officers who did activate their BWCs failed to announce this fact as required.

During the Prisoner A incident, one officer appeared to intentionally mislead those who might view the BWC footage by yelling 'Stop resisting' and 'Don't bite him'. Prisoner A can be heard saying 'I'm not resisting' in response. Another officer in the Prisoner A incident appeared to intentionally interfere with the recording by covering his BWC lens and coughing when force was applied to the prisoner. This officer's BWC also ceased to operate for 16 seconds.

In addition to the interference with BWCs, during the incident involving Prisoner B, the CCTV camera was briefly directed away from the scene while Officer 2 struck the prisoner.

IBAC found:

- It is probable that two officers intentionally failed to operate their BWCs to avoid capturing evidence.
- It is probable that two other TOG officers intentionally interfered with the audio and/or video recording of their BWCs in an attempt to mislead potential viewers of the footage.

3.1.4 Internal investigations and reporting

Immediately after the incident involving Prisoner A, he was interviewed by the supervisor on duty and the Operations Manager. Such interviews are standard practice – according to Port Phillip Prison’s Operational Instructions, following a minor incident the supervisor must conduct an investigation and must interview any prisoners involved.⁷² However, contrary to policy, during the interview with Prisoner A, two TOG officers involved in the incident were present, which meant Prisoner A did not have a genuine opportunity to provide his version of the events.

Further, many of the reports produced by corrections staff following the incidents involving Prisoners A and B were incomplete or failed to give a full account of events. CCTV and BWC footage of the Prisoner A incident is not fully consistent with the version of events described by the TOG officers, however the Supervisor Incident Report summarised the events as described by the TOG officers involved. Supervisor Incident Reports must be submitted to ensure management is aware of all serious incidents, and appropriate follow-up and incident investigation occurs. The purpose of these reports is to help improve prison security and management.

Following the Prisoner B incident, the supervisor directly involved was made responsible for submitting the Supervisor Incident Report, contrary to the prison’s policy. Further, the Supervisor Incident Reports produced following the incidents failed to draw on all relevant evidence (including BWC footage) or critically examine the incidents.

3.1.5 Port Phillip Prison’s initial response

G4S initially responded to the incidents in a number of ways:

- Disciplinary action was taken against several officers involved in the incidents for breaches of the G4S Code of Conduct.
- Officer 1 was removed from TOG duties for six months and later permanently removed. He was also directed to undergo refresher training in strip searching. Two other officers involved in the Prisoner A incident were temporarily removed from TOG duties.
- Officer 2 was suspended from all duties for a period of time and permanently removed from TOG duties.
- No officers were disciplined in relation to their use of BWCs, as the prison’s General Manager had received reports that the BWCs were unreliable and difficult to activate. Those BWCs were in the process of being replaced with a more reliable version.
- A direction was issued that when the control room broadcasts a response event, it should be accompanied with the message ‘activate body-worn cameras’.
- Supervisors were directed to review all CCTV and BWC footage following every use of force incident.
- Policy changes were implemented to address a perceived culture of excessive use of force by TOG officers, requiring officers to be rotated out of the TOG every three months.
- A new Post Incident Review form was introduced to provide additional structure and detail following reportable incidents.

Corrections Victoria also fined G4S \$200,000 for serious professional misconduct, which is a breach of contractual requirements. These fines were reduced to \$75,000 for each incident after G4S successfully argued the incidents constituted ‘isolated’ rather than ‘serious’ professional misconduct.

⁷² Port Phillip Prison 2017, *Operational instruction 69 - The prisoner disciplinary process*.

3 Operations Rous, Caparra, Nisidia and Molara

3.1.6 The Department's response

In January 2019, following Operation Rous, IBAC wrote to DJCS highlighting issues related to human rights, training and education, and the use of BWCs and CCTV. DJCS has since responded by advising IBAC that:

- The Commissioner's Requirements and Deputy Commissioner's Instructions have been reviewed against the Charter and are being updated as required.
- In collaboration with the Victorian Equal Opportunity and Human Rights Commission (VEOHRC), a Charter education program has been delivered to DJCS agencies, including Corrections Victoria.
- Human rights training was also delivered at Port Phillip Prison.
- Corrections Victoria has updated its human rights leaflet to include an example of excessive force.
- Requirements in relation to the use of BWCs and CCTV are set out in the *Commissioner's Requirements 1.4.7 – Body worn cameras* (updated December 2017) and *1.4.2 – Surveillance, taping protocols and retention periods* (updated February 2018).⁷³ Further updates to these Commissioner's Requirements were issued in 2020.

3.2 Operation Caparra

In April 2018, IBAC commenced an investigation into allegations concerning a property officer at the Melbourne Assessment Prison – a maximum security remand and reception prison located in West Melbourne. It was alleged the property officer failed to disclose her associations with current and former prisoners in Victorian correctional facilities, and misused Corrections Victoria databases multiple times to access information about people known to her.

The Justice Property Team at the Melbourne Assessment Prison is responsible for processing all personal property for incoming and outgoing prisoners as well as money received on behalf of prisoners. The team uses the E-Justice platform to record transactions of personal property. The PIMS database is used to record money paid to prisoners, check visitor lists, verify visitor identification information and review incoming and outgoing prisoner movements.

⁷³ Prior to 2018, requirements regarding surveillance, taping and retention were available in *Deputy Commissioner's Instruction 1.24 – Surveillance, CCTV taping protocols and retention periods*.

3.2.1 IBAC's investigation and key findings

During Operation Caparra, IBAC adopted a range of investigation strategies including:

- interviewing management from the Melbourne Assessment Prison
- interviewing the property officer under investigation
- analysing the property officer's social media profiles
- auditing the property officer's use of Corrections Victoria information systems.

As a result of this investigation, IBAC found the property officer had failed to declare associations with current and former prisoners as well as connections to criminal organisations when she commenced work at the prison in December 2017. IBAC also found the property officer had misused Corrections Victoria's computer systems, including the PIMS and E-Justice systems, on multiple occasions between December 2017 and February 2018, by accessing restricted information outside the scope of her official duties. The property officer was suspended from duty on 6 March 2018. DJCS undertook an investigation into the property officer's conduct and her employment was terminated on 15 November 2018.

3.2.2 Failure to declare associations

DJCS's *Declarable Associations Guideline and Associated Policy* requires employees to assess their personal associations and determine whether any are 'declarable associations', giving due consideration to factors such as whether the personal association is compatible with their role and whether it may adversely affect the reputation of and public confidence in DJCS. In addition, *Commissioner's Requirement 1.4.8 – Conduct and Ethics* requires Corrections Victoria employees to, among other things:

- disclose to management any relationships with staff members or other persons that could lead to a conflict of interest
- report to management any improper contact or associations with prisoners and/or ex-prisoners and offenders, including contact initiated by prisoners or offenders, even if it is rebuffed or not reciprocated
- maintain professional boundaries between corrections officers and prisoners and offenders (including their visitors and families) and avoid any real or perceived conflicts of interest.

When the property officer commenced work at the prison, her then partner was part of a group of individuals suspected of criminal activity, including property and drug trafficking offences. In addition, a former partner of the property officer had faced criminal charges while they were in a relationship and had contacted the property officer from a Victorian prison in late 2016. These associations were not reported to Corrections Victoria as required.

3 Operations Rous, Caparra, Nisidia and Molara

3.2.3 Misuse of information systems

New staff in the Justice Property Team are provided two weeks of direct supervision during which they receive instruction on how to use PIMS and E-Justice. During this training, new starters are advised that staff are not permitted to look up people they know on these systems, such as family and friends.

The property officer was granted access to PIMS in mid-December 2017, and to E-Justice around a month later. IBAC found the property officer accessed restricted information for 15 individuals known to her or her then partner on numerous occasions between December 2017 and February 2018. This access was not authorised and was outside the scope of her official duties.

When questioned by IBAC, the property officer said she believed she was allowed to look up information on PIMS or E-Justice for any person, including friends and family, as long as she did not release the information. However, this was contrary to the training she had received, which clearly advised that staff are not permitted to view people they know, such as family and friends, in the Corrections Victoria information systems.

3.2.4 Recruitment and vetting

The role of property officer is an entry level VPS position that does not require any formal qualifications. Successful applicants are subject to a:

- pre-employment security check
- National Police Record and Fingerprints Check
- International Police Clearance
- VicRoads Information Check.

When the property officer applied for her position, the standard pre-employment security check involved the applicant's name and date of birth being checked against Corrections Victoria's systems. In this case, the security check did not uncover any criminal associations. This was despite a prisoner at a Victorian prison including the applicant on his visitor list and a former prisoner nominating the applicant as his emergency contact/next of kin. These connections with prisoners were not detected because neither associate had listed the applicant's full legal name. If the checks conducted had included the applicant's residential address and mobile phone number, these associations would have been identified and Corrections Victoria would have been in a position to properly assess whether it was appropriate to employ her.

Property officers with an ongoing role must also apply for a staff identification pass, referred to as a 'White Pass', which permits unescorted access to areas within the prison relevant to their role. The application involves submitting a Victoria Police Consent to Check and Release Criminal Record. The pass is only issued upon satisfactory completion of these checks. The application also includes a questionnaire, which asks a number of questions including:

- Are you currently visiting, or have you ever visited, anyone in prison or a correctional facility in Australia? (Includes remand and juvenile detention)
- Do you know and/or associate with anyone who is currently in prison or who has been in prison or a correctional facility in Australia? (Includes remand and juvenile detention)

The property officer answered 'no' to all questions on the questionnaire and signed a declaration that her responses were true and accurate. However, after commencing work it was discovered that the property officer did have connections to current and former prisoners of Victorian correctional facilities, and that someone in her immediate family had a criminal record. These associations were only discovered when further searches were conducted by intelligence analysts at the Melbourne Assessment Prison.

3.2.5 DJCS's response

In February 2019, following Operation Caparra, IBAC advised DJCS of systemic corruption risks and made recommendations related to employee probity checks, access to and auditability of Corrections Victoria's information systems, and staff education related to conflicts of interest. In November 2020, in response to Operation Caparra, DJCS advised IBAC that it had conducted an internal investigation of the property officer's conduct and subsequently terminated her employment. DJCS also advised that:

- It intends to implement the recommendation of the Victorian Auditor-General's Office (VAGO) to update recruitment and employment screening policies and procedures to clearly state that candidates who are existing employees should be subject to risk-based employment screening.⁷⁴
- It has commenced a review of its *Security Screening Guidelines and Related Policy*, including a review of policies and processes around the periodic probity screening of staff.
- Corrections Victoria is currently updating the Commissioner's Requirement on disclosure of prisoner/offender information, which provides guidance on appropriate disclosure and handling of confidential information, including how to deal with various enquiries regarding information about prisoners or offenders.

⁷⁴ See recommendations from VAGO 2020, *Personnel security: Due diligence over public sector employees*. <www.audit.vic.gov.au/sites/default/files/2020-05/20200521-Personnel-Security-report_0.pdf>

3 Operations Rous, Caparra, Nisidia and Molara

- While information system audits are currently conducted on an as needs basis, DJCS is considering the viability of implementing a proactive monitoring model, including targeted and random auditing of information systems for high-risk corrections roles.
- Work is underway to strengthen integrity training in pre-service training delivery. There will be a focus on conflicts of interest and other integrity risks, including misuse of information and undeclared associations.
- Integrity and Respect in the Workplace training is currently being delivered at Langi Kal Kal Prison, and work is underway to roll this out to all Victorian prisons, addressing issues such as conflicts of interests, declarable associations, gifts, benefits and hospitality, outside employment, and reporting of suspected improper or corrupt conduct.

In addition to the abovementioned training, and separate from its response to Operation Caparra, DJCS has also advised IBAC that in response to amendments to the *Public Interest Disclosures Act 2012 (Vic)* which commenced in January 2020, it has taken steps to inform staff of the changes, including by:

- publishing articles and videos on the DJCS intranet, promoting ways that staff can speak up about suspected corrupt conduct
- distributing ‘Speak up’ campaign posters to all public and private prisons in Victoria, outlining the importance of speaking up when something does not look right
- delivering Public Interest Disclosure (PID) Coordinator presentations to senior executive leadership groups and operational staff, with a particular focus on the corrections sector, to promote the PID regime and provide detail about recent legislative changes.

3.3 Operation Nisidia

In February 2017, the Department notified IBAC about allegations of corrupt conduct by Lyndon Turvey, an AWO at Loddon Prison – a medium-security prison in Castlemaine, central Victoria.

It was alleged that Mr Turvey had:

- arranged the introduction of contraband (tobacco) into Loddon Prison and sold it to prisoners
- provided prisoners with access to and use of his work mobile telephone
- taken artwork created by a prisoner out of the prison to sell and received a portion of the money from the sale of the painting.

3.3.1 IBAC’s investigation and key findings

IBAC commenced Operation Nisidia on 27 March 2017 to investigate allegations against Mr Turvey.

During Operation Nisidia, IBAC adopted a range of investigation strategies, including:

- an analysis of open source social media
- a review of summonsed financial records
- execution of a search warrant on Mr Turvey’s home
- an interview with Loddon Prison’s General Manager.

IBAC did not substantiate allegations that Mr Turvey had provided prisoners access to his work mobile telephone, or that he had taken and sold a prisoner’s artwork.

However, IBAC did substantiate allegations that Mr Turvey had trafficked contraband and unlawfully received bribes from family members of prisoners from Loddon Prison. The evidence against Mr Turvey was sufficient to charge him with bribery and misconduct in public office.

As a result of IBAC’s investigation, Mr Turvey was suspended from his position. However, after Mr Turvey wrote to DJCS on 22 February 2018 indicating that he did not wish to respond to its request to discuss his suspension, he was treated as having resigned from his position.

3.3.2 Trafficking contraband

In December 2014, Mr Turvey commenced employment as an AWO at Loddon Prison to provide culturally sensitive welfare, advocacy and support to Aboriginal prisoners.

On 1 July 2015, changes were made to the Corrections Act to prohibit the possession and use of tobacco products and tobacco smoking accessories in Victoria's prisons. This contributed to significant growth in the black market for tobacco.

From January 2016, Corrections Victoria received information from various sources that Mr Turvey was illegally introducing tobacco products, including pouches of tobacco, into Loddon Prison in return for payment from prisoners. However, Corrections Victoria failed to adequately respond to these reports.

IBAC found that arrangements had been put in place between Mr Turvey and several prisoners, their family members and associates to traffic tobacco and related products. Mr Turvey would contact prisoners' family members via telephone or in person to obtain cash or contraband from them. He would also buy cigarettes, tobacco, papers and lighters, and leave them in specific locations for others to collect and smuggle into the prison.

A search of Mr Turvey's home uncovered various items, including Australia Post money order receipts, notes addressed to Mr Turvey indicating that money orders had been posted to him, empty cartons of cigarette papers, receipts for the purchase of cigarette papers and tobacco, and contact details of prisoners and their family members.

IBAC found that between 23 January 2017 and 30 June 2017, money orders totalling \$12,900 were paid to Mr Turvey. These money orders were cashed at various locations. Mr Turvey would often bank a portion of the money and take the remainder as cash. Overall, IBAC found that between 19 January 2016 and 10 July 2017, approximately \$27,000 in untraced cash had been deposited into Mr Turvey's bank accounts.

Loddon Prison's General Manager advised IBAC that the prison was a medium-security facility with various means of detecting contraband, including basic searches of visitors, x-ray screening and drug sniffer-dogs. The General Manager noted that prison staff are sometimes subjected to x-ray wand searches of their body or to x-ray searches of their bags, but they are not physically searched in a more invasive manner.

Despite intelligence reports indicating that Mr Turvey was introducing contraband to the prison, he was able to continue to circumvent Loddon Prison's security measures over an extended period, strongly indicating the security measures were ineffective.

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3.3.3 Inappropriate access to information

IBAC's investigation identified that Mr Turvey had had contact with a woman who was the former partner of a prisoner. The woman had told Mr Turvey that she had experienced difficulty trying to visit her former partner in prison due to her sister assuming her name when apprehended by police in an unrelated matter.

IBAC found that Mr Turvey accessed the E-Justice system improperly to review details on the woman's sister in order to confirm whether she had given a false name. However, no other improper access was detected.

3.3.4 The role of the Aboriginal Welfare Officer

IBAC's investigation found that AWOs at Loddon Prison were subject to limited supervision and controls that could help detect or prevent misconduct or corruption. When questioned about Mr Turvey's role as an AWO, Loddon Prison's General Manager said:

- he did not believe the role was subject to any direct supervision
- AWOs had full access to all prisoners at Loddon Prison, not just Aboriginal prisoners
- he was unaware if the AWO completed diary notations, entries or formal recordings of contact with prisoners, although policy required interactions with prisoners to be recorded.

In 2017, an Aboriginal Wellbeing Officer Review of Corrections Victoria was undertaken by the Naalamba Ganbu and Nerrlinggu Yilam (Cultural Integrity and Resilience Unit)⁷⁵. The review found there was a lack of clarity in relation to the AWO role, as well as a lack of training, guidance and support.

3.3.5 Criminal proceedings

In June 2018, IBAC charged Mr Turvey with one count of bribery and one count of misconduct in public office. Mr Turvey pleaded guilty to the offences and in June 2019 was sentenced in the Bendigo Magistrates' Court to 15 months' imprisonment with a non-parole period of seven months. The Magistrate accepted that Mr Turvey was remorseful but noted the importance of deterrence when determining the appropriate sentence.⁷⁶ In May 2020, Mr Turvey's sentence was reduced to 13 months' imprisonment with a non-parole period of five months.⁷⁷

3.3.6 Mandatory notification delay

In December 2016, it became mandatory for relevant principal officers to notify IBAC of suspected corrupt conduct. In December 2016, Loddon Prison's General Manager spoke to Mr Turvey about the allegations against him, however Mr Turvey denied any involvement.

Between January 2016 and January 2017, 13 information reports⁷⁸ were submitted in relation to Mr Turvey's alleged activities. Despite this, DJCS did not notify IBAC of the suspected corrupt conduct until 13 February 2017. This delay, and the fact that the allegations were raised with Mr Turvey prior to IBAC being notified, significantly affected IBAC's investigation as Mr Turvey was able to adapt his behaviour to try and avoid detection.

⁷⁵ The Naalamba Ganbu and Nerrlinggu Yilam is the Cultural Integrity and Resilience Unit, which leads the design, development, implementation and monitoring of Corrections Victoria procedures, programs and services aimed at reducing the over-representation of Aboriginal people within the Victorian correctional system.

⁷⁶ *Bendigo Advertiser*, 19 June 2019, 'Former Loddon Prison worker Lyndon Turvey jailed for bribery and misconduct', viewed 14 April 2021, <www.bendigoadvertiser.com.au/story/6226290/corrupt-former-prison-worker-jailed-over-contraband-scheme/>.

⁷⁷ *Turvey v IBAC* (County Court of Victoria, Lawson J, 21 May 2020).

⁷⁸ An information report is an intelligence report created by the Corrections Victoria Intelligence Unit, which details information regarding suspected wrongdoing and/or perceived conduct issues of prisoners or staff. In relation to staff, information reports may detail alleged professional boundary breaches, such as inappropriate behaviour or comments, failure to follow procedure or serious misconduct. Information reports should include details, such as the time, location and persons involved in suspicious activity.

3.3.7 DJCS's response

In February 2019, following Operation Nisidia, IBAC advised DJCS of systemic issues related to the prevention and detection of employees introducing contraband into prison facilities, and governance and oversight of AWOs. In November 2020, in response to Operation Nisidia, DJCS advised IBAC that:

- Relevant policies, including various Commissioner's Requirements, had been reviewed and updated in response to Operation Nisidia.
 - DJCS has established a project team to develop a drug testing regime for corrections staff in Victoria's publicly managed prisons. The plan includes introducing random drug testing for high-risk roles and targeted testing for general duties staff.⁷⁹
 - All staff working at or visiting a Victorian prison routinely have their bags searched and are subject to physical searches or detection via handheld scanners, x-ray equipment or the use of Passive Alert Detection canines.
- CVIU conducted a review of the AWO role, which assessed that AWOs were vulnerable to professional boundary breaches. CVIU's review included recommendations to strengthen the governance, training and operation of AWO roles. Action taken in response has included:
 - reconfiguring the AWO position structure to report to an Operational Support Manager and reviewing the AWO and Aboriginal Liaison Officer position descriptions to improve consistency
 - developing an Aboriginal Support Officer recruitment process and induction/training program for prison locations
 - implementing the Aboriginal Workplace Cultural Wellbeing Program, pursuant to which Aboriginal staff in AWO roles engage in culturally safe debriefs, which may address burnout, trauma and cultural loads
 - increasing access to ongoing specialised training opportunities for AWOs outside their location (provided through the Naalamba Ganbu and Nerrlinggu Yilam) as well as continuing to provide Aboriginal staff network meetings and holding a quarterly conference that provides training, support and networking opportunities
 - facilitating Aboriginal community engagement with prisoners through a cultural visits program (Yawal Mugadjina) – Stage 2 engages Elders and Respected Persons to enter prisons and engage with Aboriginal prisoners.

⁷⁹ This was a response to IBAC's Operation Ettrick, however DJCS mentioned this in its response to Operation Nisidia, given its relevance to the investigation.

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3.4 Operation Molara

In May 2017, DJCS notified IBAC of alleged corrupt conduct involving Tracie Badcock, a corrections officer at Dhurringile Prison – a minimum-security prison, two hours north of Melbourne. IBAC commenced Operation Molara in September 2017, investigating allegations that Ms Badcock was trafficking tobacco and drugs of dependence, and maintaining inappropriate associations with prisoners and family members of prisoners.

3.4.1 IBAC's investigation and key findings

IBAC substantiated allegations that Ms Badcock corruptly received cash payments from associates of Dhurringile prisoners to traffic tobacco into the prison, and that she maintained improper relationships with prisoners and their associates in contravention of DJCS's *Declarable Associations Guideline and Associated Policy* and the VPS Code of Conduct. Ms Badcock was subsequently charged with a number of offences. She resigned from Corrections Victoria in March 2018.

3.4.2 Inappropriate relationships

Ms Badcock was found to have maintained numerous improper relationships with prisoners, former prisoners and their associates.

During a search of Ms Badcock's home, IBAC seized hand-written letters and notes describing her improper relationships with prisoners and their associates, and outlining details about the trafficking of contraband.

In July 2018, IBAC interviewed Ms Badcock under section 464 of the *Crimes Act 1958* (Vic). In this interview she admitted to maintaining improper relationships with prisoners and their associates contrary to Corrections Victoria policy.

IBAC found that between October 2017 and February 2018 Ms Badcock had wilfully engaged in wrongdoing when she sought an intimate relationship with a prisoner, supplied the prisoner with contraband at no cost and maintained improper relationships with several other prisoners and their associates.

3.4.3 Trafficking contraband

On 1 July 2015, shortly after Ms Badcock began working at Dhurringile Prison, the prohibition on the possession and use of tobacco products and smoking accessories took effect in Victoria's prisons.

IBAC found that Ms Badcock corruptly received cash and cardless cash payments⁸⁰ from associates of prisoners to traffic tobacco into Dhurringile Prison. Through one arrangement, prisoners' associates would deposit cash into a bank account managed by a prisoner's relative. The relative would send cardless cash to Ms Badcock to purchase drugs of dependence, tobacco and other contraband, which were then trafficked to the prisoner inside the prison. As noted above, IBAC also found that Ms Badcock smuggled contraband into the facility for the prisoner with whom she had developed a personal relationship, providing it to him at no cost.

⁸⁰ Cardless cash is a system which allows users to transfer cash to others by sending them a cash code.

As a minimum security facility, Dhurringile Prison has limited CCTV and swipe card entry and exit doors to monitor access to different areas. At the time of IBAC's investigation, staff were not searched or subject to any screening upon entry to the facility. They could freely enter and exit the prison car park throughout their shift. Further, staff in Victoria's publicly managed prisons could not then be directed to undergo drug testing (although Victoria's private prisons could – and still can – direct corrections officers to undergo a drug test). However, DJCS recently advised IBAC that it has established a project team to introduce a drug testing regime in Victoria's public prisons. The proposed regime is discussed further at section 5.2.4.

The ineffective security measures at Dhurringile Prison meant Ms Badcock was not prevented from trafficking contraband over an extended period, even though there were numerous intelligence reports suggesting she was doing so.

IBAC found that on seven occasions Ms Badcock had corruptly received cash payments from associates of Dhurringile prisoners as an inducement to act in violation of her official duty and show favour to prisoners by trafficking tobacco into Dhurringile Prison.

3.4.4 Criminal proceedings

In September 2018, IBAC charged Ms Badcock with seven counts of common law bribery and one count of misconduct in public office. Ms Badcock pleaded guilty to one consolidated count of bribery and one count of misconduct in public office.

In relation to the bribery charge, the court heard that Ms Badcock had received payments totalling \$2358 over the course of a year to traffic tobacco products into the prison for four prisoners. Ms Badcock characterised her behaviour as 'stupid' and acknowledged she 'should not have done it', pointing to her poor mental health at the time as a contributing factor.

Ms Badcock also admitted to developing:

- a friendship with a prisoner at Dhurringile Prison
- an association with a prisoner's mother, with whom she would speak occasionally
- other inappropriate associations via social media.

While Ms Badcock acknowledged that it was inappropriate to develop a relationship with a prisoner, she denied that it was an intimate relationship.

In March 2019, Ms Badcock was sentenced to six months' imprisonment with a 12-month corrections order.⁸¹

⁸¹ *Riverine Herald*, 26 March 2019, 'Corrupt Dhurringile prison officer sentenced to six months behind bars', viewed 23 April 2021, <www.riverineherald.com.au/2019/03/26/507105/corrupt-dhurringile-prison-officer-sentenced-to-six-months-behind-bars>.

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3.4.5 Mandatory notification delay

IBAC was not notified of the suspected corrupt conduct involving Ms Badcock until May 2017, despite her alleged activities being the subject of 42 information reports between June 2015 and March 2017, and despite the mandatory notification obligations in the IBAC Act which came into effect in December 2016.

This suggests the mechanisms used to report unauthorised conduct and the triggers used to determine the need to address or refer reported matters of unauthorised conduct were ineffective.

3.4.6 The Department's response

In February 2019, following Operation Molar, IBAC suggested that DJCS consider the corruption vulnerabilities highlighted in Operation Molar when addressing the issues raised in Operations Caparra and Nisidia. As noted above, DJCS provided IBAC with its response to Operation Nisidia in November 2020. Aspects of the response relevant to Operation Molar include advice that:

- relevant policies, including various Commissioner's Requirements, were reviewed and updated following Operation Nisidia
- plans are underway to roll out a drug testing regime for corrections staff in Victoria's publicly managed prisons
- all staff working at or visiting a Victorian prison routinely have their bags searched and are subject to physical searches or detection via handheld scanners, x-ray equipment or the use of Passive Alert Detection canines.

4 Key corruption risks and issues

4 Key corruption risks and issues

The IBAC investigations featured in this report – Operations Rous, Caparra, Nisidia and Molara – highlight a range of corruption risks, a number of which are unique to the corrections sector. This chapter discusses these risks and vulnerabilities in more detail, as well as underlying contributing factors.

4.1 Excessive use of force

Corrections officers are authorised to use force in particular circumstances, including restraining prisoners to prevent violent incidents. However, misuse of force is a corruption risk which can be heightened in the corrections sector given the power dynamic that exists between prison staff and prisoners, and the closed nature of prison environments.⁸²

Between 1 July 2018 and 31 December 2020, IBAC received 186 allegations about force used in the corrections sector. Of these 186 allegations, 20 related to physical violence that resulted in serious injury,⁸³ 119 related to physical violence that resulted in non-serious injury,⁸⁴ and the remaining allegations mostly related to threats of force.

Operation Rous highlighted a number of factors that may have contributed to excessive use of force, including:

- a culture of excessive use of force by TOG officers
- limited staff awareness of and training in relation to Charter rights
- masking behaviours attempting to cover up excessive use of force by colleagues.

4.1.1 Rules governing use of force in prisons

While corrections staff need to use force on occasion,⁸⁵ there are operational guidelines and legal parameters around the extent of force permitted.

LEGISLATION

Corrections staff in all Victorian prisons, including privately managed prisons, are required to comply with the Corrections Act and Corrections Regulations.

Section 23 of the Corrections Act provides that corrections staff may only use force when it is believed to be necessary and when the amount of force used is reasonable.⁸⁶ Use of force should also be consistent with the Charter. Sections 10 and 22 of the Charter are particularly relevant:

- Section 10 provides, among other things, that a person must not be 'treated or punished in a cruel, inhuman or degrading way'.
- Section 22 provides, among other things, that all persons deprived of liberty must be treated with humanity and with respect for their inherent human dignity.

⁸² Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 12; Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', pp 9-10; Naylor B, Debeljak J and Mackay A 2015, 'A strategic framework for implementing human rights in closed environments', *Monash Law Review*, vol. 41(1), pp 218-270, 218.

⁸³ Serious injuries include those that result in long-term physical damage and/or hospitalisation.

⁸⁴ Non-serious injuries include those that result in no permanent or long-term physical damage.

⁸⁵ Royal Commission Board of Inquiry 2017, *Royal Commission into the protection and detention of children in the Northern Territory - Volume 2A*, p 183.

⁸⁶ When considering whether an officer's use of force was reasonable, courts will have regard to the circumstances involved. For example, in *Russell v Corrections Officer Reid* [2015] VSC 729, Justice Rush found that the force used by a corrections officer at Melbourne Remand Centre, which involved pushing a prisoner into his cell with two open hands, was not 'in anyway excessive, having regard to the circumstances presented to him – that is, dealing with an irritated, angry prisoner who was refusing to obey a direction' in circumstances where the officer could not reasonably predict how the prisoner would behave. This decision was upheld on appeal *Russell v Corrections Officer Reid & Ors* [2016] VSCA 207 (31 August 2016).

PORT PHILLIP PRISON'S OPERATIONAL INSTRUCTIONS AND CODE OF CONDUCT

Port Phillip Prison's Operational Instructions provide that '[t]he amount of force used by an officer must be the minimum necessary to achieve control.'⁸⁷ It also states that '[o]nce a person has been restrained, force must not be used against the person, except that force which is necessary to maintain the restraint'.⁸⁸

Provisions in Port Phillip Prison's Code of Conduct relevant to excessive use of force include requirements to:

- behave in a manner that maintains the trust and integrity expected of an employee
- behave in a manner that avoids the likelihood of a criminal conviction
- ensure prisoners are treated with due regard for justice and with decency.

4.1.2 Excessive use of force identified in Operation Rous

In Operation Rous, IBAC found TOG officers at Port Phillip Prison used excessive force against Prisoners A and B in breach of the prison's Operational Instructions and relevant legislation, including the Charter.

PRISONER A

In the incident involving Prisoner A, the force used was neither necessary nor reasonable. When Prisoner A was grabbed by the arm and taken to the ground in his cell, he was naked following a strip search and footage shows him raising his arms in what appears to be non-violent protest.

After Prisoner A was taken to the ground by two corrections officers, two additional corrections officers entered his cell and further force was applied. BWC footage shows Officer 1 delivering what appear to be strikes to the prisoner's body with his hand or fist. Officer 1 can be heard saying 'You do as you're fucking told. You don't fucking argue with us and waste our fucking time' while the prisoner can be heard asking 'What are you punching me in the head for?'

Footage suggests that for about two minutes Officer 1 continued to admonish Prisoner A and strike him. During this time, a second TOG officer can be heard yelling 'Stop resisting' and 'Don't bite him' while the prisoner can be heard saying 'I'm not resisting'. As these events were occurring, the prisoner's hands were cuffed behind his back.

During an examination by IBAC, Officer 1 attempted to explain his behaviour by stating that he had been unwell that day and had used unprofessional language. After viewing the BWC footage the then General Manager of Port Phillip Prison said the officer's actions and language were unwarranted and unprofessional.

⁸⁷ Port Phillip Prison 2017, *Operational instruction 60 - Use of force*.

⁸⁸ Port Phillip Prison 2017, *Operational instruction 60 - Use of force*.

4 Key corruption risks and issues

PRISONER B

On 4 October 2017, Prisoner B, a prisoner with an intellectual disability, assaulted a corrections officer without provocation. IBAC found that the force used against Prisoner B following this incident was excessive. As TOG officers were handcuffing Prisoner B in the common area where he had assaulted the corrections officer, Officer 2 forcibly grabbed the prisoner's head and pushed it down and delivered up to four knee strikes to his torso. Officer 2 said he had delivered the knee strikes because the prisoner had been resisting. Corrections officers are trained to use knee strikes to gain compliance and their use in these circumstances was not inconsistent with policy.

However, while Prisoner B remained handcuffed, he was then taken to the ground. Footage from CCTV and BWCs showed the body movements of Officer 2 were consistent with him delivering hand strikes to the prisoner's head.

Later, after Prisoner B had been strip searched and was being escorted to a unit elsewhere in the facility, he was bent forward at the waist with his arms cuffed high up his back, a position Officer 2 stated was used to prevent the prisoner from spitting at others. He was walked some distance using this method despite being outnumbered by corrections staff. The manner in which Prisoner B was treated contravened the Charter and Port Phillip Prison policy.

Prisoners with disability

Prisoner B was a prisoner with an intellectual disability. In 2018, a report by Human Rights Watch highlighted that prisoners with disability may be especially vulnerable to excessive use of force by corrections officers, as their complaints are less likely to be believed.⁸⁹ They found that prisoners with disability may be considered 'easy targets' who are 'at serious risk of violence and abuse'.⁹⁰

This issue was also highlighted by the Queensland Crime and Corruption Commission (Queensland CCC) in its report on Taskforce Flaxton. Queensland CCC noted that prisoners with disabilities 'find prison rules and instructions difficult to understand or follow and, as a result, violate rules more often, and are particularly vulnerable to being victimised'.⁹¹

⁸⁹ Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 10.

⁹⁰ Human Rights Watch 2018, *'I needed help, instead I was punished': Abuse and neglect of prisoners with disabilities in Australia*, p 3.

⁹¹ Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, pp 7-8.

4.1.3 Excessive use of force – a broader phenomenon

Excessive use of force against prisoners by corrections officers has been a recent focus of anti-corruption agencies in other Australian jurisdictions, with reports by the Queensland CCC and the Western Australian Corruption and Crime Commission (Western Australian CCC) highlighting this as a significant issue.⁹² In Queensland, allegations of excessive use of force increased dramatically between 2015 and 2018, from less than 10 to more than 40 allegations per year.⁹³ The Queensland CCC found one of the main reasons for this is the significant overcrowding experienced in Queensland prisons.⁹⁴

Similarly, the VO advises it has observed a significant increase in allegations of prisoners being assaulted by corrections officers, with some alleged incidents occurring in areas where there is no CCTV coverage. Within the calendar year of 2019, the VO processed⁹⁵ 63 assault allegations while in the calendar year of 2020 the VO processed 101 assault allegations.

Available data on staff-on-prisoner assaults in Australian prisons should be treated with caution, as incidents of excessive use of force and staff-on-prisoner assaults are likely to be under reported.⁹⁶ For example, following an inspection of the Dame Phyllis Frost Centre (DPFC) in 2017, the VO identified under-reporting of excessive use of force. The VO found only one-third of prisoners who said they had been 'physically or sexually abused, intimidated or harassed by a staff member or fellow prisoner' reported the allegations. The reasons given for not reporting included fear of being labelled a 'dobber', fear of reprisals by prisoners or staff and concerns about not being believed.⁹⁷

Similarly, as a result of Taskforce Flaxton, the Queensland CCC found that while 58 per cent of prisoners said they had seen a staff member assault or use excessive force in the previous six months, 75 per cent said they did not report it.⁹⁸

⁹² Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 12; Western Australia CCC 2018, *Report into inadequate use of force reporting at Hakea Prison on 21 March 2016*; Western Australia CCC 2018, *Report into inadequate use of force reporting at Eastern Goldfields Regional Prison on 27 March 2017 and Bunbury Regional Prison on 14 November 2016*.

⁹³ Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 13.

⁹⁴ Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 6.

⁹⁵ This includes the processing of assessable and non-assessable disclosures, and the processing of allegations from IBAC that were formally investigated as well as those that were not.

⁹⁶ Goldsmith A et al 2016, *Tackling correctional corruption*, Palgrave Macmillan, London, p 88.

⁹⁷ VO 2017, *Implementing OPCAT in Victoria: Report and inspection of Dame Phyllis Frost Centre*, p 64.

⁹⁸ Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 13.

4 Key corruption risks and issues

4.1.4 Excessive use of force – corruption prevention opportunities

Following Operation Rous, IBAC identified a number of opportunities for Corrections Victoria to prevent future incidents of excessive use of force. As a result, Corrections Victoria reviewed its systems, policies and procedures regarding the use of force and escort techniques against the Charter and is making a number of amendments. DJCS also worked with the VEOHRC to deliver a Charter education program to all DJCS agencies, including Corrections Victoria.

There is an opportunity for Victorian prisons to draw on good practice in other jurisdictions to reduce the risk of excessive use of force by corrections officers. Anti-corruption agencies in other Australian jurisdictions have identified the importance of:⁹⁹

- reducing blind spots in CCTV coverage in prisons
- promoting the use of BWCs and providing clear instruction on when activation is required
- ensuring officers are trained and supported to report misconduct
- ensuring officers are trained to report on use-of-force incidents accurately and independently
- supporting and regularly promoting staff awareness of confidential mechanisms for reporting excessive use of force against prisoners
- implementing a staff rotation policy to reduce corruption risk, promote professional development and enhance performance.

Corrections Victoria must be vigilant to ensure the strongest controls are in place to prevent and detect excessive use of force.

4.2 Inappropriate strip searching practices

The law in Victoria allows prisoners to be subjected to a strip search when there is a reasonable belief that the search is necessary to maintain the security or good order of the prison, or the safety or welfare of any prisoner.¹⁰⁰ Strip searches must be conducted in a way that complies with regulations and guidelines, and human rights obligations.¹⁰¹

In Operation Rous, IBAC found that certain corrections officers at Port Phillip Prison conducted inappropriate strip searches of Prisoners A and B in contravention of the Charter right to humane treatment when deprived of liberty.¹⁰²

⁹⁹ Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*; NSW ICAC 2019, *Investigation into the conduct of NSW Correctional Services officers at Lithgow Correctional Centre*; WA CCC 2018, *Report into inadequate use of force reporting at Eastern Goldfields Regional Prison in May 2017*.

¹⁰⁰ *Corrections Act 1986* (Vic), s 45; *Corrections Regulations 2019*, r 87, previously *Corrections Regulations 2009*, r 69.

¹⁰¹ *Corrections Regulations 2019*, r 86, previously *Corrections Regulations 2009*, r 69; Commissioner's Requirement 1.2.3 – Strip searches in prisons; *Charter of Human Rights and Responsibilities Act 2006* (Vic), s 22 confers a right to humane treatment when deprived of liberty.

¹⁰² See *Commissioner's Requirements on Strip Searching 2017* [3.3], which notes the relevance of section 22 of the Charter to the issue of strip searching in prisons.

4.2.1 Rules governing strip searching in prisons

The Corrections Regulations allow prisoners to be strip searched when there is a belief based on reasonable grounds that:¹⁰³

- the strip search is necessary to maintain security, good order, safety or welfare
- the prisoner being searched is hiding something that may pose a risk to the prison's security or good order.

Additional regulations also require that strip searches:

- must be conducted by at least two officers
- must not be conducted by more officers than is reasonably necessary to ensure safety
- must be conducted expeditiously, ensuring the prisoner can dress in private immediately afterwards
- must be conducted by officers of the same gender as the prisoner, unless the prisoner requests otherwise (subject to a few exceptions).

Of relevance to Operation Rous, Port Phillip Prison also had policies and procedures relevant to strip searches, including a Code of Conduct which requires corrections staff to ensure the workplace is free from harassment, and that prisoners are treated with due regard to justice and decency.¹⁰⁴ Port Phillip Prison's Operational Instructions also require prisoners undergoing a strip search to be treated with dignity and any female officer present to position herself so that she cannot view the prisoner.¹⁰⁵

4.2.2 Inappropriate strip searching identified in Operation Rous

PRISONER A

On 24 September 2017, two male TOG officers attended Prisoner A's cell to conduct a strip search after the prisoner failed to return a ball the previous day. When questioned about the appropriateness of conducting a strip search in these circumstances, the then General Manager of Port Phillip Prison said it was one of the options available to assert control.

During the search, one of the male officers stood in front of the prisoner and the other stood behind him. A female officer stood outside the door in view of the search. While a routine strip search normally takes about one minute, Prisoner A was issued with repetitive instructions over a seven-minute period. During this time, he was naked and protested that he was being degraded. Prisoner A was also aware that a female officer was within sight and expressed concern for his dignity, asking permission to put his shorts back on since there was a female officer 'standing right there'.

In light of these issues, IBAC found the officers involved had breached section 22 of the Charter (the right to humane treatment when deprived of liberty) as well as Port Phillip Prison's Operational Instructions which, as noted above, require prisoners being strip searched to be treated with dignity and any female officer present to position herself so that she cannot view the prisoner.¹⁰⁶

As IBAC commenced its investigation, Port Phillip Prison took disciplinary action against the TOG officer who directed the strip search and instructed that he undertake refresher training in the prison's strip searching requirements.

¹⁰³Corrections Regulations 2019, r 87, previously Corrections Regulations 2009, r 69.

¹⁰⁴Standards for strip searches in all Victorian prisons can be found in *Commissioner's Requirement 1.2.3 – Strip searches in prisons*, which outlines operating principles for all strip searches as well as specific requirements for strip searches of prisoners, visitors and children.

¹⁰⁵Port Phillip Prison 2017, *Operational instruction 21 - Strip searching*.

¹⁰⁶Port Phillip Prison 2017, *Operational instruction 21 - Strip searching*.

4 Key corruption risks and issues

PRISONER B

On 4 October 2017, after Prisoner B assaulted an officer at Port Phillip Prison, he was physically restrained, taken to a cell and strip searched. Footage from a BWC worn by an unidentified female TOG officer shows that she was present in the cell during the search and did not leave until after the prisoner was naked and pieces of his clothing had been handed to her. Even then, she remained in direct line of sight of the prisoner.

As was the case with the strip search of Prisoner A, IBAC found that the way the strip search was conducted breached section 22 of the Charter as well as Port Phillip Prison's Operational Instructions.

After questioning the officers involved in both incidents, it was clear that they had only a very basic understanding of the Charter. Most indicated they had not received human rights training, with one supervisor saying he had not received any human rights training in over 30 years of service. This lack of training may have contributed to the failure to comply with the Charter during the strip searches of Prisoners A and B.

4.2.3 Inappropriate strip searching – corruption prevention opportunities

As a result of Operation Rous, Corrections Victoria reviewed its systems, policies and procedures on strip searching in relation to the Charter and is making some amendments. As stated earlier, a Charter education program was also delivered to Corrections Victoria employees, in coordination with VEOHRC.

Other integrity agencies in Victoria and interstate have identified issues with inappropriate strip searching of prisoners, including the VO and the Western Australian Inspector of Custodial Services.¹⁰⁷

The VO and Western Australian Inspector considered not only how strip searches are conducted but why they are conducted, suggesting that corrections staff may be overly reliant on strip searching, and that strip searches may be too frequently conducted for inappropriate reasons.

For instance, the VO's inspection of DPFC in 2017 identified a significant number of routine and unnecessary strip searches. Prisoners were routinely strip searched before and after visitation with family and friends, even though DPFC policy did not allow routine pre-visitation strip searches. The VO noted this practice was inconsistent with the Charter and the Nelson Mandela Rules.¹⁰⁸

¹⁰⁷VO 2017, *Implementing OPCAT in Victoria: Report and inspection of Dame Phyllis Frost Centre*; Office of the Inspector of Custodial Services 2019, *Strip searching practices in Western Australian prisons*.

¹⁰⁸VO 2017, *Implementing OPCAT in Victoria: Report and inspection of Dame Phyllis Frost Centre*, pp 10, 59.

The stated purpose for the pre-visitation strip searching was to prevent drugs from entering the premises. However, DPFC's records revealed that only four of 148 contraband items found in the relevant period were from the visitation centre and only one of these items was drug-related – half a blood pressure tablet.¹⁰⁹

Following its inspection of DPFC, the VO recommended that the practice of strip searching prisoners before and after visitation immediately cease.¹¹⁰ While the recommendation was not accepted, DPFC has since implemented new security measures which reduce the risk of inappropriate strip searching, including body scanning technology and saliva testing. Corrections Victoria has noted that over the 18 months prior to January 2020, the number of strip searches has declined by 20,000.¹¹¹

Following a 2019 review, the Western Australian Inspector found no evidence that strip searching deters smuggling. The Inspector also found that around 15 per cent of staff said they had seen strip searching used to modify behaviour, suggesting that strip searching may have often been used as a means of punishment or control.¹¹²

The Western Australian Inspector recommended that routine strip searches of prisoners be phased out and technological solutions be implemented to reduce reliance on strip searching.¹¹³ The Inspector also recommended that strip searching be limited in line with international standards to situations where it is absolutely necessary and that strip searching not be used as a deterrent or as a means of punishment or control.¹¹⁴

It is important that Corrections Victoria monitors the incidence and conduct of strip searching of prisoners to ensure compliance with the Charter and relevant policies and procedures.

¹⁰⁹VO 2017, *Implementing OPCAT in Victoria: Report and inspection of Dame Phyllis Frost Centre*, p 10.

¹¹⁰VO 2017, *Implementing OPCAT in Victoria: Report and inspection of Dame Phyllis Frost Centre*, p 103.

¹¹¹Member for Mill Park District 2020, *New gatehouse to boost security and keep people safe*, Media Release, 15 January 2020, <www.lilydambrosio.com.au/news/new-gatehouse-to-boost-security-and-keep-people-safe/>.

¹¹²Office of the Inspector of Custodial Services 2019, *Strip searching practices in Western Australian prisons*, pp 4-5.

¹¹³Recommendations 8 and 10.

¹¹⁴Recommendations 1, 4 and 5.

4 Key corruption risks and issues

4.3 Interference with BWCs and CCTV

IBAC identified issues with the use of BWCs and CCTV by corrections staff at Port Phillip Prison as a result of Operation Rous.

CCTV has long been used in prisons to detect and prevent specific behaviours such as self-harm, suicide and smuggling contraband.¹¹⁵ It generally contributes to prison safety and can capture evidence of serious incidents and corrupt conduct, which can assist investigations.¹¹⁶

BWCs are used in prisons for similar reasons. They are intended to contribute to a secure environment for corrections staff and prisoners,¹¹⁷ and are considered a useful de-escalation tool. They are also used to record specific activities such as a cell extraction,¹¹⁸ and footage from CCTV and BWCs can be used as a training tool for corrections staff.¹¹⁹

While these technologies can improve safety and increase transparency and accountability, they also present unique integrity challenges.

4.3.1 Rules governing use of BWCs and CCTV in prisons

Use of surveillance in Victorian prisons is governed by a number of legal and policy instruments.

The *Surveillance Devices Act 1999* (Vic) and the *Surveillance Devices Regulations 2016* (Vic) outline the requirements for use of surveillance devices in Victoria, including those in prisons.

In 2018, amendments to the *Surveillance Devices Regulations 2016* allowed certain persons in the corrections sector to use BWCs in particular circumstances, including when:

- the safety of any person may be compromised
- there is a threat to the management, security or good order of a prison or any location where a prisoner is being held.

¹¹⁵Allard T, Wortley R and Stewart A 2006, 'The purposes of CCTV in prison', *Security Journal*, vol. 19(1), 1-24, p 16.

¹¹⁶Beales N and Marsh L 2016, 'On body cameras in prison', *Practice: The New Zealand Corrections Journal*, vol.4(1), <www.corrections.govt.nz/resources/newsletters_and_brochures/journal/volume_4_issue_1_august_2016/on_body_cameras_in_prison>; Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 39.

¹¹⁷Corrections Victoria Commissioner 2017, *Commissioner's requirements: Body-worn cameras 1.4.7*, [4].

¹¹⁸Corrections Victoria Commissioner 2017, *Commissioner's requirements: Body-worn cameras 1.4.7*, [3.1].

¹¹⁹Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 30; Beales N and Marsh L 2016, 'On body cameras in prison', *Practice: The New Zealand Corrections Journal*, vol.4(1), <www.corrections.govt.nz/resources/newsletters_and_brochures/journal/volume_4_issue_1_august_2016/on_body_cameras_in_prison>.

The Commissioner's Requirements in relation to the use of BWCs and CCTV are set out in the *Commissioner's Requirements 1.4.7 – Body worn cameras* and *1.4.2 – Surveillance, taping protocols and retention periods*. They require corrections officers to use a BWC or some other type of camera wherever practicable where they believe an incident (such as use of force) may occur.¹²⁰ BWCs must be activated when an alarm is raised, during an incident or negotiation, during a cell extraction, or when safety is at risk, prison property is being damaged or OC spray might be used.¹²¹ The wearer of the BWC must announce when they have activated their camera to encourage de-escalation, and the recording is to continue uninterrupted until the incident is resolved or the prisoner becomes compliant. There is no sanction specified in the Commissioner's Requirements for failing to meet these obligations.

The Commissioner's Requirements also require any video recordings to be retained for seven years. In relation to use of force incidents, assaults and alleged assaults, CCTV recordings must include footage from 30 minutes before and after the incident.¹²²

4.3.2 Interference with BWCs and CCTV identified in Operation Rous

During the incidents involving Prisoners A and B at Port Phillip Prison, a number of TOG officers failed to activate their BWCs despite the incidents being announced as critical incidents. There also appeared to be intentional interference with the recording of incidents, as outlined below.

Despite this interference, the CCTV and BWC footage captured was crucial to IBAC's investigation, revealing inconsistencies in corrections officers' accounts of the incidents.

PRISONER A

During the incident involving Prisoner A, TOG officers who attended the prisoner's cell after he was restrained on the ground failed to activate their BWCs as required. One officer admitted to this failure, but suggested it may have been because the device was faulty, while another told IBAC he 'must have forgot'.

While the two officers who had conducted the strip search of Prisoner A did activate their BWCs, neither officer made the required announcement and both appeared to intentionally interfere with the recording when force was being used against the prisoner.

The first appeared to attempt to mislead future viewers of the footage by yelling instructions such as 'stop resisting' and 'don't bite him', while the prisoner replied 'I'm not resisting'. Around the same time, another officer appeared to interfere with his BWC recording by covering the lens, coughing when the prisoner was being struck and turning the device off for 16 seconds.

When questioned by IBAC, the officer who had been coughing denied intentionally interfering with his BWC and said he had not meant to turn the device off, stating the devices sometimes fail.

¹²⁰Corrections Victoria Commissioner 2020, *Commissioner's requirements: Surveillance, taping protocols and retention periods 1.4.2*. These requirements were first issued in February 2018, after the conduct investigated in Operation Rous.

¹²¹Corrections Victoria Commissioner 2017, *Commissioner's requirements: Body-worn cameras*. These requirements were issued in December 2017, after the conduct investigated in Operation Rous.

¹²²Corrections Victoria Commissioner 2020, *Commissioner's requirements: Surveillance, taping protocols and retention periods 1.4.2*.

4 Key corruption risks and issues

PRISONER B

During the incident involving Prisoner B, Officer 2 failed to activate his BWC and, at one point, an unidentified person directed the CCTV camera away from the scene while Officer 2 was striking the prisoner.

IBAC found it was probable that:

- several TOG officers intentionally failed to operate their BWCs to avoid capturing evidence of excessive use of force
- an unidentified person intentionally directed the CCTV camera away from the Prisoner B incident to avoid capturing evidence against Officer 2.

Intentional interference with the recording of evidence against colleagues is a masking behaviour aimed at covering up corrupt conduct. Masking behaviours occur when parties directly involved, or witnesses to an incident, actively conceal or fail to accurately disclose corrupt conduct or misconduct. This can contribute to under-reporting or failure to report, leading to missed opportunities to take action. It can also negatively impact trust and confidence in the public sector. Interference with CCTV and BWC recordings is just one of a number of masking behaviours IBAC identified as a result of Operation Rous. Other issues are discussed later in this chapter.

4.3.3 Interference with BWCs and CCTV – a broader phenomenon

Interference with video recordings is an issue in corrections environments across Australia. For example, the report by the New South Wales Independent Commission against Corruption (NSW ICAC) on Operation Estry highlighted issues related to video recording at the Lithgow Correctional Centre, revealing that corrections officers had destroyed or failed to maintain CCTV footage relevant to a use of force incident in 2014.¹²³

A further issue, mentioned earlier in this report, relates to CCTV blind spots and the frequency with which assaults are alleged to occur in these areas. In its report on Taskforce Flaxton, the Queensland CCC recommended that Queensland Corrective Services review CCTV coverage to reduce high-risk blind spots. In relation to this issue, the Queensland CCC Chair said it was reasonable to conclude that some of the conduct occurring in CCTV blind spots is not merely coincidental, as both prisoners and staff know where the cameras are located.¹²⁴

¹²³NSW ICAC 2019, *Investigation into the conduct of NSW Correctional Services officers at Lithgow Correctional Centre*, p 6.

¹²⁴*Brisbane Times*, 14 December 2018, 'Guards and prisoners can take advantage of CCTV "blind spots"', viewed 27 April 2021, <www.brisbanetimes.com.au/politics/queensland/guards-and-prisoners-can-take-advantage-of-cctv-blind-spots-20181214-p50mf5.html>.

4.3.4 Interference with BWCs and CCTV – corruption prevention opportunities

Following Operation Rous, IBAC noted that DJCS and Corrections Victoria had an opportunity to address issues around the use of BWCs and CCTV in prisons, including failure to activate BWCs, failure to announce activation of BWCs and interference with the effective operation of BWCs and CCTV. As a result, DJCS updated *Commissioner's Requirement 1.4.7 – Body worn cameras in December 2017* and *Commissioner's Requirement 1.4.2 – Surveillance, taping protocols and retention periods* in February 2018, and again in 2020, to clarify obligations.¹²⁵ DJCS also issued updated instructions in 2020 in relation to surveillance, taping and retention periods.¹²⁶

Anti-corruption agencies in other Australian jurisdictions, including the Queensland CCC and NSW ICAC, have also considered the use of BWCs and CCTV in prisons. In its final report on Taskforce Flaxton, Queensland CCC noted that greater utilisation of BWCs and CCTV in prisons reduces the opportunity for prisoners to be mistreated and assists inspectors of custodial facilities to perform their oversight functions.¹²⁷ However, the Queensland CCC recommended that clear instruction be provided to confirm when activation is required. Similarly, following Operation Estry, NSW ICAC also supported greater use of BWCs in corrections facilities, recommending that Corrective Services ensure that correctional facilities have the means to readily obtain footage from the cameras and store it for a sufficient period of time.

4.4 Issues with internal investigations and reporting

Accurate reporting of use of force incidents and suspected corruption, and proper investigation of these reports is essential to build a strong culture of integrity in corrections environments. Deficiencies in incident reporting and investigation compromise the security, safety and welfare of prisoners and staff, and can perpetuate a culture that fails to take corruption and excessive use of force seriously.¹²⁸

Identifying and responding to wrongdoing is much more difficult when incident reporting and investigations are deficient and where there is deliberate collusion and cover-up by staff. Corrections cultures must support the reporting of misconduct and corruption, and ensure that appropriately trained corrections staff can undertake internal investigations of allegations when required. Supervisors, managers and senior leaders in corrections must consider whether these reporting and oversight expectations are being upheld, and take action to address any concerns.

¹²⁵Previous versions of these Commissioner's Requirements were in place at the time of the conduct investigated in Operation Rous. Both Commissioner's Requirements were further updated in January 2020.

¹²⁶Corrections Victoria Deputy Commissioner 2020, *Deputy Commissioner's Instructions: Surveillance, taping protocols and retention periods 1.4.2*.

¹²⁷Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 9.

¹²⁸Western Australia CCC 2018, *Report into inadequate use of force reporting at Eastern Goldfields regional prison in May 2017*, [6], [30].

4 Key corruption risks and issues

4.4.1 Rules governing incident investigation and reporting in prisons

Corrections officers in Victoria have a statutory duty to report anything that might jeopardise the security of a prison or the welfare of prisoners,¹²⁹ although the Corrections Act does not prescribe a penalty for failing to report.¹³⁰ Conduct that would meet the threshold for disclosure pursuant to section 22 would include, among other things, excessive use of force against prisoners.

Other key requirements relevant to incident reporting in Victorian prisons include:

- all alleged assaults on prisoners must be referred to Victoria Police
- immediately following an assault or alleged assault of a prisoner, the prisoner is to be referred for medical assessment and CCTV, video camera or BWC footage is to be retained
- any use of force incident in a *private prison* that results in a prisoner being injured must be reported to the Assistant Commissioner, Custodial Services, Deputy Commissioner, Custodial Operations or the Duty Director.¹³¹

Port Phillip Prison policy prohibits:

- corrections staff from deliberately making a false record
- corrections staff from making any false or misleading statement
- supervisors directly involved in an incident from acting as the investigating supervisor
- supervisors interviewing prisoners in the presence of staff who were directly involved in an incident.

However, there is no statutory requirement in Victoria for corrections officers to report any conduct they reasonably suspect is corrupt or involves serious misconduct. Such legislative obligations exist in other Australian jurisdictions, including New South Wales, South Australia and the Northern Territory.¹³² The introduction of such an obligation in Victoria would emphasise the importance of reporting suspected corrupt conduct and help address workplace cultures that may seek to cover up such conduct. And to support compliance, an appropriate penalty should be imposed for breach of the statutory obligation.

¹²⁹Pursuant to s22(1) of the *Corrections Act*, staff are required to report to the governor of the prison anything that might reasonably be thought to jeopardise the security of the prison or the welfare of prisoners. This would include, among other things, excessive use of force against prisoners.

¹³⁰*Corrections Act 1986* s 22.

¹³¹Corrections Victoria Commissioner 2020, *Commissioner's requirements: Incident reporting 1.3.1*.

¹³²In New South Wales, this obligation is found in the Crimes (Administration of Sentences) Regulation 2014 (NSW), r 253. More information on the NSW provision is outlined in section 5.2.2. The Northern Territory's Mandatory Reporting Directions Guidelines, issued pursuant to section 22 of the *Independent Commissioner Against Corruption Act 2017* (NT), indicate that a 'public officer of a public body must report improper conduct to the ICAC, unless the public officer or public body knows, for a fact, that the conduct has already been reported to the ICAC' cl 17; In South Australia, the Commissioner's Directions and Guidelines for public officers, issued pursuant to section 20(3)(a) of the *Independent Commissioner Against Corruption Act 2012* (SA), require a 'public officer' to report to the Office for Public Integrity (unless it has already been reported) any matter they reasonably suspect involves corruption in public administration or serious or systemic misconduct or maladministration in public office.

4.4.2 Inadequate incident investigation and reporting identified in Operation Rous

In Operation Rous, IBAC identified poor adherence to applicable policies, procedures and codes of conduct at Port Phillip Prison, including failure to fully and accurately complete official reports of use of force. Following any use of force incident at Port Phillip Prison, all officers who witness what occurred must complete an incident report. In addition, a Supervisor Incident Report must be completed to ensure management is made aware of all serious incidents, and appropriate follow-up and incident investigation occurs so that security and management can be improved.

IBAC reviewed all prison reports related to the incidents involving Prisoner A and Prisoner B and found a number were incomplete or failed to give a full account of events. In many cases, witnesses failed to refer to their colleagues' actions or provided an abridged version of their observations. This meant there were significant gaps in the evidence. This failure to provide a full account of events also suggests engagement in masking behaviours, which cover up the wrongdoing of colleagues. Masking behaviours may be deliberate or unintentional behaviours that have the effect of concealing what really occurred. While there is pressure on officers to submit their reports quickly, it is incumbent on supervisors and managers of corrections facilities to ensure officers have sufficient time and adequate computer access to properly complete their reports.

PRISONER A

Following the incident involving Prisoner A, the supervisor on duty interviewed him in the presence of TOG officers who had been directly involved. When the prisoner tried to report his version of events, the TOG officers present disputed what he said. When questioned by IBAC, the on-duty supervisor claimed it was common practice to interview all parties together. However, this directly contradicts Port Phillip Prison's Operational Instruction 69, which requires an investigating supervisor to interview the prisoner in private.

Issues were also identified with the incident reporting. According to the then General Manager of Port Phillip Prison, all officers who witnessed the events should have submitted a report in accordance with policy, however this did not occur.

Reports submitted by the officers present during the strip search of Prisoner A claimed that during the search the prisoner had swung his arm towards the officer directing the search, who responded by executing a take-down manoeuvre. When questioned by IBAC, the officer who had directed the search and executed the take-down manoeuvre claimed he had used poor English in his report and should have said that Prisoner A was 'raising his arms', not 'swinging his arm'. Neither of the officers conducting the search reported that Officer 1 had entered the cell and applied force to the prisoner.

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In the report submitted by Officer 1, there was no mention that he had used force of this kind. Instead, his report simply indicated that he assisted his colleagues to restrain Prisoner A on the floor in order to apply handcuffs.

The Supervisor Incident Report produced following the Prisoner A incident summarised the events as described by the officers who had conducted the strip search and failed to mention Prisoner A's claims that he had been jumped on and punched in the head. The report stated that Prisoner A said he had been injured when taken to the ground after he allegedly failed to comply with directions.

Further, when conducting the initial investigation, the supervisor did not review the CCTV or BWC footage, and relied solely on the written and oral reports of the officers involved. However, as noted previously, the CCTV and BWC footage was not fully consistent with the version of events described by the TOG officers.

PRISONER B

In his written report following the Prisoner B incident, Officer 2 stated he used force to restrain a non-compliant prisoner. He said he had taken hold of the prisoner's head and delivered a number of knee strikes to the prisoner's torso before applying pressure to his back with an open hand. Knee strikes are an approved technique to gain compliance, and their use in these circumstances was not inconsistent with policy.

Written reports by seven other attending officers contained no reference to Officer 2's use of force, even though some of these officers were well placed to observe his actions. When the then General Manager of Port Phillip Prison was made aware of the incident, he reviewed the CCTV footage, reported the incident to police and notified Corrections Victoria.

The supervisor who completed the Supervisor Incident Report following the Prisoner B incident was himself involved in restraining the prisoner, but said he did not observe Officer 2 strike the prisoner. The supervisor also noted that:

- following the incident, Prisoner B was interviewed by a manager at Port Phillip Prison but he was not informed of this so it could be included in his Supervisor Incident Report
- he was not given access to all CCTV footage when conducting his initial investigation, although Control Room staff suggested the supervisor may not have followed the proper process to access the footage.

During IBAC's examinations, the supervisors involved said their training around how to conduct investigations and undertake other aspects of their role was inadequate. The then General Manager of Port Phillip Prison acknowledged that supervisors needed additional training and, following the incidents, the prison developed a policy mandating the review of all CCTV and BWC footage after any use of force incident. The prison also rolled out a new Post Incident Review form to assist with incident management.

As a result of its investigation, IBAC found:

- evidence of masking behaviours, as many of the incident reports produced by corrections officers were incomplete or failed to give a full account of events
- the Supervisor Incident Reports did not critically examine the incidents or draw on all of the evidence
- prisoner disciplinary processes were not followed, as Prisoner A was interviewed in the presence of officers involved in the incident
- the supervisor who completed the report concerning the Prisoner B incident was directly involved in the incident
- information from the interview with Prisoner B was not provided for inclusion in the Supervisor Incident Report.

4.4.3 Inadequate incident investigation and reporting – a broader phenomenon

Inadequate incident investigation and reporting has also been identified in other jurisdictions. In Operation Estry, NSW ICAC found non-compliance with policies related to incident reporting at Lithgow Correctional Centre and masking behaviours by officers involved in use of force incidents that attempted to cover up their wrongdoing. NSW ICAC made recommendations to improve the way corrections staff report on and respond to incidents.

Inadequate use of force reporting has also been the subject of a number of reports by the Western Australian CCC in recent years.¹³³ These investigations informed recommendations made to Western Australia's Department of Justice about how it might reduce the likelihood of serious misconduct occurring in relation to use-of-force reporting.¹³⁴

¹³³See for example, Western Australia CCC 2018, *Report into inadequate use of force reporting at Eastern Goldfields regional prison in May 2017*; Western Australia CCC 2018, *Report into inadequate use of force reporting at Eastern Goldfields Regional Prison on 27 March 2017 and Bunbury Regional Prison on 14 November 2016*; Western Australia CCC 2018, *Report into inadequate use of force reporting at Hakea Prison on 21 March 2016*.

¹³⁴Western Australia CCC 2018, *CCC reports focus on the use of force in WA prisons and expose a culture of cover up*, <www.ccc.wa.gov.au/news-media/news/ccc-reports-focus-use-force-wa-prisons-and-expose-culture-cover>.

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4.4.4 Incident investigation and reporting – corruption prevention opportunities

As recommended by IBAC following Operation Rous, Corrections Victoria reviewed its systems, policies and procedures regarding incident reporting and investigation in relation to the Charter and is making a number of amendments. DJCS issues guidance on incident reporting in custodial settings, which applies to both public and private prisons.¹³⁵

There is an opportunity for Victorian prisons to draw on good practice in other jurisdictions to further reduce corruption risks associated with incident reporting and investigation. Anti-corruption agencies in other Australian jurisdictions have identified the importance of:¹³⁶

- creating a statutory obligation for corrections officers to report suspected corrupt conduct to a more senior officer and applying sanctions for failing to report such conduct
- ensuring managers and supervisors are not involved in reviewing a use-of-force incident if they were involved in or witnessed the use of force in question
- ensuring the primary user of force is not involved in reviewing or actioning reports of other officers who were involved in or who witnessed the incident
- training corrections officers on independent and accurate incident reporting
- informing corrections officers about the consequences of colluding, submitting false reports or omitting material facts
- appropriately sanctioning officers who engage in masking behaviours and collusion
- ensuring staff can confidentially report officers suspected of not completing their incident report independently
- ensuring a central authority reviews all use-of-force incident report packages, including any associated surveillance footage.

4.5 Conflicts of interest

A conflict of interest arises when a public officer's private interests conflict with their public duties and their responsibility to act in the public interest. Although a conflict of interest is not in itself inherently corrupt, it can create a risk that the public officer cannot separate their decision-making from the influence of their private interest. Conflicts of interest often lead to problems when they are either fully or partially concealed, or not managed properly. Concealment or mismanagement of conflicts, whether deliberate or unintentional, can undermine probity in decision-making and confidence in the public sector.

Conflicts of interest are not unique to the corrections sector, but apply across all public sector agencies. However, some conflicts are specific to corrections environments, such as the conflict that arises when corrections staff develop a friendship or intimate relationship with a prisoner or a prisoner's family members, friends or associates.

¹³⁵Corrections Victoria Commissioner 2021, *Commissioner's requirements: Incident reporting 1.3.1*.

¹³⁶NSW ICAC 2019, *Investigation into the conduct of NSW Correctional Services officers at Lithgow Correctional Centre*; WA CCC 2018, *Report into inadequate use of force reporting at Eastern Goldfields Regional Prison in May 2017*.

As noted earlier, the primary purpose of Victoria's corrections system is to 'deliver a corrections system that keeps our community safe'.¹³⁷ When a staff member develops a friendship or an intimate relationship with a prisoner, there is a risk that they will engage in other inappropriate conduct to benefit the prisoner, such as accessing and disclosing confidential information or smuggling contraband into the prison. As the Commissioner of Queensland's Corrective Services has noted, preventing and addressing inappropriate relationships is a top priority in reducing corruption risks in prisons due to the 'interdependency with other "downstream risks"'.¹³⁸ Corruption risks associated with inappropriate relationships are discussed in section 4.6.

However, conflicts of interest in the corrections sector are not limited to inappropriate relationships or declarable associations. They can also arise in processes common across the public sector such as staff recruitment and procurement processes. Procurement fraud is a significant risk in corrections, given the high levels of expenditure on infrastructure, goods and services in the sector.¹³⁹

More information on conflicts of interest is available in IBAC's October 2019 report on *Managing corruption risks associated with conflicts of interest in the Victorian public sector*.

4.5.1 Rules governing conflicts of interest in prisons

Public sector values enshrined in legislation and binding codes of conduct provide the foundation upon which government agencies can develop a framework to manage conflicts of interest in a way that reflects their operating environments. The Victorian Public Sector Commission (VPSC) has also developed a model conflict of interest policy and supporting resources to assist public sector agencies.

Key rules and guidelines around conflicts of interest in the corrections sector include the following:

- Section 7 of the Public Administration Act requires public officers to avoid any real or apparent conflicts of interest.
- The VPS Code of Conduct requires public sector employees to:
 - avoid using their power for their own benefit
 - avoid conflicts of interest and ensure their interests do not influence performance of their role
 - make decisions and provide advice that is free of prejudice or favouritism
 - refuse any gift or benefit that could reasonably be perceived as influencing them or undermining the integrity of their organisation or themselves.

¹³⁷Corrections Jobs, *Our role in the community*, <www.correctionsjobs.vic.gov.au/about-us/working-with-us/our-role-in-the-community>.

¹³⁸Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 11.

¹³⁹Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 14.

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- *Commissioner's Requirement 1.4.8 – Conduct and ethics* requires corrections staff to:
 - disclose to management any relationships with staff members or other persons that could lead to a conflict of interest
 - maintain professional boundaries between other correctional officers and prisoners and offenders (including their visitors and families).
- The DJCS *Declarable Associations Guideline and Associated Policy* requires employees to assess their personal associations and determine whether they are 'declarable associations', giving due consideration to factors such as whether the personal association is compatible with their role, and whether it may adversely affect the reputation of and public confidence in DJCS.

4.5.2 Conflicts of interest identified in Operation Caparra

In April 2018, IBAC commenced an investigation into allegations that a property officer at the Melbourne Assessment Prison had failed to disclose declarable associations with current and former prisoners in Victorian correctional facilities. It was also alleged that the property officer had illegitimately accessed Corrections Victoria information systems. As a result of IBAC's investigation, these allegations were substantiated.

The property officer's then partner was identified as being involved with a group suspected of ongoing criminal activity, including property crimes and drug trafficking. In addition, the property officer's ex-partner had faced criminal charges while their relationship was ongoing and had contacted her from a Victorian prison in late 2016, shortly before she commenced work at the Melbourne Assessment Prison.

The property officer failed to declare either of these associations to Corrections Victoria. She also accessed information related to her then partner's criminal associates on Corrections Victoria's databases.

The pre-employment security checks conducted during the applicant's recruitment included a search of Corrections Victoria's systems for her name and date of birth. This check did not uncover any criminal associations even though a prisoner at a Victorian prison had included her on his visitor list and a former prisoner had nominated her as his emergency contact/next of kin. The associations were not identified because the prisoners had not used the applicant's full legal name. Had pre-employment probity checks included the applicant's residential address and mobile phone number, these declarable associations would most likely have been identified prior to her engagement. This could have influenced the decision to engage her or caused controls to be put in place to properly manage the clear conflict of interest.

4.5.3 Conflicts of interest identified in Operation Nepean

In 2017, IBAC reported on Operation Nepean, an investigation into allegations of corrupt conduct against a facilities manager at DPFC. As a result of this investigation, IBAC found significant conflict of interest failures by the facilities manager, who:

- did not remove himself from the procurement process when dealing with his son's company
- misused his position to recruit another son to work at the prison
- breached the applicable gifts, benefits and hospitality policy by receiving a boat and trailer as a gift from a business person who had been awarded electrical contract work.

As a result of the investigation, DPFC and Corrections Victoria advised IBAC they had strengthened their policies, processes and training around procurement and conflicts of interest.¹⁴⁰

¹⁴⁰See IBAC 2017, *Operation Nepean: An investigation into the conduct of former employee of Dame Phyllis Frost Centre, Jeff Finlow*.

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4.5.4 Conflicts of interest – corruption prevention opportunities

As a result of Operations Caparra, IBAC recommended that Corrections Victoria strengthen the training provided to staff on conflicts of interest. DJCS recently advised IBAC that work is underway to strengthen integrity training in pre-service training delivery, with a focus on conflicts of interest and declarable associations. In addition, Integrity and Respect in the Workplace training, currently being delivered at Langi Kal Kal Prison, is set to be rolled out to all Victorian prisons, addressing issues such as conflicts of interests, declarable associations, gifts, benefits and hospitality, outside employment, and reporting of suspected improper or corrupt conduct.

There is also an opportunity for Victorian prisons to consider good practice in other jurisdictions to reduce corruption risks associated with conflicts of interest, including by:¹⁴¹

- implementing a staff rotation policy
- ensuring there is a coordinated approach to gathering, assessing and managing information related to conflicts of interest
- ensuring the electronic system used to record conflicts of interest allows those conflicts and any management plans to be monitored, including by supervisors.

IBAC's 2019 report on *Managing corruption risks associated with conflicts of interest in the Victorian public sector* provides additional information and strategies on how agencies can strengthen their conflict of interest frameworks.

4.6 Inappropriate relationships

As well as being improper, relationships between corrections staff and prisoners are a contributing factor to corruption, such as trafficking contraband and misuse of information. In its 2018 report on Taskforce Flaxton, the Queensland CCC noted '[t]here is a general consensus that inappropriate relationships are at the core of corruption in prisons, and that they both leverage and generate a culture of secrecy'.¹⁴²

Certain features of custodial environments contribute to a risk of inappropriate relationships developing. Due to the closed nature of prisons, corrections staff and prisoners can have frequent interactions over an extended period of time.¹⁴³ Corrections officers depend to a significant extent on the willing cooperation of prisoners to maintain order, which requires them to establish rapport through less formal interactions.¹⁴⁴ However, this can create relationships that are vulnerable to exploitation.¹⁴⁵

¹⁴¹Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*; Western Australia CCC 2018, *Report into misconduct risks in WA prisons*.

¹⁴²Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 11.

¹⁴³Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 3.

¹⁴⁴McCarthy B 2020, 'Prison corruption' in Braswell M, McCarthy BR and McCarthy BJ, *Justice, crime and ethics*, 10th edn, Routledge, Ch 15.

¹⁴⁵Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 3; Also see Ross JI 2013, 'Deconstructing correctional officer deviance: Toward typologies of action and control', *Criminal Justice Review*, vol. 38(1), 110-126, p 120.

The corrections system is not just about maintaining order but is also focused on rehabilitation. In Victoria, the dual aims of safety and rehabilitation are addressed through Corrections Victoria's case management approach in its *Offender Management Framework*. Under this framework, corrections staff are expected to develop professional relationships with prisoners, with clear boundaries.¹⁴⁶ However, clear boundaries can be difficult to maintain as relationships evolve. For example, what might begin as fairly basic requests for legitimate goods and services can develop into significant integrity breaches such as trafficking contraband.

Further, inappropriate relationships and associated corruption risks are not only relevant to custodial environments but also to community corrections, as CCS staff also manage offenders dealing with multiple and complex issues, including drug addiction and mental illness. Like custodial staff, community corrections staff can be vulnerable to manipulation, intimidation and threats by offenders and their family members, friends and associates.

4.6.1 Grooming

Inappropriate relationships may be cultivated by corrections staff or by offenders and/or their associates, and are often maintained 'through manipulation, intimidation, threats, coercion and cooperation.'¹⁴⁷ Between 1 July 2018 and 31 December 2020, IBAC received 21 corrections sector allegations about inappropriate relationships with a vulnerable person.

Offenders' manipulation of corrections staff to engage in corrupt activity is commonly referred to as 'grooming'. Certain personal characteristics or life circumstances can increase a staff member's vulnerability to grooming, including social isolation, loneliness and lack of support from colleagues.¹⁴⁸ Personal information shared through social media can also facilitate grooming by offenders' family members, friends or associates.

Importantly, grooming can also occur outside prison walls as there is a risk that custodial staff might interact, sometimes unknowingly, with prisoners' family members, friends and associates (a risk often heightened in regional and remote areas) and non-custodial corrections staff may also be targeted.

¹⁴⁶Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 3.

¹⁴⁷Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 11.

¹⁴⁸Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 5.

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4.6.2 Rules governing relationships of corrections staff

As with conflicts of interest, the legislative framework governing relationships between corrections staff and offenders and/or their family members, friends and associates, is principles-based. The Public Administration Act prescribes public sector values, including the value of integrity, which requires, among other things, that public sector employees use their powers responsibly and strive to earn and maintain the public's trust.¹⁴⁹

Other key rules and guidelines relevant to the relationships of corrections staff include:

- The VPS Code of Conduct, which requires public sector employees to avoid conflicts of interest, ensure their private interests do not influence performance of their role, and avoid conduct that may adversely affect their standing as a public official or which may bring their employer or the public sector into disrepute.
- The DJCS *Declarable Associations Guideline and Associated Policy*, which requires employees to assess their personal associations and determine whether they are 'declarable associations', giving due consideration to factors such as whether the personal association is compatible with their role and whether it may adversely affect the reputation of and public confidence in DJCS.
- The *Corrections Conduct and Ethics Policy*, which provides guidance for corrections staff on how to maintain professional boundaries, model appropriate behaviour, avoid inappropriate relationships and contribute to a safe and secure working environment. The policy acknowledges that 'the responsibility for the management, care and supervision, both direct and indirect, of prisoners and offenders imposes special responsibilities on employees'.

4.6.3 Inappropriate relationships identified in Operation Nisidia

A number of IBAC investigations have identified inappropriate relationships between corrections staff and prisoners.¹⁵⁰

Operation Nisidia investigated the suspected corrupt conduct of Mr Turvey, who worked at Loddon Prison as an AWO. IBAC found that Mr Turvey developed and maintained inappropriate relationships with prisoners and their family members, which facilitated his trafficking of tobacco into the prison.

Mr Turvey's role as an AWO had a therapeutic focus and involved providing culturally sensitive welfare, advocacy and support to Aboriginal prisoners. Due to his position, Mr Turvey's relationships with prisoners were more informal than those between custodial staff and prisoners. When questioned by IBAC, Mr Turvey said he generally made contact with former prisoners or their families as part of his job. He explained that all Aboriginal prisoners were provided with his work phone number 'as a support thing'.

IBAC found that Mr Turvey was in regular phone contact with family members of prisoners via calls and texts to arrange drop-offs of cash or contraband or to confirm cash deposits into Mr Turvey's bank account. Mr Turvey also met with prisoners' family members or associates in person for such purposes.

¹⁴⁹Public Administration Act 2004 (Vic), s 7(b)(ii),(v).

¹⁵⁰Operations Tarlo, Molara, Eltrick, Operation Nisidia

IBAC's investigation found AWOs at Loddon Prison were subject to limited supervision and controls that could help detect or prevent misconduct or corruption. When questioned about Mr Turvey's role, the then General Manager of Loddon Prison said:

- he did not believe the role was subject to any direct supervision
- AWOs had full access to all prisoners, not just Aboriginal prisoners
- he was unaware if the AWO completed diary notations, entries or formal recording of contact with prisoners, although policy required interactions with prisoners to be recorded.

IBAC recommended that Corrections Victorian improve the training provided to AWOs and clearly communicate expectations around AWOs' duties, supervision, record-keeping and risk management.

4.6.4 Inappropriate relationships identified in Operation Molar

Operation Molar investigated allegations of corrupt conduct by Ms Badcock, a former corrections officer at Dhurringile Prison. IBAC found that Ms Badcock had been involved in trafficking contraband into the prison and had maintained improper relationships with prisoners, their family members and associates.

During a search of Ms Badcock's home, IBAC seized handwritten letters and notes, describing her improper relationships with prisoners and outlining details of trafficking activity.

Ms Badcock resigned from Corrections Victoria in March 2018. In July 2018, during an interview with IBAC, Ms Badcock admitted to maintaining improper relationships with prisoners and their associates in contravention of Corrections Victoria policy. Ms Badcock also admitted to other inappropriate associations via social media and an association with a prisoner's mother, with whom she would speak occasionally. According to Ms Badcock, the prisoner's mother provided her phone number and said she could call any time. When asked why she took the woman's phone details, Ms Badcock said the woman seemed nice and admitted that she did not have a lot of social contacts. Ms Badcock exchanged text messages with the woman, and passed messages between the woman and her son. Ms Badcock admitted to having a 'soft spot' for the prisoner and said that while she knew it was wrong to convey messages, she was under a lot of mental stress at the time.

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4.6.5 Inappropriate relationships – corruption prevention opportunities

As noted above, at the conclusion of Operation Caparra, IBAC highlighted the importance of ensuring employees understand their obligations in relation to declarable associations, both at the point of recruitment and on an ongoing basis. DJCS has since advised IBAC that it is strengthening its pre-service and ongoing training programs to focus on these issues. In addition, Corrections Victoria has made use of departmental resources and supports including posters on grooming and new ‘speak up’ guidelines.

In addition to good practice in relation to conflicts of interest, Victorian prisons should consider actions recommended or adopted in other jurisdictions to prevent the development of inappropriate relationships, including:¹⁵¹

- reminding staff periodically (for example, as part of annual performance assessments) of their obligations to declare any associations that could create perceptions of conflicts of interest or inappropriate relationships
- implementing a program for new recruits to minimise early exposure to higher-risk environments and provide greater support, training and oversight during their early employment
- conducting periodic professional reviews of corrections officers to identify vulnerabilities with a view to providing support and managing risk
- implementing processes to identify common themes within security reports about particular officers in order to identify potential at risk behaviours, allow for early intervention and deter corrupt conduct
- regularly reviewing CCTV footage to observe staff interactions with prisoners, identify potential at risk behaviours and intervene early
- implementing an early intervention program for at risk staff
- implementing a staff rotation policy or ‘tenure’ system to prevent staff developing relationships with prisoners.

¹⁵¹Western Australia CCC 2018, *Corrupt custodial officers and the risk of contraband entering prisons*; Western Australia CCC 2018, *Report into misconduct in prisons*; Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*.

4.7 Trafficking contraband

Prison environments create strong incentives for prisoners to access contraband such as alcohol, tobacco, other drugs and mobile phones.¹⁵² Having access to contraband may allow prisoners to influence the power dynamic in prisons and engage in illegal activities.¹⁵³ Since there is high demand for contraband items in prison and supply is low,¹⁵⁴ prisoners can pay a premium for smuggled goods, and corrupt corrections officers can make considerable profits for facilitating access to these items.¹⁵⁵ Between 1 July 2018 and 31 December 2020, IBAC received 37 corrections sector allegations related to trafficking or smuggling of contraband into Victorian correctional facilities.

One way for prisoners to obtain contraband items is by identifying and targeting corrections officers who might agree to smuggle items into prison for them.¹⁵⁶ A number of factors can affect an individual's propensity to engage in smuggling behaviour: social isolation, financial pressure and involvement in illegal activities outside of prison, including recreational drug use.¹⁵⁷

Prisoners and their family members, friends and associates can groom corrections staff by developing friendships with them and exploiting their weaknesses. Prisoners may seek to manipulate corrections staff into situations where they can be coerced, bribed or threatened into smuggling contraband, providing information or performing other favours.¹⁵⁸

In March 2020, Corrections Victoria acted to prevent the spread of COVID-19 to prisons – on 21 March 2020, personal visits to all Victorian public and private prisons were suspended. In place of face-to-face visits, prisons increased phone access for prisoners, encouraged prisoners to write letters and introduced the use of video calls.¹⁵⁹ The suspension of visits reduced the means by which contraband could be smuggled into prisons, which saw 'a reduction in contraband entering correctional facilities and a continued reduction in the use of drugs, reflected in drug testing results'.¹⁶⁰ However, this necessary procedural change had the unintended consequence of increasing the risk of prisoners manipulating staff to smuggle contraband.

¹⁵²McCarthy B 2020, 'Prison corruption' in Braswell M, McCarthy BR and McCarthy BJ, *Justice, crime and ethics*, 10th edn, Routledge, Ch 15.

¹⁵³Ellison A et al 2018, 'The demand for and use of illicit phones in prison', *Ministry of Justice Analytical Series - HM Prison and Probation Service*, pp 1-63, 3. For instance, prisoners with access to contraband mobile devices can run illegal operations from prison and intimidate witnesses.

¹⁵⁴This is especially pronounced when it comes to illicit drugs, as there is a large number of drug users in prison. Indeed, numerous studies show 'high incarceration rates among problematic drug users': Penington Institute 2017, 'Doing time: Drug use in Australian prisons', *Anex Bulletin*, vol.4(1), <penington.org.au/wp-content/uploads/2017/01/bulletin_vol4_1.pdf>.

¹⁵⁵Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 7; Ellison A et al 2018, 'The demand for and use of illicit phones in prison', *Ministry of Justice Analytical Series - HM Prison and Probation Service*, pp 1-63, 4.

¹⁵⁶McCarthy B 2020, 'Prison corruption' in Braswell M, McCarthy BR and McCarthy BJ, *Justice, crime and ethics*, 10th edn, Routledge, Ch 15.

¹⁵⁷Western Australia CCC 2018, *Corrupt custodial officers and the risk of contraband entering prisons*.

¹⁵⁸Western Australia CCC 2018, *Corrupt custodial officers and the risk of contraband entering prisons*, p 25.

¹⁵⁹Corrections Victoria 2021, *Our response to coronavirus (COVID-19)*, <www.corrections.vic.gov.au/covid19>. The suspension was lifted on 11 December 2020 and re-instated again on 1 January 2021. As limits to in-person visitation continued throughout 2020 as a result of the COVID-19, the Commissioner for Corrections Victoria developed and issued instruction on the use of video calls – Corrections Victoria Commissioner 2020, *Commissioner's requirements: Use of personal video visits during emergencies 1.4.10*.

¹⁶⁰DJCS 2020, *Annual Report 2019/20*, p 23.

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What is contraband?

Contraband is considered to be ‘anything introduced or found in a prison that is not permitted’. Prohibited items in Victorian prisons include:¹⁶¹

- weapons
- explosive substances or devices
- flammable or corrosive liquids
- tobacco and tobacco smoking accessories such as pipes, lighters and matches
- alcohol
- tattooing equipment
- aerosol pressure spray cans
- equipment that may assist an escape
- film, computer games
- cameras
- mobile telephones
- portable digital media players
- USB storage devices
- drugs and drug-related items.

One danger associated with trafficking contraband into prisons is that prisoners affected by drugs or other substances can pose a danger to correctional staff. The introduction of contraband can also create an imbalance of power among prisoners.

Illicit drug use in Victoria’s prisons

In 2013, VAGO noted that ‘[a]round 70 per cent of Victoria’s prisoners have used drugs before entering the prison system, and many of these people enter prison without their problematic drug use being addressed’.¹⁶² As VAGO observed, it is therefore not surprising that there is high demand for drugs in prisons.

Corrections Victoria reports monthly on prohibited drug use and seizure of contraband in Victorian prisons. In September 2019, it reported that buprenorphine was the drug for which prisoners most frequently tested positive during 2019.¹⁶³ The highest number of positive tests for this drug over the course of 2019 were recorded at Port Phillip Prison, followed by the Metropolitan Remand Centre and Barwon Prison.¹⁶⁴

Buprenorphine is a heroin-replacement drug available in thin dissolvable strips which are relatively easy to smuggle into prisons, including through letters and cards.¹⁶⁵ While positive tests in Victorian prisons for some drugs have declined since September 2019, positive tests for buprenorphine and methamphetamines have significantly increased.¹⁶⁶

¹⁶¹Corrections Victoria 2020, *Prohibited items*, <www.corrections.vic.gov.au/prisons/visiting-a-prisoner/prohibited-items>.

¹⁶²VAGO 2013, *Prevention and management of drug use in prisons*, p vii.

¹⁶³Corrections Victoria 2019, *Drugs in Victorian prisons reports - September 2019 report*, pp 10-11, 14.

¹⁶⁴Corrections Victoria 2019, *Drugs in Victorian prisons reports - September 2019 report*, pp 10-11, 14.

¹⁶⁵Department of Communities and Justice 2019, *Prison officers stamp out contraband*, Media Release, 12 June 2019, <www.justice.nsw.gov.au/Pages/media-news/media-statements/2019/prison-officers-stamp-out-contraband.aspx>.

¹⁶⁶Corrections Victoria 2019, *Drugs in Victorian prisons reports - September 2019 report*, p 12.

4.7.1 Rules related to contraband in prison

The law in Victoria provides that it is a criminal offence to smuggle any item of contraband into a Victorian prison.¹⁶⁷ In addition, *Commissioner's Requirement 1.2.9 – Contraband and controlled items* outlines broad principles including the obligation on prison general managers to develop and operate systems to detect and confiscate contraband, and to train staff accordingly. There are separate Commissioner's Requirements on specific controls, including barrier control procedures and ion scanning technology.¹⁶⁸

4.7.2 Contraband trafficking identified in Operation Nisidia

As a result of Operation Nisidia, IBAC substantiated trafficking allegations against Mr Turvey, a former AWO at Loddon Prison. Mr Turvey started work at the prison in late 2014, shortly before the ban on possession and use of tobacco and smoking accessories in Victoria's correctional facilities came into effect. This led to significant growth in the lucrative black market for tobacco.

The inappropriate relationships Mr Turvey developed with prisoners, their family members and associates enabled him to traffic tobacco into the prison for personal financial gain. Within six months of the tobacco ban, Corrections Victoria had received information from various sources suggesting that Mr Turvey had illegally conveyed tobacco products into Loddon Prison and had received payment from prisoners. Prison management spoke to Mr Turvey about these allegations in late 2016 and early 2017, but he denied any wrongdoing.

As a result of Operation Nisidia, IBAC found that Mr Turvey had been in regular contact with family members of prisoners to arrange drop-offs of cash or contraband. Mr Turvey would also buy cigarettes, tobacco, papers and lighters, and leave them in particular locations for others to collect and smuggle into Loddon Prison.

IBAC found that between 23 January 2017 and 30 June 2017, money orders totalling \$12,900 were paid to Mr Turvey. These money orders were cashed at various locations. Mr Turvey would often bank a portion of the money and take the remainder as cash. Overall, IBAC found that between 19 January 2016 and 10 July 2017, approximately \$27,000 in untraced cash was deposited into Mr Turvey's bank accounts.

The General Manager of Loddon Prison noted that prison staff are sometimes subjected to x-ray wand searches of their body or to x-ray searches of their bags, but they are not subject to more intrusive physical searches.

Despite reports in January 2016 suggesting that Mr Turvey was introducing contraband to the prison, he was able to continue circumventing security measures for a further 12 months, indicating the prison's detection and control measures were ineffective.

¹⁶⁷Corrections Victoria 2020, *Prohibited items*, <www.corrections.vic.gov.au/prisons/visiting-a-prisoner/prohibited-items>.

¹⁶⁸Corrections Victoria Commissioner 2020, *Commissioner's requirements: Barrier control procedures 1.2.4*; Corrections Victoria Commissioner 2020, *Commissioner's requirements: Use of ion scanning technology 1.2.5*; Corrections Victoria Commissioner 2020, *Commissioner's requirements: Contraband and controlled items 1.2.9*.

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4.7.3 Contraband trafficking identified in Operation Molar

As a result of Operation Molar, IBAC substantiated allegations that Ms Badcock, a former corrections officer at Dhurringile Prison, corruptly received payments from prisoners' associates to traffic tobacco into the facility.

Similar to Mr Turvey in Operation Nisidia, Ms Badcock commenced work as a corrections officer around the time that the prohibition on tobacco in Victorian prisons took effect. IBAC's investigation identified that prisoners' associates would deposit cash into a bank account managed by a prisoner's relative. The relative would then send cardless cash¹⁶⁹ to Ms Badcock to purchase contraband before these items were smuggled to the prisoner inside the facility.

Dhurringile Prison is a minimum-security facility. During the relevant period, the prison had limited CCTV and swipe card entry and exit doors to monitor access to different areas. Staff were not searched or required to enter the facility via a screening device, and could freely enter and exit the prison car park throughout their shift.

The ineffective security measures at Dhurringile Prison meant that Ms Badcock was able to traffic contraband into the facility for over two and a half years, even though there were numerous reports indicating that she was doing so.

4.7.4 Trafficking contraband – corruption prevention opportunities

As a result of Operations Nisidia and Molar, IBAC recommended that Corrections Victoria address corruption vulnerabilities associated with trafficking contraband by reviewing the systems, policies and procedures in place for preventing and detecting trafficking by staff. DJCS has since advised IBAC that relevant policies, including various Commissioner's Requirements, have been reviewed and updated, and that all corrections staff routinely have their bags searched and are subject to physical searches or detection via handheld scanners, x-ray equipment or the use of Passive Alert Detection canines.

Victorian prisons have an opportunity to consider actions taken or recommended in other jurisdictions to strengthen its controls around contraband, including:¹⁷⁰

- reviewing search and screening procedures used when staff enter prisons, to ensure they are effective in preventing the smuggling of contraband
- implementing processes to identify common themes within security reports about particular officers in order to identify potential at risk behaviours, allow for early intervention and deter corrupt conduct
- requiring the videorecording of the destruction of drugs found on prisoners or in their cells
- ensuring staff lockers are placed before the security screening points where staff enter corrections facilities

¹⁶⁹Cardless cash is a system which allows users to transfer cash to others by sending them a cash code.

¹⁷⁰Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*; Western Australia CCC 2018, *Corrupt custodial officers and the risk of contraband entering prisons*; Western Australia CCC 2018, *Report into misconduct in WA prisons*; NSW ICAC 2019, *Investigation into the conduct of NSW Correctional Services officers at Lithgow Correctional Centre*; NSW ICAC 2013, *Corrective Services NSW – allegations concerning possession and supply of steroids by a Corrective Services NSW corrections officer (Operation Torino)*.

- prohibiting staff from bringing into corrections facilities any drinking bottles that are not completely sealed or empty
- rotating gatehouse security personnel
- ensuring a CCTV camera is positioned to record footage of staff searches on entry to corrections facilities and that footage is regularly reviewed by management
- regular and strategic use of drug-detection dogs to search corrections staff.

IBAC recognises that some of these measures are already in place in some Victorian prisons and there is a need for tailored approaches to meet the different risks that apply to different facilities. Corrections Victoria is also undertaking work to implement new measures, such as the introduction of a staff drug-testing regime. Nonetheless, Corrections Victoria should ensure it has the strongest appropriate controls across all facilities to prevent and detect the smuggling of contraband.

4.8 Misuse of information

Misuse of information is another corruption risk often linked to inappropriate relationships and conflicts of interest. A wide range of information is held by prisons including:¹⁷¹

- legal information
- court orders
- information about prisoners' physical and mental health
- details about prisoners' family and friends.

As Queensland CCC noted in its final report on Taskforce Flaxton 'the power of knowledge is intensified in custodial settings'.¹⁷² This is because access to and release of prisoners' confidential information can have serious consequences for safety and security. For example, corrections staff accessing and releasing information about offences for which a prisoner has been convicted can directly affect that prisoner's safety. Corrections staff might also access information and use it to extort prisoners or provide it to other prisoners or third parties for personal benefit.¹⁷³

Further information on misuse of information more broadly in the public sector is available in IBAC's reports on *Unauthorised access and disclosure of information held by Victoria Police* and *Unauthorised access and disclosure of information held by the Victorian public sector*.¹⁷⁴

¹⁷¹Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 12.

¹⁷²Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 16; Queensland CCC 2020, *Operation Impala: Report on misuse of confidential information in the Queensland public sector*, p 34.

¹⁷³Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 17.

¹⁷⁴IBAC 2019, *Unauthorised access and disclosure of information held by Victoria Police*, p 5, IBAC 2020, *Unauthorised access and disclosure of information held by the Victorian public sector*.

4 Key corruption risks and issues

4.8.1 Rules governing access to and use of prisoner information

The legislative framework supporting information management within the public sector includes the following state and federal laws:

- Standards for responsible management of information in the *Privacy and Data Protection Act 2014* (Vic).
- Standards of keeping records in the *Public Records Act 1973* (Vic).
- The right to privacy in the Charter.
- The right to access documents held by Commonwealth Government ministers and most agencies in the *Freedom of Information Act 1982* (Cth).
- The right to privacy of personal health information and the offence of unlawfully requesting or obtaining access to health information in the *Health Records Act 2001* (Cth).
- The definition of misconduct in section 4 of the Public Administration Act, which includes the improper use of information acquired by virtue of one's position.
- The definition of corrupt conduct in the IBAC Act, which includes conduct of a public officer that involves the misuse of information or material acquired in the course of the performance of their functions.
- Section 247G of the Crimes Act, which outlines the summary offence of unauthorised access to or modification of restricted data.

In addition, *Commissioner's Requirement 1.3.4 – Information management and security* outlines requirements for staff to comply with DJCS's *Information Management and Security* and *Acceptable Use* policies. The VPS Code of Conduct also recognises the importance of information security – it requires public sector employees to ensure official information is only used for official purposes in an approved manner, and to understand the importance of – and to uphold the privacy and confidentiality of – information.

The Office of the Victorian Information Commissioner (OVIC) oversees information access, privacy and security. OVIC is an independent regulator responsible for administering the *Victorian Protective Data Security Framework* and the *Victorian Protective Data Security Standards*, which apply to the majority of VPS bodies, including Corrections Victoria. OVIC also monitors compliance with the ten Information Privacy Principles in the *Privacy and Data Protection Act 2014* (Vic). These principles set out minimum standards for how VPS bodies must handle personal information.

4.8.2 Misuse of information identified in Operation Nisidia

In Operation Nisidia, IBAC found Mr Turvey had accessed the E-Justice system for an improper purpose. E-Justice is a case management system, mainly used by Corrections Victoria's community corrections officers for offenders on community based orders. It contains case information for each offender and is used by staff to upload notes and documents.

Mr Turvey contacted a woman who was the former partner of a prisoner. The woman had indicated to Mr Turvey that she had difficulties attempting to visit her former partner in prison because her sister had used her name, instead of providing her own, when apprehended by police on an unrelated matter.

IBAC found that Mr Turvey inappropriately accessed the E-Justice system and reviewed information on the woman's sister in order to confirm whether she had given a false name.

4.8.3 Misuse of information identified in Operation Caparra

In Operation Caparra, IBAC found that a property officer at the Melbourne Assessment Prison had accessed restricted information on numerous occasions, outside the scope of her official duties, for 15 individuals known to her or her partner.

An audit of the property officer's use of PIMS also identified searches related to eight individuals unrelated to her work. In conducting these searches, she accessed sensitive information including prisoner drugs test results. While PIMS does not restrict general users' access to this information, it was outside the scope of the property officer's role.

In addition, an audit of the E-Justice system found that the property officer accessed information related to at least 13 associates between 16 January 2018 and 27 February 2018, as well as information related to several females and two deceased people which was not relevant to the functions of the Melbourne Assessment Prison.

When interviewed by IBAC, the property officer admitted she had accessed information on the 13 associates but claimed she had not fully understood her obligations. Training of new staff in the Property Team at the Melbourne Assessment Prison involves two weeks of direct supervision during which they are instructed on how to use PIMS and E-Justice. New starters are advised they are not permitted to view information relating to people they know, such as family members and friends. The property officer in question completed the new starter training as well as online learning modules, such as the 'Privacy and compliance in everyday work' module, as part of her induction.

4 Key corruption risks and issues

4.8.4 Misuse of information – corruption prevention opportunities

As a result of Operation Caparra, IBAC identified opportunities for Corrections Victoria to address corruption vulnerabilities associated with access to and use of restricted information, including by reviewing and revising pre-employment and ongoing probity checks, reviewing and revising policies and procedures for preventing and detecting information misuse, and developing ways to strengthen the auditing of corrections information systems. DJCS has since advised IBAC of actions it has taken or proposes to take, including:

- updating the Commissioner's Requirement on disclosure of prisoner/offender information
- increasing its capacity to conduct routine system audits and considering the viability of implementing a proactive monitoring model
- strengthening integrity training in pre-service training delivery, including training on misuse of information.

Building on strategies implemented or recommended in other jurisdictions, Victorian prisons can strengthen protections around inappropriate access to and use of restricted information, including by:¹⁷⁵

- ensuring all databases containing confidential information have unique user identification logins
- requiring database users to record a justification when conducting searches or accessing information
- conducting periodic reviews of users' access to information databases
- providing regular training about information access policies and procedures to staff who have access to confidential information and addressing any problematic aspects of information management culture within corrections environments
- regularly promoting privacy awareness
- considering legislative amendment to create an offence of misuse of confidential information by corrections officers.¹⁷⁶

¹⁷⁵Queensland CCC 2020, *Operation Impala: A report on misuse of confidential information in the Queensland public sector*.

¹⁷⁶In Victoria, unauthorised access to, use or disclosure of police information by Victoria Police employees is an offence under sections 227 and 228 of the *Victoria Police Act 2013*. There is currently no equivalent for corrections officers, although it is an offence to publish certain information under s 30I of the *Corrections Act 1986*.

5 Factors affecting corruption risks

5 Factors affecting corruption risks

5.1 The prison environment

5.1.1 Overcrowding

In recent years, Victoria has experienced significant growth in its prison population.¹⁷⁷ Over the 10 years from 2008 to 2018, the prison population steadily increased from 4224 to 7668, an increase of around 80 per cent.¹⁷⁸ In 2018/19, the average daily number of prisoners in Victoria was 8044.¹⁷⁹ Expressed as a proportion of the Victorian adult population, in 2008 the imprisonment rate was 80.4 prisoners per 100,000 adults. By 30 June 2018, the imprisonment rate had increased to 152.4 per 100,000.¹⁸⁰ In 2019/20, the average daily number of prisoners dropped to 7859.¹⁸¹ As DJCS noted, this reduction arose primarily from ‘the impact of changes to criminal justice system activity during the coronavirus (COVID-19) restrictions’.¹⁸²

Factors contributing to this general growth trajectory include an increase in denial of bail applications following the January 2017 Bourke Street incident and changes introduced in response to the subsequent Bail Review.¹⁸³ Stricter limits on bail applications came into effect in 2018. Other contributing factors include the introduction of mandatory sentences which limit courts’ discretion to impose non-custodial orders for certain serious offences,¹⁸⁴ the abolition of suspended sentences in 2014,¹⁸⁵ and the tightening of parole in 2013 following a review.¹⁸⁶

¹⁷⁷McMahon M 2019, ‘No bail, more jail? - Breaking the nexus between community protection and escalating pre-trial detention’, *Parliamentary Research Paper No 3*, p 1.

¹⁷⁸Sentencing Advisory Council 2021, *Victoria’s prison population*, <www.sentencingcouncil.vic.gov.au/statistics/sentencing-trends/victoria-prison-population>; Corrections Victoria, Corrections Victoria 2021, *Annual prisoner statistical profile 2009-10 to 2019-20*, <www.corrections.vic.gov.au/annual-prisoner-statistical-profile-2009-10-to-2019-20>.

¹⁷⁹DJCS 2019, *Annual Report 2018/19*, p 116.

¹⁸⁰Sentencing Advisory Council 2021, *Victoria’s imprisonment rates*, <www.sentencingcouncil.vic.gov.au/statistics/sentencing-trends/victoria-imprisonment-rates>; Corrections Victoria 2021, *Annual prisoner statistical profile 2009-10 to 2019-20*, Table 1.3, <www.corrections.vic.gov.au/annual-prisoner-statistical-profile-2009-10-to-2019-20>. Even so, the imprisonment rate in Victoria in 2017/18 was lower than the national rate was 216.8 per 100,000 of the adult population – see *Productivity Commission 2019, Report on government services 2019*, Ch 8 - Corrective services.

¹⁸¹DJCS 2020, *Annual Report 2019/20*, p 130.

¹⁸²DJCS 2020, *Annual Report 2019/20*, p 130.

¹⁸³McMahon M 2019, ‘No bail, more jail? - Breaking the nexus between community protection and escalating pre-trial detention’, *Parliamentary Research Paper No 3*, p 2.

¹⁸⁴Sentencing Advisory Council 2021, *Imprisonment*, <www.sentencingcouncil.vic.gov.au/about-sentencing/imprisonment>.

¹⁸⁵Sentencing Advisory Council 2014, *Phasing out of suspended sentences complete from today*, <www.sentencingcouncil.vic.gov.au/news-media/news/phasing-out-suspended-sentences-complete-today>.

¹⁸⁶Ford C 2013, ‘Parole up for review’, *Law Institute Journal*, vol. 87(8), p 28.

Corrections Victoria has advised that the growth in prisoner numbers creates challenges, pressures and demands in the corrections operating environment.¹⁸⁷ Overcrowding can affect many aspects of life in prison, including:¹⁸⁸

- a reduction in the time prisoners spend out of their cells
- increased stress among prisoners which can lead to greater incidents of violence and self-harm
- negative impacts on mental health, especially for prisoners with existing conditions
- reduced access to already limited goods and services
- increased strain on prison infrastructure including heating, cooling and sewerage
- increased risk of transmission of communicable diseases
- difficulty separating vulnerable prisoners from the general prison population
- strained supervision resources.

There are also several corruption risks associated with overcrowding. Prison overcrowding may:¹⁸⁹

- disrupt the prison routine, allowing corrupt behaviour to be more easily hidden
- increase the risk of excessive use of force by corrections officers
- limit the availability of resources, causing their value to increase and creating opportunity for corrections staff to misuse their authority
- limit managerial capacity to supervise and oversee corrections officers to prevent and respond to corruption
- lead to policies and practices that have the potential to compromise human rights.

In its report on Taskforce Flaxton, the Queensland CCC concluded that 'alleviating prison overcrowding is essential to reducing corruption risk'.¹⁹⁰ To accommodate the increase in prisoner numbers and prevent overcrowding, Victoria's 2019/20 Budget included \$1.8 billion over four years for capital spending on prison infrastructure, including 1600 additional beds.¹⁹¹

¹⁸⁷DJR 2015, *Corrections Victoria - Strategic Plan 2015-18: Delivering effective correctional services for a safe community*, p 12.

¹⁸⁸VAGO 2020, *Ravenhall prison: Rehabilitating and reintegrating prisoners*, p 28; VO 2014, *Investigations into deaths and harm in custody*, p 27; *The Age*, 7 July 2019, 'Stack and rack': Victoria's newest prison already full and set to expand again', viewed 30 April 2021, <www.theage.com.au/national/victoria/stack-and-rack-victoria-s-newest-prison-already-full-and-set-to-expand-again-20190706-p524qr.html>. Audit Officer of NSW 2019, *Managing growth in the NSW prison population*, <www.audit.nsw.gov.au/our-work/reports/managing-growth-in-the-nsw-prison-population>. Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, pp 5-6; Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 11; Jesuit Social Services 2015, *Overcrowding in Victorian prisons the backdrop to riots*, <jss.org.au/overcrowding-in-prisons-the-backdrop-to-riots/>. Haney C 2006, 'The wages of prison overcrowding' *Washington University Journal of Law and Policy*, vol. 22, 265-293, pp 272-275; UNODC 2017, *Handbook on anti-corruption measures in prisons*, p 17.

¹⁸⁹Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 6; Haney C 2006, 'The wages of prison overcrowding', *Washington University Journal of Law and Policy*, vol. 22, 265-293, p 277; UNODC 2017, *Handbook on Anti-corruption measures in prisons*, p 17.

¹⁹⁰Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 6.

¹⁹¹Minister for Corrections 2019, A stronger prison system to keep people safe, 24 May 2019, *Prison officers stamp out contraband*, Media Release, 12 June 2019, <www.justice.nsw.gov.au/Pages/media-news/media-statements/2019/prison-officers-stamp-out-contraband.aspx>. *The Age*, 27 June 2019, 'Prisons are booming as Victoria pays for its "tough on crime" stance' viewed 20 April 2021, <www.theage.com.au/national/victoria/prisons-are-booming-as-victoria-pays-for-its-tough-on-crime-stance-20190627-p5220f.html>. By way of comparison, in its 2016/17 state budget, the New South Wales government provided \$3.8 billion funding to create an addition 7000 prison beds over four years, see *The Sydney Morning Herald*, 16 June 2016, 'NSW budget 2016: \$3.8 billion for new jail to cover surge in prison populations', viewed 3 May 2021, <www.smh.com.au/national/nsw/nsw-budget-2016-38-billion-for-new-jail-capacity-to-cover-surge-in-prison-population-20160616-gpkhd5.html>.

5 Factors affecting corruption risks

5.1.2 The closed nature of prison environments

The necessary restrictions that apply to access and communication in prison environments can create challenges in detecting and investigating alleged corruption.¹⁹² In addition, the power imbalance between corrections staff and prisoners, including prisoners' high dependence on corrections staff, creates risks related to the abuse of that power including by:¹⁹³

- confiscating or destroying prisoners' personal belongings
- denying privileges
- repeatedly searching cells
- conducting repetitive strip searches
- transferring prisoners to different facilities without sufficient reason.

External oversight and increased transparency can assist in reducing the corruption risks in prison environments. Issues related to transparency are of particular concern in privately managed prisons. A range of factors affect the transparency and accountability of private prisons, most notably commercial-in-confidence clauses in contracts between the state and private service providers which may affect 'the public's ability to identify contractual violations and any remedial actions taken.'¹⁹⁴

In March 2018, VAGO tabled an audit on the safety and cost effectiveness of Victoria's privately managed prisons, following an audit of Port Phillip Prison and Fulham Correctional Centre.¹⁹⁵ VAGO noted that while Corrections Victoria collects a considerable amount of information about the performance of the state's private prisons, very little of this information is publicly available, which affects transparency of the state's corrections system as a whole.¹⁹⁶

While Western Australia and New South Wales have an independent Inspector of Custodial Services, responsible for regular inspections of facilities and overseeing the management of people in custody,¹⁹⁷ Victoria has an Independent Prison Visitor Scheme. The Minister for Corrections may appoint independent prison visitors for each prison on the recommendation of the Justice Assurance and Review Office within DJCS. Independent prison visitors are responsible for providing the Minister with 'independent objective advice on the operations of the prison they visit'. The advice they provide is based on 'regular observation of prison routines and activities, as well as the referral and reporting of any issues, concerns or positive initiatives'.¹⁹⁸

¹⁹²McCarthy B 2020, 'Prison corruption' in Braswell M, McCarthy BR and McCarthy BJ, *Justice, crime and ethics*, 10th edn, Routledge, Ch 15.

¹⁹³Naylor B 2016, 'Protecting human rights in detention: Rights, monitoring and OPCAT', *Alternative Law Journal*, vol. 41(3), 151-154. UNODC 2017, *Handbook on anti-corruption measures in prisons*, p 15; Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 1; Also see Ross JI 2013, 'Deconstructing correctional officer deviance: Toward typologies of action and control', *Criminal Justice Review*, vol. 38(1), 110-126, p 114.

¹⁹⁴Monash University 2019, *Victoria's prison system: rising costs and population, little accountability*, <lens.monash.edu/@politics-society/2019/06/28/1375605/victorias-prison-system-rising-costs-and-population-little-accountability>.

¹⁹⁵While Ravenhall Prison is also privately managed, it was not fully operational at the time of the audit. It commenced operations in November 2017.

¹⁹⁶VAGO (2018) Safety and Cost Effectiveness of Private Prisons, p 10.

¹⁹⁷Inspector of Custodial Services NSW, <inspectorcustodial.nsw.gov.au>; Inspector of Custodial Services WA, <www.oics.wa.gov.au>.

¹⁹⁸Corrections Victoria, Independent prison visitor scheme, <www.corrections.vic.gov.au/volunteering/independent-prison-visitor-scheme>.

In addition, Australia is a signatory to the Convention against Torture and associated Optional Protocol (OPCAT), which is aimed at preventing abuse of people in detention and allows independent inspections of detention facilities.¹⁹⁹ Under the OPCAT, Australia must open places where people are deprived of liberty to a United Nations (UN) Committee of international experts and local inspection bodies known as National Preventative Mechanisms (NPMs). While not formally appointed as Victoria's NPM, the VO has conducted a number of OPCAT-style inspections, and has produced reports including *Implementing OPCAT in Victoria: report and inspection of the Dame Phyllis Frost Centre* and *OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people*. The reports note that 'places of detention are usually hidden from public view, and people in them are particularly vulnerable to torture and other cruel, inhuman and degrading treatment'.²⁰⁰

5.1.3 Regional and remote areas

Certain corruption risks such as conflicts of interest, inappropriate relationships, nepotism and procurement fraud, are heightened in regional and remote areas given their smaller populations. In regional areas, corrections staff are more likely than those living and working in metropolitan areas to inadvertently come into contact with prisoners' friends, family members or associates through sporting clubs, interest groups and school events.²⁰¹

A number of Victoria's prisons, including Fulham Correctional Centre, Dhurringile Prison and Hopkins Correctional Centre, are located a considerable distance from metropolitan areas. These facilities can help address the increased corruption risks faced by regional prisons by ensuring:²⁰²

- staff recruitment and vetting procedures consider potential risks associated with each applicant's employment²⁰³
- conflicts of interest are declared and appropriately managed, particularly in relation to procurement and recruitment
- clear, ongoing training is provided to promote awareness of and resistance to grooming behaviours
- staff are informed on and understand the risks associated with confidential and sensitive information.

¹⁹⁹In July 2019, the 'UN subcommittee on prevention of torture announced it would visit six countries to inspect places of detention, including Australia'. *The Guardian*, 5 July 2019, 'UN inspectors primed for "unfettered access" to Australian detention centres', <www.theguardian.com/australia-news/2019/jul/05/un-inspectors-primed-for-unfettered-access-to-australian-detention-centres>.

²⁰⁰VO 2017, *Implementing OPCAT in Victoria: Report and inspection of Dame Phyllis Frost Centre*; VO 2019, *OPCAT in Victoria: A thematic investigation of practices related to solitary confinement of children and young people*, p 15.

²⁰¹Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 20.

²⁰²Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 20.

²⁰³For additional information see IBAC 2018, *Corruption and misconduct risks associated with employment practices in the Victorian public sector*.

5 Factors affecting corruption risks

5.2 Working in corrections environments

5.2.1 Workplace culture

The unique challenges associated with working in the corrections sector can contribute to strong solidarity between employees. However, this can also contribute to workplace cultures where colleagues may seek to protect each other by masking or covering up corruption.²⁰⁴

In such environments, preventing corruption and promoting integrity requires strong leadership and attention to workplace culture.²⁰⁵ The Queensland CCC raised this issue in its 2018 Taskforce Flaxton report, which examined corruption risks in Queensland prisons. That report noted that a 'negative organisational culture can enable improper and corrupt behaviours, and encourage resistance to reporting'. This resistance to reporting is 'typically due to peer pressure, intimidation, bullying and staff solidarity or loyalty.'²⁰⁶

Western Australia's CCC has also highlighted this issue through public examinations into how culture contributes to serious misconduct at Hakea Prison and other prisons in the state.²⁰⁷ In her opening address at the public examinations, Counsel Assisting stated a 'real fear of reprisal' prevented corrections officers speaking up about serious wrongdoing.²⁰⁸

Cultural change initiatives are essential to remedying environments where staff do not feel safe reporting suspected corrupt conduct. The Queensland Corrective Services Commissioner has noted '[y]ou can write policy until the cows come home, you can write voluminous amounts of policy, and none of it will be relevant if the culture is wrong. It's a waste of time.'²⁰⁹ Failure to report means that corrupt conduct can continue undetected, which risks both prisoner and staff safety, and undermines integrity more broadly.

Ethical leadership is essential to establishing and maintaining a workplace culture that promotes integrity and adherence to policies and procedures.²¹⁰ This extends from senior leaders to local supervisors, who may be best placed to identify problem behaviour.²¹¹ Ethical leadership refers to leaders' use of influence to positively promote the ethical conduct of their employees.

Senior staff can demonstrate ethical leadership by:

- acknowledging identified instances of wrongdoing and using them as an opportunity for staff and the organisation to learn and improve
- applying an ethical lens to decision-making to ensure governance activities include genuine consideration of the impact and outcomes of decisions
- ensuring internal integrity and governance teams and systems are well resourced and supported.

DJCS has advised IBAC that a priority project is being progressed in 2021 to strengthen workplace cultures within Corrections Victoria, including safety, inclusion, and integrity within the Victorian custodial corrections system.

²⁰⁴UNODC 2017, *Handbook on anti-corruption measures in prisons*, p 12; Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 8.

²⁰⁵Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 27.

²⁰⁶Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 27.

²⁰⁷Western Australia CCC 2020, *Public examinations into how culture contributes to serious misconduct in Hakea and other prisons in Western Australia*, <www.ccc.wa.gov.au/news-media/news/public-examinations-how-culture-contributes-serious-misconduct-hakea-and-other>.

²⁰⁸Western Australia CCC 2020, *Transcript: Opening address by counsel assisting with public examinations into how culture contributes to serious misconduct in Hakea and other prisons in Western Australia*, <www.ccc.wa.gov.au/news-media/news/public-examinations-how-culture-contributes-serious-misconduct-hakea-and-other>.

²⁰⁹Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, p 27.

²¹⁰Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 17; UNODC 2017, *Handbook on anti-corruption measures in prisons*, p 11.

²¹¹UNODC 2017, *Handbook on anti-corruption measures in prisons*, p 65.

5.2.2 Systems to support the reporting of suspected corrupt conduct

Strong integrity cultures must be supported by reporting systems and obligations that ensure wrongdoing in the sector is identified and addressed. Corrections staff may be reluctant to report if they fear repercussions and retaliation or if they lack faith in how complaints may be handled.²¹²

Corrections Victoria should ensure staff are aware of the protections available under the *Public Interest Disclosures Act 2012* which, as noted in section 2.3.2, protect the discloser from being fired or bullied for making a complaint or from being sued for defamation as a result of the disclosure. Following Operation Caparra, DJCS advised IBAC that Integrity and Respect in the Workplace training is currently being delivered at Langi Kal Kal Prison, and work is underway to roll this out to all prisons, addressing a range of issues such as reporting of suspected improper or corrupt conduct, including public interest disclosures.

In addition, IBAC considers all corrections officers should be required by law to report any conduct they reasonably suspect is corrupt or involves serious misconduct, unless this conduct has already been reported to an appropriate external authority. To encourage compliance, an appropriate statutory penalty should apply when corrections officers fail to meet this obligation. Similar legislative obligations exist in other Australian jurisdictions, including New South Wales, South Australia and the Northern Territory.²¹³

In New South Wales, corrections officers must report to a more senior officer 'any sincere belief that another officer has engaged in misconduct or conduct that constitutes a criminal offence while carrying out their duties'.²¹⁴ The more senior officer must report these disclosures to the Commissioner of Corrective Services if they believe the conduct does or would constitute a criminal offence or would be grounds for commencing misconduct proceedings under section 69 of the *Government Sector Employment Act 2013* (NSW). However, there is no statutory penalty for failing to comply with these provisions.²¹⁵

²¹²Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 17; Ross JI 2013, 'Deconstructing correctional officer deviance: Toward typologies of action and control', *Criminal Justice Review*, vol. 38(1), 110-126, p 120.

²¹³In New South Wales, this requirement is found in the Crimes (Administration of Sentences) Regulation 2014 (NSW), r 253. The Northern Territory's Mandatory Reporting Directions Guidelines, issued pursuant to section 22 of the *Independent Commissioner Against Corruption Act 2017* (NT), indicate that a 'public officer of a public body must report improper conduct to the ICAC, unless the public officer or public body knows, for a fact, that the conduct has already been reported to the ICAC' cl 17; In South Australia, the Commissioner's Directions and Guidelines for public officers, issued pursuant to section 20(3)(a) of the *Independent Commissioner Against Corruption Act 2012* (SA), require a 'public officer' to report to the Office for Public Integrity (unless it has already been reported) any matter they reasonably suspect involves corruption in public administration or serious or systemic misconduct or maladministration in public office.

²¹⁴Crimes (Administration of Sentences) Regulation 2014 (NSW), r 253.

²¹⁵Crimes (Administration of Sentences) Regulation 2014 (NSW), r 253.

5 Factors affecting corruption risks

5.2.3 Recruitment and vetting

Corrections Victoria staff are expected to 'set an example to prisoners and offenders of the behaviours that the community expects of them'.²¹⁶ Setting this example and fulfilling other requirements of their role in such a challenging work environment means that corrections staff need to be mature, honest, respectful, humane, even-tempered and discerning, as well as physically capable. Clearly, staff also need to have qualifications relevant to the role they are performing.²¹⁷

An essential component of the recruitment process for corrections work is the vetting of applicants. Vetting helps mitigate a range of different risks, such as security risks or the risk that an employee will engage in problematic conduct or human rights violations.²¹⁸

In Victoria, reference and police checks are part of the standard recruitment process. Applicants for corrections positions must disclose if they have ever been charged with or convicted of an offence and some offences automatically disqualify applicants.²¹⁹

Vetting should not be a one-off activity that occurs only during recruitment of corrections employees. Ongoing checks are essential to deterring corrections staff from engaging in corrupt conduct and detecting problematic conduct.²²⁰

High-volume recruitment of corrections officers, as has occurred in Victoria in recent years, presents challenges that can give rise to corruption risks. Challenges associated with high-volume recruitment include:

- attracting suitable applicants, particularly in regional communities
- ensuring vetting processes remain sufficiently thorough
- training and supervising inexperienced staff
- establishing a strong integrity culture.

During periods of high-volume recruitment, it is essential that recruitment and training standards are not relaxed and that new recruits are appropriately supported by more experienced staff who model integrity, procedural compliance and respect for human rights.

Proper recruitment and vetting procedures are not only important for corrections staff working in custodial environments but also for community corrections staff. It is also important that organisations assisting with the delivery of custodial and community corrections programs are properly vetted to ensure they are qualified and capable of delivering those services. DJCS's *Case Management Intervention Policy* and *Offender Management Framework* refer to regular consultation between departmental case officers and treatment providers, and ensuring staff are properly trained and supervised.

²¹⁶DJR 2015, *Corrections Victoria - Strategic Plan 2015-18: Delivering effective correctional services for a safe community*, p 18.

²¹⁷UNODC 2017, *Handbook on anti-corruption measures in prisons*, pp 11, 39, 42.

²¹⁸UNODC 2017, *Handbook on anti-corruption measures in prisons*, pp 43-44.

²¹⁹Corrections Jobs, *The application process*, <www.correctionsjobs.vic.gov.au/roles/prisons/prison-officers/the-application-process>.

²²⁰Ross JI 2013, 'Deconstructing correctional officer deviance: Toward typologies of action and control', *Criminal Justice Review*, vol. 38(1), 110-126, p 122.

5.2.4 Training and guidance

Inadequate training and guidance increases the risk of corrections staff engaging in inadvertent wrongdoing. For instance, lack of training in relation to information access increases the risk that staff will inappropriately access confidential information. Similarly, insufficient training in relation to human rights increases the risk of inappropriate strip searching practices.

In Operation Rous, IBAC found that corrections officers at Port Phillip Prison, including those who had been involved in the inappropriate strip searching of Prisoners A and B, had only a limited familiarity with the Charter rights and had received minimal training on the Charter during their induction. Similarly, following Operation Nisidia, a review of the AWO role found there was a lack of clarity in relation to the position, as well as a lack of training, guidance and support.

Following Operations Rous and Nisidia, DJCS advised IBAC of a number of measures taken to address familiarity with Charter rights and AWO guidance and support, including:

- updating the Commissioner's Requirements and Deputy Commissioner's Instructions to ensure they are consistent with the Charter
- delivering a Charter education program to DJCS agencies, including Corrections Victoria, in collaboration with VEOHRC
- reconfiguring the AWO position structure to report to an Operational Support Manager
- implementing an Aboriginal Workplace Cultural Wellbeing Program to help address burnout, trauma and cultural loads
- increasing access to ongoing specialised training opportunities for AWOs outside their location (The Yilam).

5.2.5 Drug use by corrections officers

In Operation Molar, IBAC found that Ms Badcock was a regular user of drugs of dependence. Use of drugs of dependence and illicit substances by corrections officers can affect the safety of corrections environments and can be a driver of corrupt conduct. Such use, whether during or outside of work hours, may:

- make an officer more vulnerable to manipulation and exploitation by prisoners, and their family members, friends and associates
- indicate a willingness to engage in criminal behaviour, including corrupt behaviour
- affect an officer's effectiveness at work,²²¹ including their ability to respond appropriately to a critical incident, which may risk their own safety as well as that of prisoners and their colleagues.²²²

IBAC has previously highlighted these issues in the context of the police and emergency services sectors.²²³

Commissioner's Requirement 1.4.8 – Conduct and Ethics notes that being under the influence of drugs or alcohol during work hours is both inappropriate and unacceptable. It requires processes to be in place to ensure staff drug use is reported to management.²²⁴

²²¹Corrections Victoria Commissioner 2019, *Commissioner's requirements: Conduct and ethics 1.4.8*, [5.5.2].

²²²Drugs and alcohol can affect a person's ability to work safely. It can take several days for the effects of drugs like ecstasy and amphetamines to wear off. Safe Work Australia, *Drugs and alcohol*, <www.safeworkaustralia.gov.au/drugs-alcohol>. Alcohol and other drug foundation 2017, *Alcohol and other drugs in the workplace*, <adf.org.au/insights/alcohol-and-other-drugs-in-the-workplace/>.

²²³IBAC 2017, *Operation Tone: Special report concerning drug use and associated corrupt conduct involving Ambulance Victoria paramedics*.

²²⁴Corrections Victoria Commissioner 2019, *Commissioner's requirements: Conduct and ethics 1.4.8*, [5.5.2].

5 Factors affecting corruption risks

Currently, while all custodial staff in Victoria are tested for drug use on commencing employment, there is no ongoing drug testing regime for corrections officers working in Victoria's publicly managed prisons, even for those who are suspected of using illicit drugs or are involved in a critical incident at work.²²⁵ While private prisons in Victoria do have the power to direct staff to undergo drug testing, DJCS has advised that this is not a regular occurrence.

However, DJCS has also advised it has established a project team to introduce a drug testing regime in Victoria's public prisons. DJCS has stated the regime will initially include random testing of staff in high-risk roles, such as personnel on the Security and Emergency Services Group, and targeted testing for general duties corrections officers. This advice was provided in response to recommendations IBAC made in 2016 following Operation Etrick, an investigation which found that several corrections officers at Port Phillip Prison were using illicit drugs.

IBAC welcomes the move towards a more comprehensive drug testing regime, which will align Victoria with a number of other Australian jurisdictions. New South Wales, Western Australia and the Northern Territory all have policies or regulations covering drug testing of corrections officers that include randomised testing, targeted testing and testing after critical incidents.²²⁶ Work to introduce drug testing of corrections officers is underway in South Australia and Queensland. The work in Queensland follows the Queensland CCC's final report on Taskforce Flaxton, which recommended that legislation be amended to permit an appropriate Queensland Corrective Services delegate to direct a person (other than a prisoner) in or entering a prison to submit to a prescribed alcohol/drug test.²²⁷ The Queensland Government supported or supported in principle all recommendations made by the final report.²²⁸

²²⁵Critical incidents are incidents resulting in the death or serious injury of a person.

²²⁶Corrective Services NSW 2012, *Employee alcohol and other drugs policy and procedures*; Western Australian Government Gazette, Number 43, 18 March 2016; *Correctional Services Act 2014* (NT).

²²⁷Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*, rec 18.

²²⁸Queensland Government 2019, *Message from the Minister for Police and Minister for Corrective Services: Flaxton inquiry government response*.

It is essential that Corrections Victoria identify and appropriately respond to use of illicit substances and drugs of dependence by staff. In developing its drug testing regime for corrections officers in Victoria's publicly managed prisons, IBAC encourages DJCS to consider practices adopted in other jurisdictions, including:²²⁹

- developing a comprehensive, standalone policy on drug use by corrections staff, outlining the consequences of such use, with reference to contemporary best practice²³⁰
- strengthening recruitment processes and policies to more effectively identify and manage risks related to staff drug use
- requiring the videorecording of the destruction of drugs found on prisoners or in their cells
- ensuring corrections staff receive ongoing education and training on drug use, including the legal consequences of using illicit substances and the health and safety effects
- implementing an early intervention program for at risk staff, and appropriate welfare and support arrangements for staff detected using illicit drugs, including those who voluntarily disclose their use of illicit drugs.

5.3 Mandatory notification delays

On 1 December 2016, it became mandatory for relevant principal officers to notify IBAC if they suspect, on reasonable grounds, that corrupt conduct has occurred or is occurring.

Mandatory notifications are an important way in which public sector agencies demonstrate shared responsibility and commitment to identifying and addressing integrity vulnerabilities. They help public sector agencies and IBAC to build a clearer picture of the corruption risks that need to be addressed. Delays in notifications can adversely impact IBAC's investigation of suspected corrupt conduct.

IBAC has raised concerns with DJCS and Corrections Victoria around the timeliness and appropriateness of their mandatory notifications of suspected corrupt conduct.

In Operation Nisidia, IBAC was not notified about the suspected corrupt conduct of Mr Turvey until mid-February 2017, even though his alleged activities were the subject of 13 internal information reports between January 2016 and January 2017. Similarly, in Operation Molara IBAC was not notified of the suspected corrupt conduct regarding Ms Badcock until May 2017, despite her alleged activities being the subject of 42 information reports between June 2015 and March 2017.

IBAC recognises relevant principal officers have to exercise judgment about when to report suspected corrupt conduct and may need to seek advice when deciding whether suspected conduct meets the mandatory notification threshold. However, IBAC recommends that where doubt exists, principal officers submit a notification to IBAC for assessment.

²²⁹Queensland CCC 2018, *Taskforce Flaxton: An examination of corruption risks and corruption in Queensland prisons*; NSW ICAC 2019, *Investigation into the conduct of NSW Correctional Services officers at Lithgow Correctional Centre*; Western Australia CCC 2018, *Corrupt custodial officers and the risk of contraband entering prisons*.

²³⁰Instruction regarding staff drug use currently sits within *Commissioner's requirements: Conduct and ethics 1.4.8*.

5 Factors affecting corruption risks

Since Operations Nisidia and Molará, DJCS has implemented a number of structural changes. DJCS advised IBAC in May 2019 that it would be:

- implementing new governance and operating models to provide more effective management of all integrity investigations
- clearly defining the required evidentiary threshold for IBAC referrals and enforcing this across all areas of DJCS
- building stronger, more collaborative relationships with IBAC
- strengthening DJCS's integrity culture through the delivery of a new integrity strategy – the new strategy is under development and will highlight, among other things, new integrity risks that have become relevant as a result of staff working remotely during the COVID-19 pandemic.

Since late 2018, IBAC has seen an increase in mandatory notifications from DJCS, as well as more timely notifications being made. In addition to mandatory notifications, DJCS also shares information with IBAC through regular intelligence sharing meetings and correspondence. Ongoing vigilance is required by DJCS and Corrections Victoria. It is crucial that agencies have strong, clear internal processes for identifying and reporting suspected corrupt conduct.

5.4 Private prison contract performance measures

The corrections sector in Victoria adopts a hybrid approach, relying on both public prisons and privately managed prisons to accommodate offenders. However, risks associated with insufficient public scrutiny of corrections settings can be heightened in privately managed prisons. In Victoria, around 40 per cent of the prison population is accommodated in private facilities.²³¹

Corrections Victoria measures the performance of private prisons against a number of Service Delivery Outcomes (SDOs), which relate to prisoners' safety, security, health and welfare, among other things.²³² The performance thresholds differ for each prison, depending on the prison's security level, prisoner profile and historical performance.

DJCS aims to meet 90 per cent of SDO thresholds, and contracts between the Victorian Government and private providers include a payment scheme related to each provider's performance.²³³ Private prisons 'are eligible for a quarterly performance payment, which is made up of six components. One of these components is the service-linked fee, which pays prisons for successfully achieving their KPIs and SDOs'.²³⁴

Between 2012 and March 2018, Corrections Victoria issued five contract default notices in response to performance issues.²³⁵

²³¹Monash University 2019, *Victoria's prison system: rising costs and population, little accountability*, <lens.monash.edu/@politics-society/2019/06/28/1375605/victorias-prison-system-rising-costs-and-population-little-accountability>.

²³²VAGO 2018, *Safety and cost effectiveness of private prisons*, pp 8, 28.

²³³VAGO 2018, *Safety and cost effectiveness of private prisons*, pp 8, 29.

²³⁴VAGO 2020, *Ravenhall prison: Rehabilitating and reintegrating prisoners*, p 19.

²³⁵VAGO 2018, *Safety and cost effectiveness of private prisons*, p 9.

Other jurisdictions have highlighted that these sorts of performance systems, while aimed at promoting achievement of specific standards, have the potential to lead to a 'culture of concealing corruption'.²³⁶ Financial incentives associated with performance could encourage the manipulation of SDO data. This may lead to the development of masking behaviours and a culture that discourages reporting of misconduct.²³⁷ In addition to the immediate financial incentives, private companies may also be motivated to manipulate SDO data to avoid long-term reputational damage which may affect their ability to secure further contracts.

In Victoria, there are potential risks associated with a number of SDO measures, such as out-of-cell hours (SDO 3), self-harm (SDO 5), prisoner-on-prisoner assaults (SDO 6), staff-on-prisoner assaults (SDO 7) or random general urinalysis to detect drug use (SDO 8). In relation to random general urinalysis, prisons conduct a certain number of random urine tests on prisoners each week to ascertain what percentage of samples test positive. SDO urinalysis data could be manipulated in various ways, including by:

- allowing a prisoner to consume a large amount of water prior to the test, which dilutes the sample – this could occur if a prisoner is forewarned that they are to be tested, or if staff are not vigilant in immediately sending a prisoner to the testing area, which gives the prisoner time to consume excess water
- target-testing suspected drug users in the days prior to random general testing – if a targeted prisoner tests positive within a specified period of time before undergoing a random general test, the random general test result is treated as 'residual' and does not count towards SDO 8 (the time period varies depending on the drug type).

Another SDO which could be vulnerable to manipulation is SDO 6 – prisoner-on-prisoner assaults. Data for this SDO could be manipulated by classifying the assault at a lower level. For instance, an assault with a minor injury should be classified Level 1, but these incidents may be reported as Level 0 incidents – accidental injury.

Issues have been identified with performance reporting in other sectors, most notably in Victoria Police with the widespread falsification of preliminary breath tests (PBT). Taskforce Deliver, the 2018 investigation into this issue,²³⁸ found PBT falsification was primarily driven by the need to meet performance measures. The targets created the 'perverse outcome' of some officers falsifying PBT results to meet quotas and/or conducting PBTs in locations where it was unlikely that drink driving would be detected.

The lessons from Taskforce Deliver can be applied more generally, including in corrections. It is important that officers receive regular and ongoing ethical training and are encouraged to speak up and report corrupt conduct and misconduct. It is also important that there are mechanisms for officers at all levels to provide feedback on the impact of performance reporting.

Corrections Victoria could also consider possible improvements to performance reporting identified by Queensland CCC, including:

- using consistent performance standards and measurements across all prisons
- improving data availability and quality
- improving transparency by providing greater public access to performance reports.

²³⁶Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 17.

²³⁷Goldsmith A, Halsey M and De Vel Palumbo M 2018, 'Literature review: Correctional corruption', p 17.

²³⁸Victoria Police 2018, *Taskforce Deliver: Investigation into the falsification of preliminary breath tests within Victoria Police*, <www.police.vic.gov.au/sites/default/files/2019-05/TaskforceDeliverReport2018.pdf>.

6 Conclusions and recommendations

6 Conclusions and recommendations

6.1 Conclusions

The corrections sector is an essential part of Victoria's justice system and corrections employees perform a vital and challenging role. Addressing corruption vulnerabilities in the sector helps ensure all prisons are run efficiently, effectively and safely.

Through Operations Rous, Caparra, Nisidia and Molara, IBAC exposed a range of misconduct and corrupt conduct by corrections staff in publicly and privately managed prisons, including excessive use of force, masking behaviours, misuse of information, inappropriate relationships and trafficking of contraband.

Operation Rous resulted in disciplinary action being taken against several employees at Port Phillip Prison, changes to the prison's policies and procedures, and a fine being issued by Corrections Victoria against G4S.

Operations Nisidia and Molara resulted in staff members at Loddon Prison and Dhurringile Prison respectively being charged and convicted of criminal offences, including bribery and misconduct in public office.

Operations Rous, Caparra, Nisidia and Molara, together with other IBAC investigations into the conduct of corrections staff, have highlighted a number of corruption vulnerabilities in the sector, including:

- excessive use of force, inappropriate strip searching practices and human rights violations
- cultural issues and behaviours that cover up wrongdoing rather than report it
- non-compliance with incident investigation and reporting protocols, including misuse of BWCs and CCTV

- poor identification and management of conflicts of interest, including declarable associations and inappropriate relationships
- inappropriate access to and use of information
- trafficking of contraband items into prisons
- staff use of drugs of dependence and illicit substances
- potential manipulation of SDO data.

IBAC acknowledges that Corrections Victoria has taken steps to reduce a number of the corruption risks identified, particularly those related to human rights and use of BWCs and CCTV. It is also welcome that Corrections Victoria is committed to strengthening drug testing of corrections officers in publicly managed prisons.

However, there is a critical need to do more, as the matters highlighted in this report are not isolated instances. IBAC has conducted other corrections-related investigations, and is considering other allegations of serious corrupt conduct involving corrections officers.

One of the most important and challenging areas of focus is the need to address ongoing problematic workplace culture issues and practices that discourage the reporting of suspected corrupt conduct. DJCS and Corrections Victoria have a vital role to play to ensure that corrupt conduct is detected and prevented.

Preventing corruption is essential to achieving Corrections Victoria's aims of rehabilitating offenders and keeping Victoria safe. Where corrections staff fail to act with integrity by smuggling contraband, misusing information, covering up wrongdoing and failing to uphold human rights, these aims are compromised. Given the significant amount of public funding and trust invested in the corrections sector, the operation of Victoria's prisons must be both efficient and ethical.

IBAC will continue to work with DJCS, Corrections Victoria, the VO and other integrity partners to prevent misconduct and corruption within the corrections environment.

6.2 Recommendations

Following Operations Rous, Caparra, Nisidia and Molara, IBAC made a number of recommendations to DJCS and Corrections Victoria pursuant to section 159 of the IBAC Act.

In addition, IBAC makes the following recommendations:

Recommendation 1

That the Department of Justice and Community Safety and Corrections Victoria review and strengthen training, policies, systems and practices to address the corruption vulnerabilities identified in this report, including by ensuring:

- a. regular training is provided in relation to grooming behaviours to equip staff to identify and resist attempts to form inappropriate relationships with prisoners as well as prisoners' family members, friends and associates
- b. physical and technical security vulnerabilities that can allow corrupt conduct (including the smuggling of contraband) to continue undetected are addressed, including corrections officers failing to activate their body-worn cameras or interfering with body-worn camera recordings
- c. staff vetting is thorough and involves both an initial assessment and regular reviews so new risks are identified as they arise
- d. IBAC is provided with six-monthly progress reports on the development and implementation of the new drug testing regime to be rolled out in Victoria's publicly managed prisons
- e. information systems are fully auditable and relevant staff are properly equipped to conduct regular and widespread database audits of employees' system access to deter inappropriate access to and misuse of information

- f. obligations to identify, report and manage conflicts of interest and declarable associations are understood, and supervisors and senior officers understand their obligations to implement and monitor management plans
- g. the risk of Service Delivery Outcomes data manipulation associated with privately managed prisons is reassessed and appropriate mitigation strategies put in place
- h. the new Integrity Strategy being developed by DJCS addresses the corrections-related corruption vulnerabilities identified in this report
- i. corrections employees in Victorian prisons with responsibility for conducting internal investigations during or immediately after a prisoner-related incident are appropriately trained and supported.

Recommendation 2

That the Victorian Government amend section 22 of the *Corrections Act 1986* (Vic) to introduce a statutory obligation on corrections officers to report to the prison governor or to IBAC if they have a reasonable belief that another officer has engaged in corrupt conduct, and that an appropriate penalty for failing to comply with section 22 be imposed.

Recommendation 3

That the Department of Justice and Community Safety and Corrections Victoria take action to embed a culture of integrity across the corrections system, including ensuring staff across all Victorian prisons understand the importance of reporting suspected corrupt conduct and how they will be supported and protected if they do so.

IBAC notes that DJCS has already commenced work to address vulnerabilities identified in this special report, including work to strengthen Corrections Victoria's workplace culture and safety, inclusion and integrity within the Victorian custodial corrections system.

7 Appendices

Appendix A: Natural justice requirements and responses

Additional information provided by the Department:

DJCS has been implementing a number of measures to improve the integrity culture within Victoria's corrections sector. Between January 2020 and April 2021, DJCS did the following:

- Facilitated 61 training sessions across all departmental business units on integrity, respect in the workplace and speaking up to report improper conduct. A large proportion of these training sessions were with Corrections Victoria, Community Corrections, and prisons. The training focused on managers as well as operational staff and included train-the-trainer sessions.
- Undertook 22 communications activities with a significant focus on Corrections Victoria. Themes included speaking up about reporting improper conduct, conflicts of interest and leading with integrity. Corrections-specific approaches included an email to staff from the Commissioner on information security and integrity, fact sheets, and the use of posters in prisons to make integrity messages highly visible. Integrity themed intranet articles have been viewed by 2329 DJCS staff to date.

Between November 2019 and March 2021, the following Corrections Victoria policies have been reviewed and updated:

- CR 1.1.1 Use of Force Tactical Options
- CR 1.2.3 Strip Searches in Prisons
- CR 1.2.4 Barrier Control Procedures
- CR 1.3.1 Incident Reporting
- CR 1.4.7 Body Worn Cameras
- CR 1.4.8 Conduct and Ethics.

Appendix B: Previous IBAC special reports

Publication date	Report title
November 2013	Special report concerning certain operations in 2013
February 2014	Special report concerning allegations about the conduct of Sir Ken Jones QPM in relation to his dealings with certain confidential Victoria Police information
April 2014	Special report following IBAC's first year of being fully operational
October 2014	Operation Fitzroy: An investigation into the conduct of former employees of the Department of Transport/Public Transport Victoria, Barry John Wells and Hoe Ghee (Albert) Ooi, and others
August 2015	Special report concerning police oversight
April 2016	Operation Ord: An investigation into the conduct of officers at the Department of Education and Early Childhood Development
May 2016	Operation Darby: An investigation of Mr Nassir Bare's complaint against Victoria Police
October 2016	Operation Exmouth: An investigation into the conduct of former Victorian public servant, Carmine Petrone
November 2016	Operation Ross: An investigation into police conduct in the Ballarat Police Service Area
December 2016	Special report concerning illicit drug use by Victoria Police officers: Operations Apsley, Hotham and Yarrowitch
January 2017	Operation Dunham: An investigation into the conduct of officers of the Department of Education and Training, including Darrell Fraser, in connection with the Ultranet project and related matters
March 2017	Operation Liverpool: An investigation into the conduct of two officers of Bendigo Health, Adam Hardinge and John Mulder
April 2017	Operation Nepean: An investigation into the conduct of former employee of Dame Phyllis Frost Centre, Jeff Finlow
September 2017	Operation Tone: Special report concerning drug use and associated corrupt conduct involving Ambulance Victoria paramedics
December 2017	Operation Lansdowne: Special report concerning allegations of serious corrupt conduct at South West Institute of TAFE, Bendigo Kangan Institute and V/Line
December 2017	Special report on IBAC's first five years

Appendix B: Previous IBAC special reports

Publication date	Report title
September 2019	Special report on corruption risks associated with procurement in local government: Operations Dorset, Royston and others
May 2020	Operation Betka: An investigation into alleged corrupt conduct by a former contractor of the Department of Education and Training
July 2020	Operation Gloucester: An investigation into improper evidentiary and disclosure practices in relation to the Victoria Police investigation of the murders of Sergeant Gary Silk and Senior Constable Rodney Miller
April 2021	Operation Meroo: An investigation into alleged corrupt conduct by a former CEO of a Victorian regional health service

