


## CABINET COVER SHEET

- |    |   |  |
|----|---|--|
| 1. | <b>TITLE:</b>                                 | Growth In The Prison Population - Impact On Custodial And Community Corrections Capacity - Options For The Future  |
| 2. | <b>MINISTER:</b>                              | Terry Roberts MLC Minister For Correctional Services   |
| 3. | <b>PURPOSE:</b>                               | <p>To inform Cabinet of the current state of prison capacity.</p> <p>To inform Cabinet of the need for an extra 50 medium security beds.</p> <p>To inform Cabinet of the need for increased female prison capacity.</p> <p>To inform Cabinet of the work being undertaken to address prison capacity.</p> <p>To obtain policy direction on the range of diversions and sentencing options to be pursued.</p>   |
| 4. | <b>RESOURCES REQUIRED FOR IMPLEMENTATION:</b> | Estimated capital cost of \$3.8M and recurrent costs of \$0.85M  |
| 5. | <b>RELATIONSHIP TO GOVERNMENT POLICY:</b>     | Consistent   |
| 6. | <b>CONSULTATION:</b>                          | Justice  |
| 7. | <b>URGENCY:</b>                               | High   |
| 8. | <b>RECOMMENDATION:</b>                        | <p>It is recommended that Cabinet notes:</p> <p>4.1 There has been significant recent growth in the number of offenders being remanded in custody awaiting trial or sentencing;</p> <p>4.2 The capacity of the Adelaide Remand Centre is now regularly being exceeded and approximately 200 male remandees are being held at Yatala Labour Prison which is not designed or staffed as a remand facility;</p> <p>4.3 The high rates of remand are creating significant duty of care risks (including death in custody and staff assault) and compromising the effectiveness of prison management across the State;</p> <p>4.4 That based on current information</p> |

- available, the numbers of remand and sentenced prisoners is expected to continue to increase;
- 4.5 That the growth in the remand population is having a significant adverse impact on budgets and service delivery by the Custodial and Community Corrections Divisions of the Department for Correctional Services;
- 4.6 The high remand numbers are further exacerbating the shortage of medium and low security accommodation in or near the metropolitan area;
- 4.7 There is an immediate need for the construction of 50 medium security beds at an estimated capital cost of \$3.8 M with associated recurrent costs of \$0.850 M per annum ongoing to enable the Department to effectively and safely manage current remand and prisoner numbers;
- 4.8 That the Minister for Correctional Services intends to include in the budget bilateral process a contingency capital bid of \$3.8M and \$0.850M for recurrent funding for an additional 50 bed medium security prison capacity;
- 4.9 The capacity of the Adelaide Women's Prison (AWP) is now regularly exceeded, that funding for replacement of the AWP has not been provided for in current forward estimates, and that a draft business case exploring opportunities for a Private-Public-Partnership (PPP) to replace the AWP has now been prepared, and that this matter will be further discussed as a bi-laterals issue;
- 4.10 That the Department for Correctional Services in conjunction with other members of the Justice Portfolio is preparing a strategic service planning and resource management plan ("Towards Correction 2020") to provide a strategic framework for

- proposed capital and recurrent expenditure to achieve outcomes over the next ten to twenty years;
- 4.11 That the Justice Portfolio is conducting work to define diversionary and alternative sentencing options to reduce demand on the prison system and minimise the need for capital works and expansion of the prison system;
- 4.12 Irrespective of the final outcome of the work conducted on "Towards Corrections 2020" and Alternative Sentencing Options and Diversions the creation of 50 additional medium security beds for males and the replacement of the AWP is unavoidable and required now;
- 4.13 That Cabinet needs to indicate its preferred initial policy position on the range of diversions and sentencing options outlined in this paper to enable a more detailed policy paper and business case to be prepared.

**SIGNATURE OF MINISTER:  
PORTFOLIO:**



Minister For Correctional Services

**DATE:** 18/4/02  
**CONTACT OFFICER:**

*MINUTES forming ENCLOSURE to*

**TO: THE PREMIER FOR CABINET**

**RE: DEPARTMENT FOR CORRECTIONAL SERVICES -GROWTH IN THE PRISON POPULATION - IMPACT ON CUSTODIAL AND COMMUNITY CORRECTIONS CAPACITY -OPTIONS FOR THE FUTURE**

**1. PROPOSAL**

That Cabinet note:

- 1.1 There has been significant recent growth in the number of offenders being remanded in custody awaiting trial or sentencing;
- 1.2 The capacity of the Adelaide Remand Centre is now regularly being exceeded and approximately 200 male remandees are being held at Yatala Labour Prison which is not designed or staffed as a remand facility;
- 1.3 The high rates of remand are creating significant duty of care risks (including death in custody and staff assault) and compromising the effectiveness of prison management and rehabilitation across the State;
- 1.4 That based on current information available, the numbers of remand and sentenced prisoners is expected to continue to increase;
- 1.5 That the growth in the remand population is having a significant adverse impact on budgets and service delivery by the Custodial and Community Corrections Divisions of the Department for Correctional Services;
- 1.6 The high remand numbers are further exacerbating the shortage of medium and low security accommodation in or near the metropolitan area;
- 1.7 There is an immediate need for the construction of 50 medium security beds at an estimated capital cost of \$3.8M with associated recurrent costs of \$0.850M per annum ongoing to enable the Department to effectively and safely manage current remand and prisoner numbers;
- 1.8 That the Minister for Correctional Services intends to include in the budget bilateral process a contingency capital bid of \$3.8M and \$0.850M for recurrent funding for an additional 50 bed medium security prison capacity;
- 1.9 The capacity of the Adelaide Women's Prison (AWP) is now regularly exceeded, that funding for replacement of the AWP has not been provided for in current forward estimates, and that a draft business case exploring opportunities for a Private-Public-Partnership (PPP) to replace the AWP has now been prepared, and that this matter will be further discussed as a bi-laterals issue;
- 1.10 That the Department for Correctional Services in conjunction with other members of the Justice Portfolio is preparing a strategic service planning and resource management plan ("Towards Correction 2020") to provide a strategic framework for proposed capital and recurrent expenditure to achieve outcomes over the next ten to twenty years;

- 1.11 That the Justice Portfolio is conducting work to define diversionary and alternative sentencing options to reduce demand on the prison system and minimise the need for capital works and expansion of the prison system;
- 1.12 Irrespective of the final outcome of the work conducted on "Towards Corrections 2020" and Alternative Sentencing Options and Diversions, the creation of 50 additional medium security beds for males and the replacement of the AWP is unavoidable and required now; and
- 1.13 That Cabinet needs to indicate its preferred initial policy position on the range of diversions and sentencing options outlined in this paper to enable a more detailed policy paper and business case to be prepared.

## 2. **BACKGROUND**

- 2.1 In May 1997 a Cabinet Submission was put to Cabinet seeking approval to expand and reconfigure the South Australian prison system. A range of initiatives was proposed to resolve a projected increase in remand and sentenced prisoner numbers and to reduce the extent of dual occupancy (doubling up) in the system.
- 2.2 The initiatives included the construction of a new women's prison, the expansion of Yatala Labour Prison to become the primary remand facility for the State, the Adelaide Remand Centre to become a reception and assessment prison and Mobilong prison capacity to be expanded.
- 2.3 A decision on the Submission was deferred pending Cabinet budget discussions.

## 3. **DISCUSSION**

- 3.1.1 The Department for Correctional Services has expressed concern at the high remand rate and its impact on Correctional Services over the past 2 years.
- 3.1.2 South Australia's remand rate per 100,000 adult population is 43.5 per 100,000, the second highest after the Northern Territory. The national rate is 29.3 per 100,000. (ABS Sep 2001) and it should be noted that only approximately 20-25% of remandees go on to serve a further custodial sanction.
- 3.1.3 There has been significant recent growth in the number of offenders being remanded in custody awaiting trial or sentencing.
- 3.1.4 From August 2000 to March 2001 the numbers increased from 293 to 454, an increase of 161 or 55%. As of 30 June 2001 34% of prisoners were unsentenced (i.e. 480 remandees out of 1389) compared to only 18% at 30 June 1996. Currently remand numbers are 420.

- 3.1.5 In addition there is a significant turnover (“churn”) of short-term prisoners and remandees. During 2000/01 3,285 prisoners and remandees were discharged from prison. Of those 3,285, 1,668 (51%) were remanded or imprisoned for less than 15 days and 2,111(64%) were remanded or imprisoned for less than 30 days.
- 3.1.6 Simultaneously, there has been an increase in the average sentenced served. Sentence lengths have increased from an average of 40 months to over 60 months since 1995. This means there are more “long term” prisoners to manage while the system is being distorted and distracted by the “churning” effect of shorter-term prisoners and remandees.
- 3.1.7 The combination of high remand numbers, the rapid turnover of prisoners and remandees (i.e. “churning”), the increase of average sentence lengths, and the increasingly complex profiles offenders present (in terms of mental health, social disadvantage and physical health) is compromising the effectiveness of prison management and rehabilitation across the State.
- 3.1.8 Scarce resources are having to be focused on the management of short term remandees and prisoners rather than on early interventions with offenders in a community based setting and on the rehabilitation of longer term prisoners. The evidence worldwide is that effective early interventions for offenders and rehabilitation programs for prisoners significantly reduces the likelihood of reoffending and are more effective and better value for money in terms of achieving justice outcomes.
- 3.1.9 Demand for the Adelaide Remand Centre capacity now regularly exceeds capacity and approximately 200 male remandees are being held at Yatala Labour Prison, which is not designed or staffed as a remand facility.
- 3.1.10 Bedspace demand for female prisoners is already exceeding capacity.
- 3.1.11 Female prisoners are periodically sleeping on the floor at the Adelaide Women’s Prison or being accommodated in the police watchhouse. In addition, the Chief Executive Officer, Department for Correctional Services, is currently exercising his authority under the *Correctional Services Act* to order the early release of selected female prisoners only to control overcrowding.
- 3.1.12 The high rates of remand are also creating significant duty of care risks (including death in custody, prisoner on prisoner assaults and prisoner on staff assault).
- 3.1.13 The “churn” in the correctional system, and the overcrowding it is leading to, is seen as achieving little in terms of criminal justice system outcomes and when combined with the prevalence of infectious diseases in the prison population, is seen as posing serious public health risks and compromising of social justice outcomes.

- 3.1.14 Effective interventions or rehabilitation are not feasible in such brief periods of imprisonment and prisoners run the risk of being infected with hepatitis or HIV through injecting behaviours in prison.
- 3.1.15 In addition, many first time, young or special needs offenders are vulnerable to exploitation or undue influence from more experienced prisoners and offenders.
- 3.1.16 Short term remands and sentences are seen by many (particularly in the Aboriginal community) as encouraging or resulting in a "rite of passage" experience and as a key factor in educating first time or young offenders in criminal practices. In addition, the overcrowding resulting from the demand pressure, reflected in "doubling up", compromises human dignity. This applies, in particular, to unconvicted people (i.e. remandees).
- 3.1.17 The issue of "doubling up" has already attracted Supreme Court criticism and the attention of the Ombudsman and other departmental stakeholders. Over the past several years, the prison system has been stable with no major industrial disputes, very few escapes, few deaths in custody and little institutional violence. It is expected that the "churn" in the system and overcrowding arising from the remand rate increase will also undermine these achievements.
- 3.1.18 The growth in the remand rate has also exacerbated problems resulting from the shortage of high and medium security accommodation in the metropolitan area, the mismatch between bedspace classification and prisoner security classification, and the dysfunctional distribution of bed spaces between the metropolitan area and regional South Australia.
- 3.1.19 Eighty one percent of beds are of high security construction while only eight percent of prisoners are high security. Only forty nine percent of cells are located in the metropolitan area.
- 3.1.20 In recent weeks, unoccupied high and medium security bedspace has dropped to as low as 20 beds and in practical terms this amounts to no spare capacity.
- 3.1.21 The growth in remands has also impacted adversely on Community Corrections workloads and staffing. Since 1997/98 the demand for Bail Inquiry Reports has increased by 102%; for Intensive Bail Supervision Reports by 160%; Supervised Bail by 90% and Intensive Bail Supervision by 119%. A Community Corrections workload analysis conducted by the Department for Correctional Services for 2000/01 shows an estimated deficit of 21,079 hours of Case Management available for Community Corrections staff to manage the offender load; this equates to 15.6 FTE positions. A budget bilateral bid for 2002/03 addresses this matter.
- 3.1.22 The growth in the prison population has had an adverse impact on the DCS budget for 2001/02. In the past, spare prison capacity has allowed units to be closed to realise some recurrent savings. With little spare capacity, unit closures are no longer feasible and therefore past savings no longer achievable.

- 3.1.23 With respect to the shortage in accommodation for women remandees and prisoners, funding for replacement of the AWP has not been provided for in current forward estimates. A draft business case exploring opportunities for a Private-Public-Partnership (PPP) to replace the AWP has been prepared, and this matter will be further discussed as a bi-laterals issue. As an interim measure, an additional 11 beds at the Adelaide Women's Prison will come on line in May/June.
- 3.1.24 Unless urgent action is taken to enable better management of current demand and reduce future expected increases in remand numbers, bedspace for male high and medium security prisoners, including remandees, will be totally exhausted, at best, within 6 months. This includes the coming back on line in June 2002 of 28 beds at the Remand Centre currently closed for maintenance. The current remand numbers and the projected long-term increase in remand numbers will absorb these beds.
- 3.1.25 The situation requires both an urgent immediate response and the definition and implementation of longer-term strategies.
- 3.1.26 An effective balance needs to be struck between expanding and reconfiguring the custodial system (to enable demand to be effectively and efficiently managed) and the implementation of diversions and alternative sentencing options to reduce demand on the custodial system and where appropriate manage offenders in a community based setting.
- 3.1.27 With respect to the shorter term, there is an immediate need for the construction of 50 medium security beds at an estimated capital cost of \$3.8 M with associated recurrent costs of \$0.850 M per annum ongoing to enable the Department to effectively and safely manage current remand and prisoner numbers.
- 3.1.28 With respect to the longer term strategy, the Department for Correctional Services in conjunction with other members of the Justice Portfolio is preparing a strategic service planning and resource management plan ("Towards Correction 2020") to provide a strategic framework for proposed capital and recurrent expenditure to achieve outcomes over the next ten to twenty years.
- 3.1.29 In addition, the Justice Portfolio is conducting work to define diversionary and alternative sentencing options to reduce demand on the prison system and minimise the need for capital works and expansion of the prison system.
- 3.1.30 However, irrespective of the final outcome of the work conducted on "Towards Corrections 2020" and alternative sentencing options and diversions, the creation of 50 additional medium security beds for males and the replacement of the AWP are unavoidable and required now.

3.1.31 The Office of Crime Statistics has identified the following factors as contributing to the increase in the remand population:

- An increase in the volume of recorded crime in the community and a shift in police operations which may have resulted in a greater willingness of victims to report to police and a greater level of detection of offences by police.
- The introduction by police of the Local Service Areas, a Problem Solving Policing Strategy and a change in police decision-making with respect to the decision to arrest and not grant bail.
- The replacement of break and enter offences by serious criminal trespass seems to have contributed to the increased use of arrest and court custody.

3.1.32 Some of the diversions or alternative sentencing options (which could be used to reduce the expected increase in demand and achieve improved rehabilitation outcomes through effective community based management) which need to be considered by Cabinet include:

3.1.32.1 Abolition of sentences of less than 3 or 6 months.

Western Australia has removed sentences of less than 3 months from the range of sentencing options for courts and is considering extending that to sentences of 6 months. There is little available evidence on the evaluation of this option in terms of reducing sentenced prisoner numbers. The NSW Legislative Council report *Select Committee on the Increase in the Prison Population* recommended that further research be undertaken to examine the impacts of abolishing short terms of imprisonment before considering that as an option in NSW.

3.1.32.2 Front End Home Detention.

Home Detention is currently only available towards the end of a custodial sentence or as a front-end option in restricted circumstances. These orders routinely require that the offender to be electronically monitored. Recurrent funding would be required for this option.

3.1.32.3 Curfew Order.

The Curfew Order is a variant of the Home Detention Order. It requires a person to remain in a particular place for a specified time and is generally for limited periods for each day. It can be an independent order or attached as a condition for other orders and may be monitored electronically. Curfew Orders have been successfully used in Great Britain with a reported success rate of 80%. Recurrent funding would be required for this option.

#### 3.1.32.4 Periodic Detention.

NSW has sentences of Periodic Detention, which is a form of intermittent imprisonment. Its use in NSW is declining and any advantages in terms of diversions are outweighed by problems of non-compliance, effectiveness and resource consumption. Capital and recurrent funding would be required for this option.

#### 3.1.32.5 Delayed Sentencing (Griffith's Remand).

Delayed sentencing is currently used in the pilot Drug Court where offenders who may have received a custodial sentence have their sentencing delayed while they undertake programs and treatment to deal with the causes of their offending. Currently this option has no formal underpinning framework but could be incorporated into the *Criminal Law Sentencing Act* and its use extended through the courts. Recurrent funding would be required for this option.

#### 3.1.32.6 Home detention as an option for breach of parole.

Currently the Parole Board has limited options when dealing with breaches of parole. The option of Home Detention as an alternative to imprisonment would give the Parole Board increased flexibility. Recurrent funding would be required for this option.

#### 3.1.32.7 Custodial Remand

There are primarily two principal reasons why people are remanded in custody:

- protection of the community primarily due to the seriousness of the offence or from further offending;
- history of failure to appear or absconding on bail.

Prisoners being held in custody simply because they have failed to appear or have previously absconded, that pose no danger to the community, are the target group that could be focused on for providing alternative custodial remand like Intensive Supervised Bail or the use of a Bail Support Service or accommodation in a Bail Hostel

### 3.1.32.8 The Development of Bail Hostels

Bail Hostels provide supervised and supported accommodation for offenders who would otherwise be remanded in custody. Bail Hostels do not currently exist in SA, but could be used as an intermediary option between Intensive Bail Supervision and custody or in conjunction with Intensive Bail Supervision, particularly for those people who are being held in remand only to ensure their appearance in court. The recent report of the NSW Legislative Council into imprisonment suggested that serious consideration should be given to the establishment of Bail Hotels for offenders suitable for diversion from imprisonment but who require a structured, supportive and supervised environment. Capital and recurrent funding would be required for this option.

### 3.1.32.9 Bail Support Services

Victoria currently operates a Bail Support Services Program in 4 Magistrates Courts, which aims to divert people from custodial remand. It provides accommodation services, links offenders to support agencies, facilitates compliance with bail conditions and provides a bail advocacy service. It is considered to be effective. Recurrent funding would be required for this option.

### 3.1.32.10 Increased use of Intensive Bail Supervision

This would involve the use of electronic surveillance and capital and recurrent funding would be required in this option.

## 4. RECOMMENDATION

It is recommended that Cabinet notes:

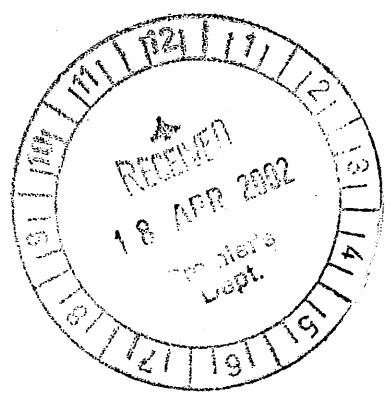
- 4.1 There has been significant recent growth in the number of offenders being remanded in custody awaiting trial or sentencing;
- 4.2 The capacity of the Adelaide Remand Centre is now regularly being exceeded and approximately 200 male remandees are being held at Yatala Labour Prison which is not designed or staffed as a remand facility;
- 4.3 The high rates of remand are creating significant duty of care risks (including death in custody and staff assault) and compromising the effectiveness of prison management across the State;
- 4.4 That based on current information available, the numbers of remand and sentenced prisoners is expected to continue to increase;
- 4.5 That the growth in the remand population is having a significant adverse impact on budgets and service delivery by the Custodial and Community Corrections Divisions of the Department for Correctional Services;
- 4.6 The high remand numbers are further exacerbating the shortage of medium and low security accommodation in or near the metropolitan area;

- 4.7 There is an immediate need for the construction of 50 medium security beds at an estimated capital cost of \$3.8 M with associated recurrent costs of \$0.850 M per annum ongoing to enable the Department to effectively and safely manage current remand and prisoner numbers;
- 4.8 That the Minister for Correctional Services intends to include in the budget bilateral process a contingency capital bid of \$3.8M and \$0.850M for recurrent funding for an additional 50 bed medium security prison capacity;
- 4.9 The capacity of the Adelaide Women's Prison (AWP) is now regularly exceeded, that funding for replacement of the AWP has not been provided for in current forward estimates, and that a draft business case exploring opportunities for a Private-Public-Partnership (PPP) to replace the AWP has now been prepared, and that this matter will be further discussed as a bi-laterals issue;
- 4.10 That the Department for Correctional Services in conjunction with other members of the Justice Portfolio is preparing a strategic service planning and resource management plan ("Towards Correction 2020") to provide a strategic framework for proposed capital and recurrent expenditure to achieve outcomes over the next ten to twenty years;
- 4.11 That the Justice Portfolio is conducting work to define diversionary and alternative sentencing options to reduce demand on the prison system and minimise the need for capital works and expansion of the prison system;
- 4.12 Irrespective of the final outcome of the work conducted on "Towards Corrections 2020" and Alternative Sentencing Options and Diversions the creation of 50 additional medium security beds for males and the replacement of the AWP is unavoidable and required now;
- 4.13 That Cabinet needs to indicate its preferred initial policy position on the range of diversions and sentencing options outlined in this paper to enable a more detailed policy paper and business case to be prepared.



Terry Roberts, MLC  
 MINISTER FOR CORRECTIONAL SERVICES

18 April 2002



*Defn to refer to  
 Justice Committee of Cabinet*

*[Handwritten signature]*  
 29 April, 2002