

AIHS Submission: Victorian Adult Custodial Corrections System Culture Review

(By email: correctionsreview@justice.vic.gov.au)

Dear Ms Kristen Hilton
Review Lead, Cultural Review of the Adult Custodial Corrections System

We are pleased to make this submission on behalf of the Australian Institute of Health and Safety (AIHS). Specifically, we represent Institute members, including the AIHS Victoria Branch and the AIHS Policy Committee. The AIHS represents more than 1,000 occupational health and safety (OHS) practitioners and professionals in Victoria.

We have reviewed the Consultation Paper (October 2021) as provided.

The AIHS acknowledges the OHS risks associated with the operation of Victoria's adult custodial corrections system (ACCS); and the sobering statistics around OHS incidents that have been reported.

As the peak body representative of the OHS profession, the AIHS looks forward to seeing the outcomes of the review. We are willing and able to contribute to any further consultation in relation to OHS matters before the Expert Panel.

Yours sincerely,

AIHS Victorian Branch Committee

3 December 2021

Acknowledgement of Victoria's Traditional Owners

We acknowledge the Traditional Owners of Victoria and their ongoing strength in practising the world's oldest living culture. We acknowledge the Traditional Owners of the lands and waters on which we live and work, and we acknowledge that sovereignties of these lands and waters were never ceded. We pay our respects to Traditional Owners' Elders past and present, and commit to supporting them and Aboriginal emerging leaders to create more equitable, healthy and safe workplaces for all Victorians, and in particular for those most disadvantaged.

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Our response builds on conversations and input from a wide range of OHS practitioners and professionals across Victorian workplaces. Whilst some of our members do work within the Victorian adult custodial corrections system (ACCS), our submission was deliberately led by 'outsiders' with no experience in this area. However, some individuals with ACCS experience and knowledge, from both Victoria and other jurisdictions within Australia and overseas, were consulted in order to provide subject matter knowledge and share lived experience to inform our submission.

Whilst the AIHS holds deep and sincere respect for the Traditional Owners of Victorian land and waters, our submission does not focus on matters pertaining specifically to Aboriginal people, be they staff, prisoners, or other stakeholders. This is done out of a considered respect. As OHS generalists, those providing input into this submission did not consider themselves experts in this area, and so did not wish to comment on questions 4 and 5 within the Consultation Paper. Instead, we have sought to focus our responses on the subjects in which we do possess expertise; generalist OHS risk management practices and approaches, and related elements that directly affect OHS outcomes. Whilst we acknowledge that, sadly, issues such as diversity and leadership capabilities are intrinsically linked to Aboriginal people in the Victorian ACCS, we have left cultural safety matters to more qualified experts in that area, and of course those with lived experience.

Further, our response does not focus on those being held in the ACCS. Rather we focus on those working in ACCS workplaces around Victoria, as *work* is the primary lens through which we view health and safety outcomes. We would expect were the responses listed below be considered and implemented, prisoners and others held in custody would benefit indirectly by these changes.

The key themes of our response are:

- Safety culture/climate – research shows that 'safety culture' is difficult to pin down as a basis for action. The concept of 'safety climate', being a point-in-time snapshot of the 'mood' of an organisation or workplace, is easier to measure, can be more effectively defined and influenced (<https://www.ohsbok.org.au/wp-content/uploads/2019/10/10.2.1-Organisational-Culture-a-search-for-meaning.pdf>). Ongoing, transparent measurement of safety climate would enable better decision-making and targeted interventions.
- Diversity – there is strength in diversity. The same type of people repeating the same type of approaches is likely to generate the same type of outcomes. Only by changing the make-up of a workforce, from leaders to frontline staff, can different results hope to be achieved.
- Capability of ACCS OHS advisors and frontline staff – OHS risk management knowledge and understanding will bolster OHS outcomes. We recommend that stakeholders support their OHS advisors in joining the AIHS and becoming Certified Practitioners/Professionals, in order to enhance their own professional development.
- Capabilities of ACCS leaders – positive, capable leadership is critical to building accountability, integrity and trust. We recommend ACCS leaders attend robust leadership training. We recommend that attendance and meaningful implementation of concepts within this training be made a precursor to continuing to be a leader in the Victorian ACCS.
- Evidence-based risk controls – better managing location-based risks to worker health and safety, by using the hierarchy of controls' concept to eliminate, substitute and isolate risks as far as reasonably practicable, and to only rely on administrative or personal protective equipment (PPE) controls where necessary.

Question 1 – Legal and policy frameworks

In order to embed a safe and positive culture within the adult custodial corrections environment:

- 1.1 What, if any, amendments should be made to the Corrections Act 1986 to improve culture, safety, integrity and inclusion in the adult custodial corrections system?*
- 1.2 What, if any, changes should be made to subordinate instruments (Corrections regulations, Commissioner's requirements, location-based policies and procedures?)*

Often in regulated industries there is a tendency for that domain's legal and policy frameworks to overshadow general occupational health and safety (OHS) legal requirements. This should not be the case. That the Victorian Occupational Health and Safety Act (2004) and Regulations did not feature in this section of the Consultation Paper is telling. The principles and requirements placed on duty holders with the OHS Act (2004) and Regulations are applicable to all Victorian workplaces. The Victorian Corrections Act (1986) features little focus on OHS principles, standards or requirements; much of the document (understandably) focuses on the protections afforded prisoners.

Legislating for improved culture is likely impossible. Cultural change is only likely with more direct, non-legal actions, such as recruitment policies encouraging and/or requiring diversity.

Question 2 – Workforce skills, training, supervision, and support

In order to support staff working within the adult custodial corrections environment:

- 2.1 What essential skills and training should be required for staff working within the adult custodial corrections system?*
- 2.2 What are the essential values for staff working within the adult custodial corrections system?*
- 2.3 How can leadership and supervision arrangements be improved to ensure that staff are safe and supported while working in the adult custodial corrections system?*
- 2.4 How can learning and professional development opportunities for custodial staff be improved to support positive culture, safety, diversity and integrity in the adult custodial corrections system?*
- 2.5 Are there opportunities to improve recruitment and employment processes to support positive culture, safety, diversity and integrity in the custodial environment?*
- 2.6 Are there any other supports that should be made available to staff working within the adult custodial corrections system, including to manage workplace stress?*

There are two aspects that adult custodial corrections system (ACCS) staff should focus risk mitigation efforts; 1) physical workplace risks to health and safety, and 2) inter-personal OHS culture improvement initiatives. Staff working in the ACCS should be equipped with appropriate OHS skills and training that supports them to work safely in their challenging, dynamic environment. Whilst they likely receive training in detainment methods and self-defence practices, broader risk management knowledge considering concepts such as 'barrier thinking' and 'hierarchy of controls' would enable better OHS risk management practices and behaviours.

Secondly, whilst the review focuses on 'safety culture', research shows that this concept remains stubbornly elusive to pin down, define, and build upon to create healthy and safe organisations. Rather 'safety climate' is a more robust framework in which interventions can be better evaluated (<https://www.ohsbok.org.au/2117-2/#1548328004983-899b528e-01e4/>).

Frequent safety climate surveys would provide ACCS stakeholders with more useful data on which to make decisions, change practices, and target interventions.

The Victorian ACCS has supporting OHS resources in the form of advisors and other OHS practitioners and professionals. As in any business, they play a vital role in enabling positive OHS outcomes. Their training and development are therefore critical to creating healthy and safe service delivery locations. The AIHS oversees Australia's only OHS Certification framework. We recommend that ACCS OHS practitioners and professionals are supported to participate in this framework, in order to build and maintain their OHS professional development.

Question 3 – Workplace culture and values

In order to understand the workplace culture and the experience of inappropriate behaviour within the adult custodial environment:

3.1 What are the key challenges for custodial workforce and what can be done to support increased safety and wellbeing for custodial staff?

3.2 What are the key issues of staff safety and integrity within the adult custodial environment (how prevalent are integrity issues and inappropriate workplace behaviour such as sexual harassment, racism, discrimination, bullying and victimisation)?

3.3 What are the drivers of integrity issues and inappropriate workplace behaviour (sexual harassment, racism, discrimination and bullying) in the adult custodial environment?

3.4 What are the key factors that influence reporting inappropriate workplace behaviours and integrity issues, and the responses of people with supervision and leadership responsibilities?"

3.5 What are the consequences and impacts for staff who experience and report these issues within the workplace?

3.6 What improvements can be made to support staff to report inappropriate and unlawful workplace behaviours?

A key tenet of healthy and safe organisations is building and promoting the ability to report inappropriate behaviour/s. These reporting processes must be secure, open to all workers (e.g. regardless of digital capabilities or means of access), and traceable. Users must have the ability to choose anonymity. And inputs must be linked to meaningful, rapid investigation and resolution processes. Research shows that ‘just processes’ or ‘just culture’ incident investigations are more likely to identify ‘deeper’ causal factors, such as organisational leadership and misaligned work goals, rather than be limited to superficial re-training actions.

A lack of diversity, including gender, age, racial and ethnic diversity, is commonly linked to inappropriate workplace behaviour going undetected and/or undisciplined. A diversity of perspectives increases the likelihood of these behaviours being reported, and fosters a broader expectation that matters are appropriately investigated and dealt with in a timely, equitable manner.

Question 6 – Influence of workplace culture on wellbeing and safety of other people in custody

In order to understand the particular experience of people in custody with specific needs:

6.1 How do issues with culture, safety and integrity affect the experience and outcomes for people in custody?

6.2 What are the particular needs, experiences and safety concerns for the following people within the custodial environment:

- *women*
- *people who identify as LGBTIQ+*
- *people from a culturally and linguistically diverse background*
- *people with a disability (including people with a mental health condition and people with a cognitive impairment)*
- *older people in custody.*

These include any experiences of discrimination, sexual harassment, bullying or experience of integrity issues.

6.3 What changes are required to improve access to programs and support to assist people in custody work towards rehabilitation and better transition to the community.

Our contribution here is focused on rehabilitation and transition programs provided to people in custody. We believe that it is critically important that OHS skills, knowledge and capabilities are included within the ACCS curriculum. OHS knowledge is shown to better equip workers to avoid serious injuries. An awareness of current OHS risks would position people in custody in good stead as they try to re-enter the workforce. For example, construction induction training (‘white card’) would make them more employable in an industry that needs capable workers (<https://www.worksafe.vic.gov.au/construction-induction-training-white-card>). Likewise, training to operate equipment such as forklifts would provide valuable qualifications. But it is imperative that these courses include high quality OHS knowledge, in order to best equip them for their working future.

We also believe that, as per question 3, were the groups outlined above better represented in ACCS organisational workforces, including within leadership roles, those groups in custody would be less likely to have negative experiences and safety concerns. Diversity enhances empathy and understanding.

Question 7 – Transparency, accountability and oversight

To ensure there are appropriate processes for the early identification and response to issues of culture, safety and integrity in the adult custodial corrections system:

7.1 Can the integrity and oversight arrangements be enhanced to support improvements to culture, safety and integrity in the custodial environment?

7.2 Are there any ways to improve the accessibility and safety of complaint processes and pathways to encourage the reporting of corruption and misconduct in the adult custodial corrections system?

7.3 Are there opportunities to enhance the informal monitoring of the adult custodial environment?

The most critical process for early identification and response to safety and integrity issues is the organisational reporting system. To meet contemporary needs, these systems need to be digital platforms. They need to be designed thoughtfully and holistically, so that:

1. Senior leaders are compelled to own and address rectification and response actions
2. Appropriate audiences can readily access and view appropriate (e.g. deidentified) data reports
3. All location workforces can readily access and use the reporting system
4. Workers can elect to remain anonymous if desired
5. Senior leaders regularly receive concise reports

Leaders of healthy and safe organisations are not averse to receiving ‘bad news’. A well-designed reporting system is integral to facilitating this outcome, particularly in a setting as large and multi-faceted as the Victorian ACCS. Our view is that a modern, effective reporting system in a context as large as the Victorian ACCS would likely require significant investment of time and financial resources. Based on the information provided in the Consultation Paper, we would be confident that this investment would reap material benefits. A well-designed system would likely see a significant volume of data generated, which would like lead to valuable insights and trends.

Question 8 – Complaints, disciplinary and dispute resolution processes

To support the development of positive culture, improve relationships and assist with the resolution of disputes within the custodial environment:

8.1 How can complaint processes and pathways be improved to encourage people in custody to report issues relating to culture, safety and integrity within the adult custodial corrections system?

8.2 What changes should be made to the prison disciplinary processes to support positive culture safety and integrity within the custodial environment?

8.3 Is there a role for restorative justice and alternative dispute resolution to improve culture, safety and integrity within the adult custodial corrections system?

‘Just culture’ is an emerging concept in OHS incident investigation practices and processes, with more mature organisations implementing it in settings such as mining, construction and logistics. The purpose of the concept is to identify ‘deeper’ causal factors behind an incident, such as misaligned work goals, inadequate leadership practices, or insufficient supporting resources. By considering a ‘just culture’ framework, to support a modern reporting system (see question 7), ACCS stakeholders would be more likely to identify causal factors and latent conditions. This would enable more meaningful responsive actions in order to improve location practices and conditions.