

JOINT STANDING COMMITTEE ON THE CORRUPTION AND CRIME COMMISSION



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 12 SEPTEMBER 2018**

Members

**Ms M.M. Quirk, MLA (Chair)
Hon Jim Chown, MLC (Deputy Chair)
Mr M. Hughes, MLA
Hon Alison Xamon, MLC**

Hearing commenced at 10.24 am**Mr TONY HASSALL****Commissioner of Corrective Services, Department of Justice, examined:****Mr SHAYNE MAINES****Deputy Commissioner, Adult and Youth Justice Services, Department of Justice, examined:**

The CHAIR: On behalf of the committee, I would like to thank you for agreeing to appear today. I am Margaret Quirk and I am Chair of the Joint Standing Committee on the Corruption and Crime Commission. I would like to introduce the other members of the committee present today: on my right is Hon Alison Xamon, MLC; on my left is the Deputy Chair, Hon Jim Chown, MLC; and to his left is Matthew Hughes, MLA, member for Kalamunda. It is important that you understand that any deliberate misleading of this committee may be regarded as a contempt of Parliament. Your evidence is protected by parliamentary privilege; however, this privilege does not apply to anything that you might say outside today's proceedings. This is a public hearing, but at any stage you might want to indicate that we need to go into a closed hearing. We will try to keep the evidence such that that is not required.

Before we commence, by way of introduction, we basically want to talk to you about a series of reports the Corruption and Crime Commission released and some of the issues raised in them and what is happening from an agency perspective as a result of those reports. Do either of you want to make an opening statement?

Mr HASSALL: I could, if that is okay, Chair. I think the CCC reports, whilst disappointing from a department's point of view, have been very helpful in identifying some systemic issues that we have got to fix. I hope that we can share with the committee this morning what we are doing in that space. I would say that the department is committed to operating a safe prison system, and part of that is dealing with staff wrongdoing, whatever that may be. We are in the process of setting up a professional standards division that would report directly to the director general. That is a new thing for the department. We have given our evidence to the CCC already so we will have that division set up in the next three months, and I think that is how we will deal with a lot of the issues.

The CHAIR: You say that you are disappointed with the CCC—in what regard?

Mr HASSALL: No, not disappointed with the CCC; I am disappointed with some of the things they found that we should have found. We have had to have an external agency tell us some of the things we have got wrong that we should have picked up ourselves—not the CCC at all.

Hon JIM CHOWN: Why were those issues not picked up by your department rather than have this report take place and those breaches in security take place? You were warned a number of times about the possibility of breaches taking place and no action was taken.

Mr HASSALL: As I have said, there are some systemic issues that the department has to fix. It is like any system where you —

Hon JIM CHOWN: Would you identify those systemic issues?

Mr HASSALL: Some the CCC identified; some we are dealing with ourselves. I think we have had issues in our internal investigations department for a while, and that is what I have just said—we are addressing those with a new professional standards area.

Hon ALISON XAMON: When you say that you have had issues, could you please elaborate on what you mean by “issues” within internal investigations?

Mr HASSALL: Yes. There are some process issues about how we triage matters that come into the department. We have had delays in doing some of that. We have had some vacancies in the area that I gave evidence on at estimates. We are addressing those.

Hon ALISON XAMON: What sorts of vacancies in terms of FTE are we talking?

Mr HASSALL: Richard, do you have the exact figures today?

Hon ALISON XAMON: Did any of those vacancies arise as a result of the previous freezes?

Mr HASSALL: We have eight substantively vacant at the moment out of 22.

Hon ALISON XAMON: So you are over a third down?

Mr HASSALL: We have some of those positions covered. We have two secondments starting from police on Monday. We are working to fill those positions.

Hon JIM CHOWN: I would like to go back to the systemic issues that you believe you have identified within custodial services and prisons. There is a public safety issue here as well. We have just seen the riot at Greenough, and I hope that does not recur within our prison system. In regard to, for example, drugs in prisons, I am of the firm belief that there would be very few drugs in prisons if, one, prison officers did their jobs properly and, two, did not allow breaches to take place or even circumvent security of the prisons to allow those drugs to enter the prisons. What I would like to hear from you today, commissioner, is an outline of how you are going to address the matter of drugs in prisons because drugs, as you would be fully aware, are part of the problem when riots take place in places such as Greenough. May I add, also, that surely it makes the prison officers’ roles even harder when prisoners are taking drugs and acting out of character under the influence of such.

[10.30 am]

Mr HASSALL: There are a number of points you have raised in your question. First, on the Greenough riot, we have an independent review going on into that. There is no indication whatsoever that that was related to high levels of drugs in that prison. We will wait for the review to come out and tell us what have been the causes of that incident. In terms of drugs into prisons, there are a range of things. Drugs come into any institution, anywhere in the world in a number of ways. Some of it is staff, some of it is visitors, and some of it is throwing contraband over the wall. It is a constant challenge for any correctional system anywhere. It is not unique to Western Australia. There have been a range of measures put in place over the last few years. The first was the introduction of staff drug and alcohol testing, so that is one measure that was put in place.

The CHAIR: Can you let me know how often that is done and whether people are notified of that beforehand?

Mr HASSALL: Yes. Do you want me to finish this question?

The CHAIR: It relates to that—you just mentioned drug testing, that is all.

Mr HASSALL: Richard, do you want to go through the staff drug and alcohol testing?

The CHAIR: You can provide us information.

Mr HASSALL: I have got it. That is his area, so he can give you far more detail.

The CHAIR: No, we can get that by way of written information. Just answer Mr Chown’s question.

Mr HASSALL: So, there is the staff drug and alcohol testing. Last year we wanted to improve our entry searching procedures, so we introduced Operation Contra, which was increasing the number of searches of people going into prisons and improving the quality of those searches. That was when we had the Auditor General's report in, so we knew there were some issues from that. That then evolved into a further operation, if you like, Operation Auris, which was far more intelligence driven in how we do our searches, so collating the information that we have available to us, working with the police and doing far more targeted searches at individual sites, of both prison officers and visitors. That work is still carrying on. That is still in place.

Mr M. HUGHES: Is that part of the entry search improvement project plan?

Mr HASSALL: Correct.

Mr M. HUGHES: In relation to that, this relates to the work you are doing with Serco. It is understood that Serco reports to you that there is a 90 per cent detection rate. How do you determine a 90 per cent detection rate? How do you know it is 90 per cent—90 per cent of what?

Mr HASSALL: I do not know what they are referring to, Serco, but if it is the detection rate, it would be how many people that are going into the prison who are searched, and then how many finds that they would be finding.

Mr M. HUGHES: So out of every 100?

Mr HASSALL: If somebody was found with one item, it would be one per cent.

Mr M. HUGHES: I think Serco reported to you that during 2018 to date, contraband simulation tests have resulted in a 90 per cent detection rate. What does that refer to?

Mr HASSALL: I would have to take that on notice.

Mr M. HUGHES: I do not know how you can determine a 90 per cent detection rate. I presume that there is 10 per cent that is not detected. I do not know how you achieve that.

Mr HASSALL: I could take that on notice.

Hon JIM CHOWN: What are the repercussions when a prison officer is found to have breached security?

Mr HASSALL: It depends what the breach is. If I can give you an example: when there was a search operation at a prison—this is a real example, so I will not tell you the prison or the name of the officer—there was an officer taking excess tablets into the prison. That was dealt with by referring it to misconduct assessment. They will make an assessment of that particular case. It has been referred to the CCC. Anything we find, we take very seriously. It goes internally. We will triage that to see what action is taken and we will either refer it on to the CCC or deal with it internally. If as part of the drug and alcohol testing, for example, the officer is tested on their entry into work and they are found over a certain limit, they would be sent home and then dealt with when they came back to work.

Hon JIM CHOWN: When you say “a certain limit”, do you mean how much alcohol they have in their system?

Mr HASSALL: Yes, correct.

Hon JIM CHOWN: What is the limit?

Mr HASSALL: It is 0.1.

Hon JIM CHOWN: What about if drugs are found in their system. Is there a limit on that? Are they sent home?

Mr HASSALL: If it was drugs —

Hon JIM CHOWN: Suspended? Dismissed?

Mr HASSALL: If you let me —

Hon JIM CHOWN: Sure, I am just giving you a category.

Mr HASSALL: It depends. What would happen is that the officer would be taken to one side. If they were on prescription medication, they would be given an opportunity to explain. We would send for a confirmation test and then we would have to wait for the confirmation test to come back and they would be dealt with. Just to clarify, it is 0.02.

The CHAIR: Otherwise they would be driving to work under the influence.

Mr HASSALL: Yes, it was a mistake.

The CHAIR: Mr Maines, we are really interested in the process and the relationship between the department and the CCC. The commissioner just mentioned referral to the CCC. None of the matters that were subject to this report were matters that referred, as I understand it.

Mr MAINES: There are five reports, Madam Chair, so —

The CHAIR: What have we got?

Mr MAINES: We received a series of five reports.

The CHAIR: There is inadequate supervision of prisoners in the community, 11 May; corrupt officers and the risks of contraband; Hakea Prison, 26 June; and two on inadequate use of force reporting at the Eastern Goldfields Regional Prison.

Mr MAINES: We received them as five separate reports. The first one —

The CHAIR: I know they are reports. What I am saying is, how is it that the CCC got to investigate them? Was it your referral to them?

Mr MAINES: Collaborative investigations. The first report related to a collaborative investigation was prior to my time being involved in that area. That was a collaborative investigation between WA Police, the Corruption and Crime Commission and the Department of Corrective Services.

The CHAIR: How was it initiated?

Hon ALISON XAMON: How did the CCC become aware of it? Was it a whistleblower? Was it one particular department?

Mr MAINES: Information came up. I would have to take it on notice. I am sorry—if I can, Madam Chair, up until 12 March I was not involved in the investigations.

The CHAIR: With all due respect, you have had the reports for two months.

Mr MAINES: Yes.

The CHAIR: I would have thought you would need to at least be on top of the detail by this stage, plus you knew you were coming here today.

Mr MAINES: I did, but the investigation occurred prior to my arrival.

The CHAIR: That is part of the detail. We are trying to work out in which cases the CCC either just happens across something, a whistleblower refers it, or —

Mr MAINES: The information was provided to the CCC.

The CHAIR: From?

Mr MAINES: From the department.

The CHAIR: So all of these cases went from the department to the CCC?

Mr MAINES: There were referrals made to the department, yes.

The CHAIR: All right. Yet in the case of the inadequate use of force reporting at Hakea Prison, for example, the Department of Justice gave the officer a stern talking to. I am just a bit intrigued about how that ends up in the CCC if the department itself resolves that nothing else is happening.

Mr MAINES: I am mindful about talking about some of these matters because some are still subject to internal disciplinary matters.

The CHAIR: This one is not. In this one, the fellow got talked to and the report has been tabled. I am just asking about information that is in the report.

Mr MAINES: Yes, but something else occurred in relation to that officer, so that officer was subject to dismissal and the matter was appealed in the Western Australian Industrial Relations Commission.

Hon ALISON XAMON: But we are only asking as it pertains to that particular report. We are trying to get an idea of how thorough the internal referral processes are within the Department of Justice to the CCC. What is inconsistent is that on the one hand the report says that the officer got a stern talking to, as though that were sufficient, and on the other hand we are being advised now that it was referred to the CCC. We are trying to drill down how these matters come to the attention of the CCC.

Mr MAINES: All matters of serious misconduct are reported through to the CCC in accordance with our obligations under the act. Any matter that comes into the misconduct assessment unit that meets the definition for requirement for reporting is reported to the Corruption and Crime Commission. The Corruption and Crime Commission will then make a determination as to whether it is a matter that they investigate. We have been involved in a number of collaborative investigations with the CCC. In respect to the specific matter in relation to Hakea, there are two separate issues relating to a single officer. One matter was dealt with through a disciplinary process and, as a consequence, the officer was dismissed from corrective services. Prior to that occurring, there was a second matter. The matters were not brought together. They were not joined as two matters; they were dealt with individually, and they were dealt with inconsistently. It is fair to say that they were dealt with inconsistently and, as a result, an officer was subject to a disciplinary process and at the same time he was dealt with in an inconsistent manner in relation to one of the other incidents. The two incidents were not brought together by the investigations branch. One of the matters led to the person being dismissed. It was appealed at the Industrial Relations Commission and he was subsequently —

[10.40 am]

The CHAIR: There were a number of officers involved. Perhaps you can give us the name of the officer, because there are three or four officers named in this report.

Mr MAINES: Yes, I can.

The CHAIR: Mattar, Hunter, Keith and Robinson.

Mr MAINES: I am just mindful —

The CHAIR: All right, we will move on then.

Having eight fewer people than the establishment for internal affairs, what impact does that have on your capacity to undertake these investigations quickly? Does it impact on your capacity to do joint operations with the CCC?

Mr HASSALL: Do you want to talk about your review, because I think that would be helpful.

The CHAIR: No, I have asked him a specific question, commissioner.

Mr MAINES: If I could just provide some context. In my normal role as the deputy commissioner for adult and youth justice, I am not involved in the regulation and operational service division, which is my colleague, Mr Elderfield, at the back of the room. He is the acting deputy commissioner for that area, which has investigations. What I can tell you is that the commissioner committed me from 12 March to 25 June to go through investigations, to look at the business practices and processes in place at the time and try to re-engineer them. What I can tell you is that there were inconsistent practices. I made a conscious decision not to try to backfill all positions until we got the processes right. There was no impediment to us working with the CCC. We maintained very good relationships with the Corruption and Crime Commission. I had lots of meetings with various officers from that area in trying to understand the business. I was put there for a particular reason and that reason was to have a look at the performance of the business area and what was impacting, specifically where the staffing was impacted. In my assessment, the first issue that needed to be addressed was the processes being undertaken in the area. We brought in a couple of people and put in an acting director. We brought in someone who sat over the misconduct assessment area. The focus was trying to identify what were the blockages to doing investigations in an expedient way, how was the process of assessing them being done, and was it in fact correct. In my view, in most of the matters that we were getting in, we were over-assessing and we were not dealing with at a local level. The majority of matters that were coming in required managerial intervention, not investigation. That was a period when I looked after that particular area. I prepared a subsequent report for the director general and the commissioner, which outlines what I found when I was working in that area. The director general and the commissioner have committed to making changes and re-establishing the professional standards portfolio to get probably a better level of service. Then we will move through the process. As the commissioner indicated, we have had two secondments from WA Police.

The CHAIR: I apologise; I thought you were still in charge of internal affairs.

Mr MAINES: No, I am not.

The CHAIR: When were you promoted out of internal affairs?

Mr MAINES: I was not promoted out; I was acting for the commissioner, who was on leave from 25 June, so I worked there from 12 March —

The CHAIR: No, but you are deputy commissioner now, and previously you were in internal affairs.

Mr MAINES: No, I was still the deputy commissioner. I have been the deputy commissioner since 2014. I was seconded, for want of a better word, on 12 March this year, at the behest of the commissioner, to go in and see if I could actually re-engineer the business in investigations because we were aware of a number of issues, particularly in relation to the delays and our expediency in completing investigations. I was given the specific task to see whether I could re-engineer that business and improve it.

The CHAIR: Given that inquiry, I will put a couple of matters to you. In the report involving Hakea, on page 23, in relation to prison officer Mattar, it was found that the Department of Justice found that the prison officer's use of force was inappropriate. Paragraph 135 states —

... DoJ's senior personnel were aware that the Western Australian Prison Officer Union ... intended to 'fight the matter' if DoJ investigated it. DoJ did not investigate the incident.

What comments do you make about that finding?

Mr MAINES: As I indicated, there were inconsistencies in the manner in which this matter was dealt with. In my view, I would have joined together both investigations in relation to the particular prison officer. I cannot make excuses for the fact that there was inconsistency in this approach.

Hon ALISON XAMON: Is it a common approach to perhaps go light on an investigation because of concern about union response?

Mr MAINES: I cannot give you an opinion on whether it is to go light. There are processes in place for investigations to take place. Regrettably, in my period of time working in investigations, not all processes were followed.¹

Hon ALISON XAMON: The report is quite clear. Its finding is that there was —

The CHAIR: Maybe the commissioner can answer this one.

Hon ALISON XAMON: The report was quite clear that the reason given for not pursuing this as vigorously as it should have been was because of the concern about how the union would respond. Is this a consistent concern?

Mr HASSALL: As Mr Maines has said, there have been issues with the process. That is why I asked him to go in and have a look at that process. It is certainly not department policy that we go light because of what the staff representative organisation may or may not do. Can I sit here and say to you that that does not happen? No, I cannot.

Hon ALISON XAMON: Because of course it is not policy. I am concerned that that might be culturally a response that it has emerged or is emerging within Corrective Services, and I would like you to make further comment about that please.

Mr HASSALL: As I said, I cannot give you a guarantee that that has not happened, because I just do not know. We have a lot of investigations. There are a lot of discussions going on at very junior levels in the department. What I can give you assurances on is that the systems that we put in place will make sure that everything is dealt with in a transparent and fair manner.

Hon ALISON XAMON: So what you are saying is that these new processes are what you are referring to. There is a specific finding that has been made by the CCC pertaining to this. What assurances are you able to give to this committee, beyond “we’re looking at it”, that this is a real issue that is being addressed?

Mr HASSALL: First of all, I would say that it has never been brought to my attention as the commissioner —

Hon ALISON XAMON: Prior to the CCC raising it in the report?

Mr HASSALL: — prior to the CCC in this report that this has been an issue. There are a number of people in the system—managers at all levels—who could have raised those concerns. It has never been raised as an issue with me. That is the first thing I have to say. The second thing is, as I said in my opening statement, the director general is committed to setting up and resourcing properly for the Department of Justice a professional standards area. We have Mr Maines’ report, so we know the systems that need to be changed and the processes that need to be changed. I think it is fair to say that the triage assessment was too cumbersome. A lot of cases came in that just sat in a pile waiting to be triaged. We have changed that now and put some interim things in place, but we will resource a professional standards area over the next three months.

Hon ALISON XAMON: Can I just ask, because I want to finish this line of questioning: have at this point the union, firstly, been made aware of these new processes that you have in place; and,

¹ Information provided following the hearing clarified that it was found that not all processes were followed previously.

secondly, have they expressed any concerns about the new processes? Is there any indication that they will potentially object?

Mr HASSALL: We have not made them aware of that. We are not required to consult on processes because we are not actually going outside the Public Sector Management Act or our own code of discipline. We are just tightening up the process completely. I would not expect us to consult on those types of things.

The CHAIR: Just coming back to this: what was your reaction when you read the report of 27 June into Hakea?

Mr HASSALL: I was disappointed, as Mr Maines has said—Mr Mattar's case should have been dealt with as one package. That is what we have found on a number of things. When I was talking about systemic things, things have been dealt with in isolation and cases have not been put together.

The CHAIR: The report says that DoJ's senior personnel were aware that the union intended to fight the matter if DoJ investigated it. Have you made attempts to identify who the particular senior personnel were?

Mr HASSALL: No.

The CHAIR: Why not?

Mr HASSALL: Because the union deals with a range of people. Some of those staff in that area have moved on.

The CHAIR: But it is not the union personnel I am concerned about; I am concerned about people at the senior level making those kinds of judgements. Do you understand that?

Mr HASSALL: I do, and there was only a small number of people in that chain that that comment could have been referring to. As I have said, they have moved on.

[10.50 am]

The CHAIR: They had moved on at the time the report was handed down?

Mr HASSALL: Subsequently moved on, yes.

The CHAIR: If you said there was a small chain, you obviously made some endeavour to find out who they were.

Mr HASSALL: I did not, no.

The CHAIR: Member for Kalamunda, you had a question?

Mr M. HUGHES: No, I am just a bit bemused by this. If I am a prisoner, for example, and I make a complaint about the behaviour of an officer towards me, what processes have you put in place to ensure that the officer against whom the complaint is made is not the person undertaking the inquiry and making decisions, observations or judgements in relation to that matter? How has it changed since the report came down?

Mr HASSALL: Prisoners can make complaints through our internal complaints mechanism access. If it is a written complaint, it will come to me. Most of the complaints are generally about low-level operational things in prisons. If it is a complaint against a member of staff, they would go —

Mr M. HUGHES: Yes, I am talking about excessive use of force.

Mr HASSALL: They would all go into the triage system and would be triaged and dealt with that way. What we have in place now is that each prison has a use-of-force committee that has to review their use of force by the superintendent. An overarching committee sits above that that then reviews all

of those uses of force. Usually they would check the paperwork, the processes, and if they need to, if it is video, they would check the video of the incident as well.

Mr M. HUGHES: If we took the Eastern Goldfields Regional Prison report—we are talking about senior prison officer Gary Victor Hawthorn, who was in a position of power and influence by virtue of his position and experience—he had influence over the use of force and critical incident reporting process, despite being the primary user of force. Is that situation no longer possible? Is that what you are saying?

Mr HASSALL: No.

Mr M. HUGHES: No?

Mr HASSALL: Yes, because he uses —

Mr M. HUGHES: Yes or no?

Mr HASSALL: Well, the officer still uses the force, still has to do the reporting; that is the requirement. What sits above that is that the superintendent has to then review that use of force. Sitting above that is an independent review outside of the prison that is chaired by the deputy commissioner.

Mr M. HUGHES: Is that a changed procedure or is it one that was in place but was ignored previously?

Mr HASSALL: It was introduced —

Mr M. HUGHES: Following this.

Mr HASSALL: I think we actually introduced it prior to this because we had early notice of these things. Every single use of force, as I said, is reviewed at the prison level, and then it is reviewed above the prison level by the deputy commissioner.

Hon JIM CHOWN: I would like to refer back to the Chair's question about undue influence by the union, as stated in this report. You said that that was a very small core of people and they have moved on. What did you mean by "moved on"?

Mr HASSALL: One of them resigned, got another job and went to another state.

Hon JIM CHOWN: That is one. And the rest?

The CHAIR: So you did identify some of the personnel?

Mr HASSALL: I would not want to say it was that particular person. There has just been a turnover of people in that area. As I said, I did not go and ask, "Was it you? Was it you? Was it you?" What I will say to you on the union is that they do defend their members vigorously. We do have discussions about the management of cases. It has never been put to me that there has been undue influence and outcomes. I have to say that it would be very difficult for the union to do that because of the process. Even though the process before was not perfect, there are too many checks in that system for them to do that. Do they prosecute their case with their members vigorously? Absolutely.

The CHAIR: Do you understand that there seems to be a conflating of what are industrial issues, where it is highly legitimate for the union to have an involvement, to matters of potential corruption or certain misuse of power. That is where we are having some issue. It seems as if he was treated as a minor industrial dispute and not as a matter worthy of a different level of treatment.

Mr HASSALL: I totally get the point that you are making, Madam Chair. What I would say to you is that part of that was a symptom of our own processes. For the eastern goldfields one, there had been a number of occasions when that particular member of staff should have been flagged in the

system and pulled together. There had been issues about that employee a number of times, but the system did not pick it up, which is why I asked Mr Maines to go and have a look at the processes.

Hon JIM CHOWN: Just to reinforce the Chair's comments, which are very pertinent to the matter under discussion here today, commissioner: how do you differentiate between industrial matters and the Prison Officers' Union, and breaches that take place by prison officers in regard to their care of prisoners per se, and where would the union's influence not be entertained?

Mr HASSALL: If it is a clear case —

Hon JIM CHOWN: If I may interrupt, you have just stated that they prosecute the support of their union members vigorously, but you did not differentiate between the industrial matters and security matters.

Mr HASSALL: They will defend their members and they will put their case to us. That does not mean to say that we acquiesce to what they request; in many instances we do not.

Mr M. HUGHES: Their role is to ensure procedural fairness in terms of a complaint against an officer.

Mr HASSALL: Correct. They have a right to represent their members. If you are asking me whether that means we do things differently, then, no, we do not. Have there been issues in our system? Yes.

The CHAIR: We will move on to section 95 now, if we may and the infamous trip to —

Mr HASSALL: Karnet.

The CHAIR: Yes, Karnet. It was certainly my observation over the years that in the lower security prisons, a level of complacency creeps in. At the lower level, this incident could be regarded as being highly complacent, but obviously the CCC findings are more adverse. One of the recommendations was that the fleet should be fitted with tracking systems. Has that happened? Are you investigating it or do you have some business case for getting them?

Mr MAINES: Yes, the commission did make a number of recommendations on pages 21 and 22. One of them did relate to fitting tracking devices on vehicles. That is subject to procurement, but we have made some improvements to the section 95 process in ensuring that we are assessing the people who go out on section 95 activities and that there are regular checks by principal officers on those activities so that the principal officer from the prison will go and visit the activities where they are occurring to ensure that they are occurring correctly. I personally have gone and looked at the records currently at Karnet, Wooroloo and Bunbury in relation to section 95 activities. There is a checklist that they are required to submit. I have also asked them to put in place some measures about providing a route plan—where they are going, advising by radio the gate when they are leaving, and advising when they arrive at the location. I have also asked them to include mileage, so the mileage when they leave the prison and the mileage when they arrive at the location, which will give us a better indication as to how long the trip has taken, until we get the tracking. Getting the tracking requires some level of procurement. That is underway and it is likely to be fulfilled by about October.

Hon ALISON XAMON: So about October is when you are anticipating. Until then, you are working on this manual process of trying to record keep. Is that being overseen by anyone or are you just holding on to that on the basis that if there is a future complaint, that might be able to be assessed?

Mr MAINES: I can assure you that all superintendents are required to check—there are three levels of checking involved in the process. As I gave an indication to this committee, I personally have gone and reviewed the process at Karnet, Wooroloo and Bunbury prisons, where the section 95 activities are occurring. There is a level of rigour around it. Where there are systems, people will work ways

of defeating them, but I am satisfied currently that the processes that we put in place will go some way to address some of the recommendations in this report.

[11.00 am]

Hon ALISON XAMON: So in terms of the procurement and just for confirmation on the tracking devices, will every vehicle be fitted or will it just be select vehicles?

Mr MAINES: Primarily, it will be vehicles used in section 95. It is fair to say that we have a number of secure vehicles now that already have tracking capability. But this is for a different class of prisoner, as Madam Chair indicated. These are generally trusted prisoners who have got to a position where they have earned a level of trust and they are in their reintegration phase back into the community. Now that occurs, and sometimes people will actually get that wrong and they will betray that trust.

Hon ALISON XAMON: Clearly, they get it wrong because that is what the report found.

The CHAIR: There is nothing like being reintegrated into the community by having a McDonald's ice cream. Was this whole matter and series of events referred to the CCC by the department?

Mr MAINES: This was a collaborative investigation. That is my understanding.

The CHAIR: Yes. Was it your understanding that there were numerous reports about the prison officers' failure to supervise prisoners on one-day release outside the prison? Was it relatively notorious over a period of time?

Mr MAINES: I would not say notorious. The officer has had matters that have come to attention in the past, which should have triggered a flag about the person's conduct and stuff. But, again, our system for identifying people who are potentially at risk to themselves or to others was not overly sophisticated, and that is part of the work that I was commissioned to do when I looked at that. Currently we have been through a process of reviewing all officers who are under section 95, and I cannot tell you that there are not officers who will not do the right thing. There are some officers who have had matters come before them, but officers are also entitled to make mistakes, to be held to account and to move on and do things in the same way other employees in any sort of business would. Yes, this a high-risk business.

Mr M. HUGHES: The officer who was the VSO, in evidence to the commission said that he was not trained in the role in terms of the way in which it was appropriate to interact with prisoners. Do you have any observations to make on that in terms of the change of disposition in the preparation of officers who are going to take part in this program?

Mr HASSALL: All VSOs go through training when they join the department. There is a backlog of training that we are working through. I think he was referring to what you would call anti-grooming training or anti-conditioning training. That is a package of training that we have. Is it satisfactory? No. Are we working on a new package? Yes, we have got some learning from Serco in that. We also have a package that we are developing ourselves. Training is just one component. As Mr Maines has said, and as you have suggested, Madam Chair, the system failed with this guy going back for a number of years. We should have picked up —

Mr M. HUGHES: I am not suggesting that you get the one-off training at the beginning of moving into a role. This is a constant requirement, is it not, to actually sensitise officers to the potential risks associated with contact with prisoners?

Mr HASSALL: That is correct.

Mr M. HUGHES: Was this not part of a culture developed around these sorts of trustee prisoners?

Mr HASSALL: I think there was a culture of complacency that developed, absolutely. We are trying not to let people get to the edge, so we do early intervention. When they are making mistakes that have not got to the misconduct level, we pull them in, rotate them and have a discussion with them before it gets to the serious end. Sometimes you can do that effectively and sometimes you cannot.

Mr M. HUGHES: Between 2003 and 2016, there were eight separate incidents when, in fact, he was disciplined in relation to matters similar to this.

Mr HASSALL: Yes.

Mr M. HUGHES: That is over a 13-year period.

Mr HASSALL: Correct.

Mr M. HUGHES: That is why I am referring to a cultural problem.

Mr HASSALL: I acknowledge that there have been issues where singleton prison officer and singleton VSOs have supervised prisoners and they have not been rotated around and there have not been the appropriate management checks, and that has gone on for a number of years.

Mr M. HUGHES: Who are rotating—the prisoners or the officers?

Mr HASSALL: The officers. What I would normally expect—I have been working in corrections for a long time—is that in some of those singleton posts, you would rotate the officers around so that they could not get groomed and conditioned in that way. As Mr Maines said, we put a lot of process in place. We will not back down from that physical process even if we have technology because it is a good check. That is a new thing that we have had to introduce that was not in place before.

Hon ALISON XAMON: Do you now have a policy of rotating those prison officers so that there is less likelihood that they will be groomed?

Mr HASSALL: Sadly, no, because we are constrained with —

Hon ALISON XAMON: It is business as usual.

Mr HASSALL: In rotation for certain positions, no, we do not because people are employed to positions so it is an industrial issue.

The CHAIR: It is an industrial issue, is it?

Mr HASSALL: For rotating singleton posts, yes.

The CHAIR: It is something that has always puzzled me. I think a good management practice is to transfer officers from one prison to another. You are saying that you are constrained by some industrial issue.

Mr HASSALL: In some instance for some positions, yes, we are.

Hon ALISON XAMON: But this is a security issue. That is what has actually been found. I do not understand why we have got to the situation whereby effectively the security of the community can be trumped by this incapacity to just ensure we have best practice in terms of moving people around.

Mr HASSALL: Well, you would not rely on just one process, so that is why we have put a whole series of processes in place. You do not rely on just one thing to make a system safe. For example, we can rotate prison officers around —

Hon ALISON XAMON: But —

Mr HASSALL: If I could just answer your question.

Hon ALISON XAMON: No, commissioner, because this has actually been identified as a specific recommendation that needs to be implemented in order to try to lessen the likelihood of corruption.

The CHAIR: They are saying rotate the prisoners.

Hon ALISON XAMON: And they are talking about this rotation and you are telling me now that —

Mr HASSALL: I did not say that. I said for some positions, it is harder to do and we cannot because there are industrial—if you are employed for that position, you are employed for that position. We have to work through that, and that is going to take us some time. Prisoner officers are an easier group because we can rotate those people around through a transfer committee and things like that. But as I was saying to you, you do not rely on just one mechanism to make it safe. The first thing you do is make sure that the prisoners who go out are the right classification and the right assessment. The second thing is, as Mr Maines suggested—are all the controls that we put in place and the management checks that we put in place—the physical thing. No system should rely on just one process to make it safe.

Hon ALISON XAMON: Of course not, which is why you need to have a suite of processes. I am concerned that any process would be hampered by industrial considerations over security considerations.

Mr HASSALL: But we have to work through that. I am constrained with what I have got in that space at the moment.

The CHAIR: All right, now most of the numbers are such that there are probably people in Karnet who probably should not be there. They would probably be at the upper end of the classification or even medium. Would that be true or not?

Mr HASSALL: I think it is the other way around, to be perfectly honest.

The CHAIR: They are all low security?

Mr HASSALL: I think we have a difficulty because we have so many people coming through the system at the moment. We have a backlog of assessments that we are working through. There is probably more of a bottleneck in the maximum-security prisons than the medium and minimum-security prisons.

The CHAIR: So you can put your hand on your heart and say that everyone at Karnet is low security?

Mr HASSALL: They are classified for that there. Today —

The CHAIR: There is some subtle distinction there that alludes me, I am sorry.

Mr HASSALL: I have to rely on the system telling me. If you are asking me, “Do I know every single prisoner —

The CHAIR: No, I did not ask you that. I said, “Can you put your hand on your heart and say that everyone who is in Karnet and might have the opportunity to do 95 work is low security?”

Mr HASSALL: I am satisfied that the system works, yes.

The CHAIR: Other than in this case.

Mr HASSALL: Well, this happened over a number of years with this particular individual. As I have said, the system should have picked it up. There was no system in place. Have we have put things in place since this? Absolutely.

The CHAIR: I am amazed that you were able to do so much in three months since the report has come out that apparently was not able to be done over a number of years.

Mr HASSALL: Well, I was not the commissioner then. I cannot speak for previous commissioners. All I can tell you is that any prison system requires management checks and management oversight, and in our system, they were lacking.

Hon JIM CHOWN: How long have you been a commissioner?

Mr HASSALL: I was appointed in May.

Hon JIM CHOWN: This year.

Mr HASSALL: I was acting last March.

Mr M. HUGHES: Deputy commissioner from 2015.

Mr HASSALL: I joined the department in 2015.

The CHAIR: Have we finished on that issue?

Hon JIM CHOWN: I think it is a point worth pursuing.

The CHAIR: I just want to talk a bit about contraband.

[11.10 am]

Hon JIM CHOWN: Just before we move on, bearing in mind that you have been the commissioner since May, Mr Hassall, and in regard to your comments regarding security and breaches, especially on section 95 prisoners, you have stated here today that you have put a number of processes in place to mitigate the breaches that are now public. I have always assumed that where there is one, there is more. What reporting ability will you have once these new measures are implemented to, for example, the Attorney General or the minister to ensure that your processes are working?

Mr HASSALL: Do you mean: how do we report up to the minister?

Hon JIM CHOWN: Yes.

Mr HASSALL: There are three or four avenues of reporting to the minister. One is on the back of reports, we get questioned about what we are doing in that respect —

Hon JIM CHOWN: But these are new processes that you are putting in place.

Mr HASSALL: Correct.

Hon JIM CHOWN: I would assume you have some sort of guidelines or categories to ensure that the processes are doing the job that they are meant to do.

Mr HASSALL: Yes. My check is the deputy commissioner. Mr Maines has to go out and do 126 visits a year to prisons around the state. So we have the system things that we have put in place, if you like—the controls I just talked about. Shayne is the deputy commissioner for the prisons, so he goes around. He, then, is my final check in those systems. We also have —

Hon JIM CHOWN: So those checks are on compliance in the various institutions that they are carrying out the requirements under the new protocols?

Mr HASSALL: Correct. That is one check. The other side of the check is we have a monitoring and compliance branch that reports to Mr Elderfield. They go around and do thematic monitoring and compliance checks. We put more effort into that. If you like, there are two reporting lines to me. I have the deputy commissioner telling me what he is seeing happening on the ground and then we have an independent, if you like, in another area. Those monitors go around and do their compliance checks. We then would report up, if required, or sometimes—on the back of the Northing report, for example, we did a briefing right up to the minister or we would verbally brief the minister on those checks.

The CHAIR: Before I go on to contraband, since these reports have come down, have you done a debrief with the CCC? Have you sat down with the CCC and said, “Where do we go from here?” Are there any criminal briefs that need to be prepared? What has happened post-reports?

Mr HASSALL: I was summonsed to give evidence to the CCC. It has questioned me under oath on a whole range of things that happened in the department. We meet regularly with them. Mr Maines has been leading that work up until very recently on a whole range of things about systemic improvements, and obviously they require us to report back to them on that. Some of those matters will be taken further.

The CHAIR: So you are happy with the post-report —

Mr HASSALL: Yes, absolutely. We have a good working relationship with the CCC. The follow-up has been good. I think in the past, we probably have not leant forward as much as we should have done. When I put Mr Maines there in March this year, that was an opportunity to reset that relationship. We have certainly got one person who we picked up from the CCC as an employee, so that has also helped. The relationships are improving and are much better than they were, and we are following up on those recommendations and reporting back. I am satisfied that the processes in place are really robust.

The CHAIR: We did not really specify it, but you did give evidence that you were a bit disappointed with some of the findings from these recent reports.

Mr HASSALL: Embarrassed is probably the correct word, I think, because we should have been picking these things up ourselves, and I acknowledge that.

The CHAIR: Given that a couple of them—I do not know how many—were joint investigations, why were you kind of disappointed? Surely you would have been forewarned that there were going to be these sorts of findings.

Mr HASSALL: There have been issues with our internal reporting in the investigations area, in particular, about them reporting up to senior management in the department.

Hon ALISON XAMON: Are you saying you have been unaware of the extent of concern?

Mr HASSALL: On some instances, yes. We have obviously dealt with that, but that has been an issue.

The CHAIR: Are any of the vacancies in internal affairs attributable to the fact that there has been a lack of knowledge about some of the activities flowing upwards?

Mr HASSALL: I do not think that is an excuse. There has always been a director or an acting director. I think what has happened in the past—I have said this to the CCC—is an informality about the relationship between junior members of staff in the department and working over there and not reporting up to senior management.

Hon ALISON XAMON: It is not that there are superintendents who are sitting on this information within the prisons; it is that within corrective services itself, it has just been kept at a junior level. Is that what you are saying?

Mr HASSALL: Correct, absolutely.

The CHAIR: Just going on to contraband, and this in particular relates to Acacia. Given the findings of the report, there must be some contractual provisions in the Acacia contract. Have there been any breaches or any action in terms of enforcing the contractual obligations?

Mr HASSALL: You are absolutely right, Madam Chair. There are contractual implications in the contract. We certainly require some improvements from them. They have responded in a timely manner and have been very constructive in their response. They have put more resources into anti-

corruption and searching and things like that. If you are asking me if we have abated them, I would have to take that question on notice.

The CHAIR: If you would not mind. It is a serious matter.

A number of the findings were that there was a culture of steroid use amongst some prison officers. What control does the department have, given that it is a private prison, over a drug testing regime there?

Mr HASSALL: I think in the past the private prisons were almost held at slightly arms-length from the main operations in the department. They were managed by a contract management team and there was very little, if any, operational oversight of either Acacia, Melaleuca or Wandoo—as it was before it was brought back into us. We changed that last year. For operational purposes, they sit under Mr Maines but we still have the contract management. Those staff are subject to the same testing regimes that state employees are subjected to.

The CHAIR: As I said, there was a finding that there was a bit of a culture of steroid use amongst some of the officers there. Any robust testing regime would have picked that up sooner.

Mr HASSALL: The testing regime that we have—there are two things. We do a mandatory test once or twice a year across the prisons, and then we do intelligence testing. You can only rely on when you are going to turn up as the officer on duty. I think our position last year when we were doing blanket testing was that we were not picking up significant issues. We have had better results when we have done intelligence testing, so when we have been able to corroborate information and target individuals, for want of a better word. We have had better results in that space.

The CHAIR: So it is effectively not really any random testing at all?

Mr HASSALL: I do not think the random testing was—we did it and we did not see any significant issues across the whole system when we tested prison officers, both in public and private. We have had the same amount of positive tests for fewer tests in intelligence-driven testing. So we have had better results, in a sense.

The CHAIR: How successful do you think you are in keeping drugs out of prisons?

Mr HASSALL: It is a constant challenge for us. There are some deficits in infrastructure and technology, definitely, in the state. That is a challenge for us on a daily basis. As I said, our system constantly comes under attack, for want of a better word, by either staff, other visitors, visitors to prisoners, prisoners or anybody who comes through the weak points in a prison. It is a constant challenge to us. We did get some additional resources from government last year on Wandoo to trial some new drug-testing equipment, and we are certainly looking at rolling that equipment out across the state. I would say to you that some of the design of the gate areas does not enable good searching. If you look at Hakea, for example, over the years additional beds have been put into that prison but the gate has not been expanded. It is very cramped in there and the flows do not work properly, so that is a constant challenge. We then have to rely on layering on top of that, which is what Operation Auris is about. We have the special operations group that will go and do additional searches, and we do additional training for the staff. It is a challenge that we are mindful of, but it is one that we cannot fix overnight.

[11.20 am]

The CHAIR: For somewhere like Hakea, where you have recognised that there are infrastructure problems, do you use drug dogs; and, if so, how frequently?

Mr HASSALL: We have 16 drug dogs and they work around the state. They will go at infrequent times to different prisons to check a whole range of things.

The CHAIR: So if you are prison officer A or visitor B, you can take a calculated risk that at any one time there will not be a dog necessarily at a prison.

Mr HASSALL: You will get a search when you go into the prison, but there are a range of searches; it is layered. Sometimes it might be just an officer searching, sometimes there will be a dog there and at other times we will have a whole range of people there doing more thorough searches.

The CHAIR: In terms of officers being searched, how often does that happen and what form does that take?

Mr HASSALL: That comes under Operation Auris. Again, we will do targeted searches or unannounced searches either late in the morning or before people start their shifts. We generally will do that with people who are not working at the prison, so the special operations group that would be led by Mr Elderfield and some of the other staff, and we do that across the state.

Hon JIM CHOWN: How do you ensure the security with regard to the search taking place without notification is upheld?

Mr HASSALL: An operational order is developed and we keep that very, very tight. The superintendent is notified one hour before they turn up. We would not tell anyone. It would all be planned from our headquarters and we would just notify the superintendent.

Hon JIM CHOWN: Let us say you are going to Dongara and the team is going out there. It is a very small community. People notice these things. They know exactly who these people are and from my experience, for example, if heavy haulage inspectors go to a town that size, that night everybody knows they are in town in unidentified vehicles and whatever. How do you overcome this with regard to regional prisons?

Mr MAINES: We would not go to Dongara. We do not have a prison there.

The CHAIR: There is no prison at Dongara.

Hon JIM CHOWN: Greenough, sorry.

Mr HASSALL: But with any remote prison, I guess, that is the challenge. Operational security is a challenge. We try the best we can in terms of moving people around and keeping that very, very tight, but it is a challenge. You are absolutely right. Sometimes when we send staff to regional locations, the word gets out. It is very hard to control that.

The CHAIR: I understand that Serco has told the commission that it is reviewing its practices in terms of contraband. Sorry, it is the Department of Justice's review. Can you say what stage that is at?

Mr HASSALL: A prison drug strategy has just been finalised. We have had the feedback from the minister's office. That is in the process of being submitted to the Auditor General. That strategy is in three parts: supply reduction, demand reduction and harm minimisation. There are a number of actions in there that we have to do around all of those things.

The CHAIR: If it is discovered that a prison officer is taking steroids and there is no apparent medical reason for doing so, what would normally follow from that discovery?

Mr HASSALL: I will ask Mr Maines to answer that.

Mr MAINES: Is this in a private prison?

The CHAIR: Anywhere.

Mr MAINES: A private prison has a different employee relationship, so that would be managed by the private prison. The person's high-level security permit could be suspended and the person would

be subject to allegation matters. In a public prison, the person would receive an allegation letter to provide a response and potentially be suspended from duty depending on what the drug is.

Hon JIM CHOWN: It is a good question and, as has been pointed out in the report, there is a cultural issue with prison officers in regard to this. I am certainly of the belief that if a number of prison officers are taking contraband into the prison, there are other prison officers who are aware of it. As we know in the safety and industrial laws, if I am sitting in a car with a seatbelt on and there is a person next to me who does not have theirs on, and I am working on a mine site, we are all culpable because I should be saying to my passenger, "I'm not moving this car until you've actually put your seatbelt on—end of story." If I do move the car, I am in trouble. When you have a cultural issue that is endemic to some degree within some of these prisons, but within the prison officer system, how are you going to overcome this? How are you going to make everybody responsible to check that their colleague is doing the right thing on behalf of them and their other colleagues, in breaching the security of public prisons?

Mr MAINES: Officers are subject to searches on entering prisons. A series of searches are conducted, generally pat-down searches, and people who have information are encouraged to contact our investigations area. You can actually provide the information. It is open for the person to escalate and to provide that information. I understand the culture that you are talking about but in most cases, people do not tolerate prison officers taking drugs. You have 99 per cent of people out there doing a really good job in really tough conditions, and if they are aware that someone is doing the wrong thing, they will report it.

Hon JIM CHOWN: They will step up.

Mr MAINES: They will report it, yes. Sometimes there is the issue around suspicion and whether people have—during the time that I was in the investigations area, my experience was that the primary drug we found was people turning up to work with excess alcohol in their system. That is fairly easy to detect, but I am confident, as I said, that 99 per cent of prison officers do not want to see people turn up and put themselves at risk or the prisoners at risk by having drugs in their system.

Hon JIM CHOWN: We have this fairytale in Australian culture: "We never dob on a mate." Do you believe you have overcome that?

Mr MAINES: I am not sure it is a fairytale culture. I am not sure there would be anyone in jail if there was a culture of not dobbing on people. People do tell on other people. People will come up, particularly if it is a safety issue. People are well aware of their responsibilities of working in an environment like a prison, and they will report it.

Hon JIM CHOWN: Has that been enforced through regular training?

Mr MAINES: People are reinforced around reporting misconduct, yes.

The CHAIR: In relation to excessive use of force reports from the eastern goldfields, it said that there was some evidence of a culture of —

... officers being ostracised by fellow staff if it became known they were discussing potential misconduct of other prison officers. It was said to encourage a culture whereby "[you] skirt around carrying out the responsibilities of your job".

Now that is completely inconsistent with what you have just told us.

Mr MAINES: Sorry, I was talking about the drug stuff. I can tell you that I have gone out and reinforced the message about doing the right thing and reporting misconduct.

The CHAIR: Misconduct, be it drugs, be it excessive use of force—it is all in the same basket surely.

Mr MAINES: Yes, but the “use of force” is somewhat subjective. Prison officers are authorised to use force under the provisions of the Prisons Act. They have a lawful authority to do it. Sometimes prison officers will make the wrong decision and they will exercise the wrong use of force, and particularly in some of these cases that have come forward, people exercise the wrong use of force and were not prepared to concede that they had done that. People will make mistakes. They will actually get it wrong. That is the nature of going into an environment that is volatile. Sometimes they will get the wrong use of force. I think what the report articulates is some level of collusion in writing reports, so officers become a little bit lax and actually cut and paste —

The CHAIR: I am not really wanting to get into the specifics of that report. I am talking about a culture. You are saying that the culture is different for reporting a fellow officer for either using drugs or importing drugs, from excessive use of force. In one case you seem to concede that yes, there may be a culture of ostracising someone who does report, but in the other case they will.

Mr MAINES: They are not my words. I do not see people being ostracised. I would encourage everyone to come forward and report stuff. The environment—as I said, it is a subjective matter when you exercise force. As I said, how someone perceives the use of force and whether it is actually wrong is now picked up by a use-of-force committee. We have a number of matters that have been referred to the investigations area by the prison superintendent on the basis of reviewing the matter and believing that it was incorrect.

[11.30 am]

Hon JIM CHOWN: On that matter, deputy commissioner, different prisons, I assume, have a variation in cultures with regard to how they, and I am talking about the staff, correlate and interact with each other with regard to the matters under discussion here today. Where these different cultures exist, and I believe that they do, how do you ensure or try to get a format that actually works throughout the whole system? That is the first thing. Secondly, as has been brought up previously here, the rotation of these staff would be quite essential in breaking up those cultures at times.

Mr MAINES: I think the commissioner has indicated the issue around being able to rotate staff because they apply for a position and they are appointed to a specific position. But as an agency we have a vision, mission and values statement, and people sign up and ascribe to that vision, mission and values statement and that is the philosophy in how they actually operate. If they are not doing that, they are operating inconsistent with the values of the organisation and they probably should not work there. That is very much about leadership. That is very much about making the right decisions and having the courage to do so.

Hon JIM CHOWN: But how do you make this enforceable? Vision statements are wonderful things but they are only words. To actually get it acting and operating as you expect is the challenge here.

Mr MAINES: Yes, and I think that is modelled by the leadership in a facility about saying what are the standards, what are the expectations and —

Hon JIM CHOWN: We now see that the standards are pretty lax on a number of matters here, as per the CCC reports in a number of them over a number of years.

Mr MAINES: I think, sir, if you have a look at last year, 10 333 people came into adult custody and 9 986 went out. There were some 37 000 movements. If you look at the number of complaints that we get—I am not trying to ameliorate it but it is relatively low. We are dealing with very complex, difficult people who are not in jail for no reason. They are very difficult. A whole range of complex circumstances sit around this, and given the number of people that we deal with and the mental health issues involved with the people currently in prison, overall, we do a pretty reasonable job.

Hon JIM CHOWN: I am not talking about prisoners here; I am talking about staff.

Mr MAINES: But I am trying to set the environment for you, sir. I am trying to set the environment in which the staff work.

Hon JIM CHOWN: I understand the environment, and that is what they are employed for and they should be fully aware of what they are going into. But they should not be breaching the security of the prison or the expectations of the public, and that is what I am talking about.

Mr MAINES: Yes, and we do not expect them to do that either.

Hon JIM CHOWN: But it does happen and we have just heard, and there are a number of reports here that say that breaches are over 13 years at least, and on eight occasions when the department was made aware of breaches, nothing was done. We start off on a new page today. You guys have been in here this morning and put a number of programs in place to rectify this.

Mr MAINES: If we are talking about Mr Northing, there are matters which were historical but there were none that were sufficient that the department at that period in time took to actually dismiss him or take disciplinary action. It is a bit difficult —

Hon JIM CHOWN: That is what I am talking about —

Mr MAINES: But, sir —

Hon JIM CHOWN: The culture—that is where I am going.

Mr HASSALL: If I could make a couple of comments and observations, a bit on my own experience and a bit on what I have observed here, and it goes back to your point, Madam Chair, about a tolerance for some things, which I think is what you are saying. In my experience, for example, when prison officers find their colleagues doing drugs and things like that, they are more likely to report it. There is a willingness to come forward because they know that it undermines the safety and security of the system, and their safety as well. In my experience, when it comes to use of force, you are absolutely right, sir. It is about the leadership at a local level and the tone that is set and the tolerance that is set at a local level. In a state the size of WA, you rely on the controls in the system and on what the system is telling you, which I talked a bit about this morning. I have seen this myself in other jurisdictions. Sometimes when staff use force inappropriately, there is more tolerance for that. There is more of a “I don’t want to dob my mate in it” type of culture. Usually there is a build-up. If there has been a difficult prisoner and he or she has been acting out, the red mist comes down and they have just got frustrated. Has that happened in our system? I am absolutely sure it has happened. That is why it is really important to have the controls that we have put in place. Those controls were not in place before. I agree with you that there is a bit more tolerance for wrongdoing around use of force. I think we have seen that people sometimes do stick together. They say, “What have you written? I’ll write the same.” That is not unusual in correctional systems I have to say. It is rare and it is a small number of people. You usually find it is the same number of people, which is what I was saying this morning. What was disappointing to me is that our system has not picked up those people, and the system should have done that. We have addressed that with what we have put in place.

The CHAIR: What is really disturbing in the eastern goldfields case is that you have CCTV, which has the incident down absolutely unambiguously—you can see what is happening—and the prison officer still goes ahead and writes up a whole lot of the proverbial! He should not be there because he is so stupid, apart from anything else.

Mr HASSALL: Madam Chair, I cannot comment on the stupidity of some people, but it just goes to show that they do not think.

Hon JIM CHOWN: They thought they were going to get away with it.

Mr HASSALL: Correct.

Hon JIM CHOWN: They were thinking—and that is with regard to culture; they knew they were going to get away with it.

Mr HASSALL: I totally agree. Inappropriate use of force is just as damaging and just as harmful in the safety of a prison as drugs, because invariably what happens is that some people—prison systems operate on fairness and justice. If a prisoner feels that they have been unfairly treated or there is a lack of justice in the system and they get locked up, usually they will take it out on the next person who unlocks them. That is why it is really important for us to get to the bottom of these issues. The eastern goldfields one—I actually saw the CCTV myself, and it was shocking that he had done that. Like I said, there was a system failure. All we can do is learn from that and put the controls in place.

The CHAIR: In relation to those incidents, the commission says that in terms of reporting colleagues, it is all on the system and so, again, that is a further constraint on good officers doing the right thing. If you put a report in about someone or the incident, which is inconsistent with the perpetrator's version, then, again, I think they say that leads to stigmatisation and marginalisation of the person trying to do the right thing.

Mr HASSALL: All we can do is two things. One is to make sure the system picks those things up, as I have described.

The CHAIR: But the system is designed for it not to be picked up—that is what the commission is saying. By having it in such a way that there is across-the-board access on the IT system, the system is not going to pick it up because no-one is going to be —

Mr HASSALL: Our checks is what I meant to say, that we have put in place.

The CHAIR: Has that particular anomaly or issue been addressed?

Mr HASSALL: Yes.

The CHAIR: How has that been addressed?

Mr HASSALL: Do you mean the access to TOMS?

The CHAIR: Yes.

Mr HASSALL: I would have to get back to you on that one if I can take it on notice.

The CHAIR: So you do not know how it has been addressed?

Mr HASSALL: I know the controls that we have put in place. On the detailed, technical IT side, I would have to come back to you.

The CHAIR: No, I am not asking for that. I am just saying, "Yes, we have done this or we've restricted the access to this or anyone who accesses this is flagged or whatever." In general terms, do you know what has been done?

Mr HASSALL: I know we put some controls in place. I am happy to take it on notice, if that is okay.

The CHAIR: All right. You mentioned earlier that in terms of drug detection, there was a bit of a deficit in infrastructure. What did you mean by that?

Mr HASSALL: For example, where we put additional prisoners into prisons and where we have gates that were built for a certain size. Hakea is a good example. That prison was built for, from memory, 600. There is now going to be 1 200 in there.

The CHAIR: In fact, that is a remand prison. People are coming down off drugs. There is going to be more pressure there than anywhere else.

Mr HASSALL: Correct, so there is more flow through that gate than it was designed for. That is the infrastructure that we have got. It is in our program of works. It will be prioritised with a whole range of other works that we have got.

The CHAIR: So it is in the program of works to do something about the entry or the —

Mr HASSALL: We put up a whole series of infrastructure works that we need to get done through the year and they are prioritised.

The CHAIR: What do you want to do at Hakea to make it less permeable, shall we say, to drugs?

Mr HASSALL: If there was an opportunity to do a whole new gatehouse there, I would take that opportunity. Do I think that is going to happen? No, under the current financial constraints within the department.

The CHAIR: One of the themes in all of these reports is that, frankly, the sanctions for misconduct or excessive use of force or whatever seem to be a little on the lenient side, just thematically. We talked about the fact that there were some concerns about the union getting involved if sanctions are imposed. Do you think that is a problem?

[11.40 am]

Mr HASSALL: The low sanctions or the union?

The CHAIR: Yes.

Hon JIM CHOWN: The penalties.

Mr HASSALL: Yes, the penalties. It is about shifting the culture. Some sanctions in the past have been too low. There has been a tolerance, I think.

The CHAIR: Like Mr Northing.

Mr HASSALL: Yes, absolutely. If you look back, it is pretty hard to sit here in front of the committee and say that that person should not have been dismissed much sooner. There was enough there.

Mr M. HUGHES: In the end he resigned, did he not?

Mr HASSALL: He did, yes.

Mr M. HUGHES: The commission in fact said that really it was more to do with a misplaced attitude towards the prisoners. He referred to them as “his boys”, did he not?

Mr HASSALL: He had been conditioned over a number of years by a series of prisoners.

Mr M. HUGHES: It was self-conditioning really, was it not?

The CHAIR: That culture of resigning, that ends the problem. There seems to be a major difficulty with the department in terms of, the problem has gone away, the bloke or the woman has resigned. In particular, in relation to allegations of inappropriate sexual conduct between a prison officer and a prisoner, you say that it was consensual and he has resigned. That seems to me to be a completely inappropriate response.

Mr HASSALL: It is completely unacceptable that staff have inappropriate relationships with prisoners, because they are in a position of power and trust. What we cannot do is stop them resigning. If we find out, we start the disciplinary process. But if somebody elects to resign—that happened recently at Acacia—there is very little that anyone can do to stop that person resigning from the department. What we can do is make sure that they are not re-employed.

Hon ALISON XAMON: But you want to make sure that they are not re-employed with you because all they need to do is shift to another state and the problem is transferred, surely.

Mr HASSALL: That is an issue, yes.

The CHAIR: The other thing is I still think there would be occasions when you could have a red-hot go at a prosecution, but the resignation seems to put a stop to that. As you say, it is a misuse of power; it is a position of trust. The notion that there is consent seems to be pretty flimsy, yet the attitude is, "Oh, well, they've resigned. That's the end of our problem."

Mr HASSALL: That is certainly not my attitude, because I think it is unacceptable. I think if we could have a system where you could still carry on the process and come to a conclusion, but we cannot if they are not there to engage in that process.

The CHAIR: In terms of criminal sanctions, would you think that maybe an amendment to the Criminal Code so that it was deemed non-consensual if it was between a prisoner officer and a prisoner would be helpful?

Mr HASSALL: Yes.

Hon JIM CHOWN: I have just a general question if I may. What is the employment process? How do you apply to become a prison officer and what checks and balances are put in place for that application? What training takes place if you are accepted and what is the probationary period before you are fully employed?

Mr HASSALL: If I could ask Shayne to answer that.

Mr MAINES: There is a fairly rigid selection process that people go through. We go through a recruitment process that people go through. I think the training is now 16 weeks. They go through 16 weeks of training. They come back out and then they are on probation for a period of two years, I believe.² They do receive good training. We do a check on people's previous histories, so they are required to declare any previous history. We look at criminal histories and stuff in the same way as most other government agencies would do it. There are fairly stringent processes to ensuring that people do not have other history.

Hon JIM CHOWN: Earlier the commissioner said that there was a shortfall of four or five in the system currently.

Mr HASSALL: Sorry; what was the question?

The CHAIR: It was eight in internal affairs.

Hon JIM CHOWN: Eight, was it?

Mr HASSALL: As Mr Maines said when he was giving his evidence, it has not been that we have not wanted to fill those positions. What we have wanted to do is to make sure that we are getting the right people and the process right. I just add to Mr Maines' evidence about recruitment. People do go through integrity checks before they join the department, and that is quite stringent. If I could just add one point, a review is about to commence in New South Wales on inappropriate relations between staff and prisoners. We will have a look at that review as it rolls out. That is just an example. I know we are talking about WA, but it is a challenge for all systems.

Hon ALISON XAMON: Who is conducting the review? Is it being done by the equivalent of the Department of Justice or the corruption body?

² Information provided following the hearing clarified that the training is 11 weeks with a probation period of 6 months.

Mr HASSALL: The minister has appointed an assistant commissioner from police. There have been a couple of high-profile cases over there, so that has just been announced. I only know that because I was written to this week and asked if we would contribute. Obviously, we will.

The CHAIR: I think there might be one or two jurisdictions that already have a provision. In my day, I asked for that to occur but it did not. That was a decade ago.

Mr HASSALL: I think that making it a criminal offence, as you suggested, would be a good thing. We will certainly flag that with the minister.

The CHAIR: I think it makes it black and white, too.

Moving forward to the CCC, your relations are good now? You are happy?

Mr HASSALL: Yes, just to re-clarify my point, as I said to the CCC commissioner and when I gave my evidence, I am really grateful that they put the spotlight on this for us because it helps me make a safer system. I think the relationships are good at the moment. We work very productively. They still do their oversight, which is appropriate. They are not going to do our job for us, but I have to think that they will push us in the right direction, which is good. I do think that in the past some of those relationships have been too informal. That has certainly changed and the reporting has got much better. I am grateful for their support in this case—very positive.

The CHAIR: Any other reports imminent that you are aware of?

Mr HASSALL: I think there are a number in the pipeline. The commissioner will not tell us what they are because he has to table them in Parliament, but we do work very closely with them on a whole range of things. As I said, we have one or two retired ex-CCC investigators currently working for us as well.

The CHAIR: Do you think there is some merit in your training courses for officers to maybe do some more training or do a module on misconduct, potential for corruption or areas of vulnerabilities?

Mr HASSALL: Yes, part of the work that we are looking at is a whole package on corruption prevention. It costs us a lot of money to train and employ someone. What the department has done in the past is allow people to get to the cliff and fall off. On some occasions early intervention is appropriate, when we can get the employee in and say, “Three times you have come to our notice. What is going on? We are going to put some management controls around you for more monitoring.” So all of those types of things we are looking at, yes.

Mr M. HUGHES: By way of interest, in terms of having access to what your training program looks like, it is a 16-week program you say?

Mr HASSALL: It is actually 11 weeks.

Mr M. HUGHES: Eleven?

Mr HASSALL: And then there is ongoing training, of course. There is some online training.

Mr M. HUGHES: I would not mind seeing what that covers. I am particularly interested in the cultural diversity aspect of the training program.

The CHAIR: Good luck with that! You get a bagpipe at the end of it for some inexplicable reason.

Mr MAINES: Madam Chair, may I say something?

The CHAIR: Yes, certainly.

Mr MAINES: You raise a number of issues around the use-of-force matters and how we deal with them. Almost all of the matters that have been in these reports have been referred to the WA Police; there just was not sufficient evidence to proceed with criminal charges.

The CHAIR: All right; thank you. In fact, I should have asked about that. In any case, has the CCC come back to you and said, “We reckon it should proceed further to DPP; you prepare the brief”? Does that happen?

Mr HASSALL: No.

The CHAIR: All right. We will write to you and let you know what the additional information is that we asked you for today. It may well be that we get you back in 12 months’ time to see how you and the CCC are getting on and how many of those recommendations are being met.

Hon ALISON XAMON: And if any additional reports have been done.

The CHAIR: Yes, in the meantime.

Thank you for your evidence. A transcript of the hearing will be forwarded to you for the correction of minor errors. Any such corrections must be made and the transcript returned with 10 days of the date of the letter attached to the transcript. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be added via these corrections and the sense of your evidence cannot be altered. Should you wish to provide any additional information or elaborate on particular points, please include a supplementary submission for the committee’s consideration when you return your corrected transcript of evidence.

Mr HASSALL: I do not know whether it is helpful, Madam Chair, but I have the drug and alcohol testing results for the past three years and the terms of reference for the use-of-force committee that I can leave for you.

The CHAIR: Yes, thank you.

Hearing concluded at 11.49 am
