

# **SELECT COMMITTEE INTO ALTERNATE APPROACHES TO REDUCING ILLICIT DRUG USE AND ITS EFFECTS ON THE COMMUNITY**

**INQUIRY INTO ALTERNATE APPROACHES TO REDUCING ILLICIT DRUG USE  
AND ITS EFFECTS ON THE COMMUNITY**



**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
MONDAY, 18 MARCH 2019**

**SESSION TWO**

## **Members**

**Hon Alison Xamon (Chair)  
Hon Samantha Rowe (Deputy Chair)  
Hon Aaron Stonehouse  
Hon Michael Mischin  
Hon Colin de Grussa**

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**Hearing commenced at 3.48 pm**

**Mr TONY DAVID HASSALL**

**Commissioner of Corrective Services, Department of Justice, sworn and examined:**

**Mr MICHAEL JOHNSON**

**Acting Executive Director, Court and Tribunal Services, Department of Justice, sworn and examined:**

**The CHAIR:** On behalf of the committee, I would like to welcome you to the hearing. My name is Alison Xamon, and I am the Chair of this inquiry. I will introduce my parliamentary colleagues: Hon Colin de Grussa; Hon Aaron Stonehouse; Lisa Penman, who is the advisory officer to this committee; Hon Samantha Rowe, who is the Deputy Chair of this committee; and Hon Michael Mischin. Today's hearing will be broadcast. Before we go live, I would like to remind both of you that if you have any private documents with you, keep them flat on the desk to avoid the cameras. We will begin the broadcast.

[Witnesses took the oath or affirmation.]

**The CHAIR:** You both would have signed a document titled "Information for Witnesses". Have you read and understood that document?

**The WITNESSES:** Yes, Madam Chair.

**The CHAIR:** These proceedings are being recorded by Hansard and being broadcast on the internet. Please note that this broadcast will also be available for viewing online after this hearing, so please advise the committee if you object to the broadcast being made available in this way.

A transcript of your evidence will be provided to you. To assist the committee and Hansard, could you please quote the full title of any document you refer to during the course of this hearing for the record, and please be aware of the microphones and try to talk into them; ensure that you do not cover them with papers or make noise near them. Also, if you could ensure that people are speaking one at a time. I remind you that your transcript will be made public. If you wish to provide the committee with any personal details during today's proceedings, you should request that the evidence be taken in private session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

Would either of you like to make an opening statement to the committee? To let you know, we have a series of questions, but we were going to ask questions first generally for the Department of Justice within Corrective Services and then to ask about the courts.

**Mr Hassall:** I have a brief opening statement, Madam Chair, if that is okay. I am happy to hand it in after. This is on behalf of Corrective Services and the Department of Justice for the committee.

The prison population has experienced continued and sustained growth, leading to an unprecedented demand for capacity. Since 2012–13, the daily average prison population has increased by 36.8 per cent. During 2017–18, adult prisons accommodated an average of 6 771 prisoners a day. The Department of Justice is undertaking various activities to impact the use of drugs in Western Australia. The Western Australian prisons drug strategy, released in December

2018, is being implemented with one key focus, being to impact the supply of drugs into prisons. Concurrently, the department has already taken steps to refine and develop searching strategies for use within the prison environment and with respect to visiting prisons. The Wandoo Rehabilitation Prison was opened in August 2018 as a dedicated alcohol and other drug prison, focused on demand reduction and aimed at breaking the cycle of drug-related crime. The planning and development for the second AOD prison in the state is progressing with a view to opening that prison in the first part of 2020. In July 2017, the Western Australian government established the Justice Planning and Reform Committee, comprising senior executives from across the justice sector and the Department of the Premier and Cabinet and Treasury. The JPRC was established in response to a recommendation by the Expenditure Review Committee in 2017 that a cross-party governance committee drive justice sector reforms. The JPRC has developed a suite of reform initiatives for consideration during the 2019–20 budget process. The proposed initiatives are designed to reduce reoffending through increasing the provision of evidence-based, rehabilitative programs aligned to risk-need responsivity principles. As the proposed programs and services were targeted towards the underlying causes of offending behaviour, this will include investment in programs and services to reduce illicit drug use. The department is committed to tackling illicit drug use within the prison system and to assisting offenders to lead a drug-free life.

**The CHAIR:** The department is leading several of the recommendations from the final report of the Methamphetamine Action Plan Taskforce. Are you able to give a bit of an update on the progress of that?

**Mr Hassall:** Yes. Do you mind if I refer to the action plan, Madam Chair?

**The CHAIR:** No, please do.

**Mr Hassall:** As you know, last year we brought Wandoo back in-house and that prison opened up successfully last July. We have had the first program of women go through that prison, with a graduation two weeks ago. All early indications are that that prison is working really well. We do that in partnership with a not-for-profit organisation that delivers the criminogenic programs, if you like. The planning for the second AOD prison is underway. There is an expansion program at Casuarina Prison, which will see 512 beds go into that jail. The first phase of those beds will come on-stream at the end of this year, with the second phase in April next year. Usually in the summer period there is a spike in the prison population, so we will bring the AOD side of that prison on in the second half—sorry, the second bit of the building phase, if you like—so it gives us some capacity with the general purpose beds for the first half of the year. As I said, we also launched the drug supply reduction program in prisons last year. That work is progressing now. We are trying a whole range of things. When we opened at Wandoo, we got some additional funding from government for new technology, so we are trialling that in a couple of prisons. I might let you talk about the drug courts, Michael, if that is okay. I am happy to give the updated action plan here if that is okay.

**The CHAIR:** You have a hard copy there?

**Mr Hassall:** Yes.

**The CHAIR:** Yes, that would be great if you are happy to table that. Just to confirm: can that particular document be made public?

**Mr Hassall:** Yes.

**The CHAIR:** Okay. Thank you very much. When was the Misuse of Drugs Act 1981 last reviewed? That might be a question for Mr Johnson.

**Mr Johnson:** I do not know, Madam Chair. I would need to check that.

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**The CHAIR:** I am happy to take that on notice. Does anything come to mind of any outstanding issues with the Misuse of Drugs Act that require addressing?

**Mr Johnson:** I am not aware of that at this time.

**The CHAIR:** I am happy to take that further question on notice, if that works for you. Can I just get a little bit of an update on what has happened with the justice health program? We have heard from previous witnesses that it seems to have stalled. Could you please give the committee some advice as to what has happened with that?

**Mr Hassall:** Yes, Madam Chair. I can take that question, if that is okay.

**The CHAIR:** Yes, please.

**Mr Hassall:** We had a project group working on basically doing a jurisdictional scan across Australia about what other jurisdictions do. They came up with several options following that jurisdictional scan, looking at the needs in WA.

**The CHAIR:** Is that the work that was actually done under the previous government—that previous work?

**Mr Hassall:** Some work started under the previous government. When the current government came to power, there was a whole project team formulated then; I think it was in August of 2017. I only know that because I was actually on the project group. That project group has been working. The work has actually concluded and there is a report currently up with both ministers. Two things, I guess, have been taken forward. One is a review of all the infrastructure. Part of the recommendations from the working group was an assessment of prison health centres and their infrastructure. We needed to know because that work had not been done for a number of years. The other bit of work that will come on this year is part of the legacy, if you like, from the previous government—the agency expenditure review. One of the things that Corrective Services had to do was what was called a network design. That was pretty much looking at what programs and health services were available in all the prisons in the state. We have gone through a period of significant increase in the prison population and we have put capacity in. There was some duplication of services and some services were not provided. The network design work will start this year, which will also then have a look at health services. In summary, the answer to your question is that it is still with the government, but we will do further work this year when we do the network design in terms of how we manage health internally.

[4.00 pm]

**The CHAIR:** Are you able to indicate whether it is likely that the delivery of health, mental health and AOD services will be retained by Corrective Services? I understand that the various options were looking at potentially Health taking that over. Are you confirming that it is likely to stay where it is?

**Mr Hassall:** If I could take that on notice, because I would just be going from memory —

**The CHAIR:** I am quite happy to take that on notice. Again, coming back to the meth task force, they noted that prisoners on remand cannot access drug treatment programs while they were in prison—and sometimes, of course, people are kept on remand for quite a long period of time. Could you please give some information as to why this is the case?

**Mr Hassall:** It is incredibly difficult, for a whole range of factors. One is we do not know how long somebody will be on remand—it could be a short period; it could be a long period—so timing is one; and we do move people around. Although I have to say that prisoners on remand do get access to some services; it is not like they do not get any. If I could just refer to some papers I have got, I could give you a more detailed answer to that. There is a whole range of programs. They do not get criminogenic programs, obviously, but they do get health services; they get OS therapy, which is an

opiate substitute therapy program, and then obviously the clinical treatment that they get. It is limited in what we do provide for remand prisoners.

**The CHAIR:** Yes, because certainly the evidence we are hearing is that it is inadequate, particularly if people are coming in and may have a particular drug addiction that may not directly correlate to their offending, or, rather, to the charges that they are facing.

**Mr Hassall:** That is correct. There is a presumption of innocence —

**The CHAIR:** Of course.

**Mr Hassall:** — when people are on remand. As I said, there is the issue of the amount of time that they are with us, the churn and the throughput. Like all of our services, there is an element of rationing that goes on in the prison system.

**The CHAIR:** What does Corrective Services do at the moment for prisoners on remand to ensure that when they exit, if they need it, they are able to access appropriate AOD services?

**Mr Hassall:** I would have to take that on notice, because it is quite a specific question, if that is okay, Madam Chair.

**The CHAIR:** Okay.

**Hon MICHAEL MISCHIN:** I can understand the presumption of innocence, and also that in many cases you may not be able to plan on the basis of how long a prisoner will remain on remand, but there is a proportion of prisoners who are denied bail or have conditions set that are very difficult to achieve. Is any work done to ascertain whether they have some pathology of drug abuse or some other mental health problems that can be addressed by way of siphoning them into programs in prison while they are in your custody?

**Mr Hassall:** Not that I am aware.

**Hon MICHAEL MISCHIN:** Why is that?

**Mr Hassall:** Like I said, it is not that prisoners on remand do not get any services; it is just limited in what we provide. Resources are really directed to prisoners that are convicted.

**Hon MICHAEL MISCHIN:** All right, but why cannot some work be done, especially for those prisoners who have been denied bail entirely? It will not be a vast number, but there will be a significant proportion of them that will be denied bail. They will get some priority to have their cases heard, but at least if they are able to be commenced on a program or given some access to a program, it may not only do them some good by the time they come to be dealt with, but also, should they be released, they will have something they can work with in the community. Is there a bar, from a legal perspective, in delivering those programs, or is it simply a matter of resources?

**Mr Hassall:** I could not comment on the legal; I am not a lawyer, so I do not know. What I would say is what I mentioned in my opening statement. We are working on a number of projects that are looking at tackling the remand and bail issues in the system, and, as part of those projects which we will put to government, we will ask for additional funding to do some services.

**The CHAIR:** Of course, over the last 10 years we have seen a huge increase in the number of prisoners who are on remand. Could you please give a bit more detail about what the department is planning to do, or if it is planning at all to expand access to programs and services, specifically in AOD, for this population?

**Mr Hassall:** At the moment, I cannot give that detail to the committee, Madam Chair, because that is a submission that we are making to government and it has not been agreed yet. We are working, as I said, on five projects as part of the Justice Planning and Reform Committee, and that is looking

at dealing with the remand population and diversion and all of those. We are putting those projects to government, and that will be a matter for government whether it approves or funds those.

**The CHAIR:** Sure, but can we please have the detail of what those five programs are, because as a parliamentary inquiry, we need to have this information as well.

**Mr Hassall:** I would have to take that on notice; I have not brought the details with me.

**Hon MICHAEL MISCHIN:** I think that we would be interested in what alternatives or what possibilities there are. Part of our remit is to look at alternatives and how the system can be improved, so that would be very valuable. But even before we get to that, we understand from evidence we have been given that there has been an enormous increase—something like a doubling—in the backlog of 28-day assessments. Those are not remand prisoners; those are ones who are already in the system, whom you have a responsibility to push into programs if those are available. What has been the cause of that, and by how much further is that backlog going to increase?

**Mr Hassall:** I think you talked about individual management plans, which has been an ongoing issue for a number of years. There is a whole range of contributing factors to the backlog of those. One obviously is the increase in prisoner numbers. That has been an issue. I think it is fair to say that our system needs refining. The tools that are used are all evidence-based, but the assessment process itself—how we join the system up—is designed for a much smaller number of prisoners in the system and a much lower churn rate. Last year, we took a really deep look at that. We had a look at what the issues were in the system. As I said, it goes back four, five, six years.

**Hon MICHAEL MISCHIN:** We are looking at the increase over the last several months as identified by the Inspector of Custodial Services, where there has been, I think, a doubling since before Christmas sometime until now. What has caused that? Is it the lack of resources or what?

**Mr Hassall:** As I was just explaining, the issue actually goes back a long time. It is not just in the last 12 months. If you look at the date of backlogs, they will increase, then there is some focus on getting them down and they will come down, and then they increase again. If you look at the graph since 2014, they have gone up and down, although I would acknowledge that the increase last year was higher than in previous years. Part of that has been an increase in the prison population and the number of people coming through the system. As I said, the tools that we use are all evidence-based, but the way we join that system up needs to be far more nuanced in how we do it. We have done a jurisdictional scan to have a look at what other jurisdictions do. We need to redesign that process, so we are in the process of looking at how we take that forward. In terms of dealing with the backlog that we have at the moment—I cannot give you the exact figure today; I will take that on notice—those prisoners mainly sit at Acacia Prison. We did go back to Serco at the end of last year to ask them if they have the capability to undertake that work. We asked them to give us a proposal to clear that backlog. We definitely wanted to put some additional resources in. They have come back to us and said they could take on that work. There will be a training element for one or two of their staff. We have agreed that they can take that on.

**The CHAIR:** What is the time frame for that, please?

**Mr Hassall:** I only signed the letters off last week. I have asked them to come back to me with a time frame. I did speak to the managing director over the weekend, and he assured me that it would be a very short period of time—weeks, not months.

[4.10 pm]

**The CHAIR:** Assuming this all comes to fruition, how long are you hoping it would take for that backlog to be addressed?

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**Mr Hassall:** Initially, we have told them that we will fund that project for six months, with a possibility to extend it for a further six months. They have to come back and give us an assurance that they will clear the backlog of all the prisoners at Acacia. As I said, I only got the letter from them over the weekend and spoke to them, so I have not got the details of that. I am more than happy to give that to the committee when we get that back from Serco.

**The CHAIR:** Yes, please. Was that within the existing budget or are they additional moneys that needed to be found in order to do that?

**Mr Hassall:** It is not within the existing contract budget for Acacia—we have had to find the money from elsewhere.

**The CHAIR:** But have you had to ask for additional money overall for Corrective Services or have you had to make cuts elsewhere within Corrective Services in order to meet that?

**Mr Hassall:** We have not gone back to government for additional funds. There have been some underspends in other areas of service delivery and we have managed to channel that money across.

**The CHAIR:** Of the backlog of 784 individual management plans, there was a decision made last year to exclude a further 236 prisoners from the individual management plan process. Could you please explain to the committee what was behind this decision?

**Mr Hassall:** If I could just refer to my notes, if that is okay. When we did the review last year, as we said, there was a decision taken to exclude, I think, prisoners serving six months. Again, I do not have the decision paper in front of me and I am doing this from memory. We made a decision that it would be better to focus our efforts on people who were doing more than six months because they were more likely to be in the system and would have access to programs and things like that. They were not getting assessed anyway with the backlog, so we just triaged the resources to offenders serving over six months.

**The CHAIR:** Is that still the case that if someone is sentenced for under six months, and even if they have a drug problem, they are not able to get assessed now?

**Mr Hassall:** It is. We took some treatment assessors offline to deal with the backlog of assessments as well.

**The CHAIR:** Is this policy going to be changed at any point in the near future?

**Mr Hassall:** As I said, we are doing a review of how IMPs are managed across the state. We will have a look at that. I do not envisage that we will maintain this line with the six months going forward—I do not think that is practical. But we had a situation where we had a backlog of over 1 000 IMPs, so we had to make some decisions about prioritising how we deal with that. As I said, one of the things we did was that we stopped doing assessments for prisoners doing less than six months and we took treatment assessors offline for three months to clear the backlog. They are back online now.

**The CHAIR:** I just want to be really, really clear. At the moment, we have prisoners who are kept on remand who do not have access to the specialised drug services and now we have prisoners who are sentenced for less than six months and who, presumably even if their sentence is directly as a result of their drug addiction, are also not able to be independently assessed for drug services.

**Mr Hassall:** At the moment, prisoners who are serving less than six months do not get an IMP; that is correct.

**The CHAIR:** They are presumably doing their time and then coming out into the community, not having had the opportunity to access any drug services during the time they have been incarcerated.

**Mr Hassall:** At this moment in time, that would be correct.

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**The CHAIR:** From what you are saying to me, that sounds as though it is a resourcing issue: that they are simply the decisions that Corrective Services has had to take because there is just not the money there to provide those services. Is that correct?

**Mr Hassall:** There is an issue with assessments, as I said. Our system is designed for a much smaller number of people in the system. Successive people over the years have put additional resources into the treatment assessment process at Hakea and it has had very little effect. I acknowledge that we do need to redesign the whole system. We took some short-term decisions last year to deal with the backlog. We do not expect that to go forward. I could not sit here and tell the committee that it is a resource issue; it is more of a process redesign issue that we need to fix up first and then make a decision on the resources that you need to put in to work the new process.

**The CHAIR:** But what you are now telling the committee is that there have been people who have done their time and come back out into the community who have never had their drug issues addressed while they have been in prison.

**Mr Hassall:** No; there will be people who have not had an individual management plan completed.

**The CHAIR:** Which is the identified pathway to be able to access drug services.

**Mr Hassall:** That is correct, but they would have had some services whilst they were in prison; it just would not have been targeted.

**The CHAIR:** And, presumably, there would also not have been any program put in place for their exit from prison as well, which I understand should be part of an IMP.

**Mr Hassall:** Correct.

**Hon MICHAEL MISCHIN:** When you say that it is not a resource issue, that may be right, but in the last couple of years, certainly since you became acting commissioner, have there been extra assessors hired or have they been dispensed with? How many people are involved in doing this assessment program across the prison system?

**Mr Hassall:** I would have to take the exact number on notice. In 2017–18, my understanding is that additional resources were put into treatment assessments at Hakea. We certainly had the assistant superintendent at that prison at the time go and have a look at that process and put some more effort into clearing the backlog as it was at the time. The exact number of staff we have involved in assessments today I would have to take on notice.

**Hon MICHAEL MISCHIN:** I would be interested to know just how many people of different calibres—different qualifications—are involved in these assessment programs and what the minimum requirement is to be able to deal with not only the backlog, but also, leaving the backlog to one side, the continuing prison population, given that even if it stabilises, you still have a significant number of people to get through. Secondly, other evidence we have heard is that Acacia was told that as a matter of governmental policy or prisons policy they would not be able to do assessments, even though they may have had the capacity to do it, which they did not because of resourcing. You have now said that there has been either an approach to them or an approach from them to do it, which has been approved. Can you tell us a bit about how that came about and what has changed the policy?

**Mr Hassall:** There has been no change in policy and there has been no direction from government to me about Acacia doing that work.

**Hon MICHAEL MISCHIN:** So Acacia cannot do that work?

**Mr Hassall:** They can; it is an additional service under the contract. We had a discussion at the end of last year about how we might deal with the backlog and one of the options was to go to Acacia to deal with that backlog. We wrote to them then under the contract for additional services, which



is perfectly within the terms of the contract to do. They came back with a proposal. Obviously, when you are spending money under a contract, there are some hoops to go through, if you like, which we had to do. They came back with their proposal, I think it was last week or the week before. We had a discussion about that internally. We made one slight amendment to their proposal. I think they suggested having one person to do education assessments and we said that probably was not enough, so we just moved the numbers around. We wrote back to them last week and said, “Can you please proceed with this.” But we have actually been discussing using Acacia for a number of months. It is not a policy issue, it is certainly not a direction from government and it is not a department issue. We can go to our providers and ask them to provide services in the context of the contract, which is what we have done.

**Hon MICHAEL MISCHIN:** Why had that not been done before—a couple of months ago—knowing there was an increase in the backlog? Certainly, the Inspector of Custodial Services seems to be under the misapprehension, it would appear, that it was a policy decision that Corrective Services wanted to have these things done in-house rather than by private institutions. He is wrong about that, is he?

**Mr Hassall:** You would have to put that to him, but, yes, he is.

**Hon MICHAEL MISCHIN:** We did.

**Mr Hassall:** Well, he is. It is definitely not an issue. Has there been resistance from some staff to the private sector doing that work? Yes.

**Hon MICHAEL MISCHIN:** Why is that?

**Mr Hassall:** I guess for a whole range of reasons. Ideological resistance to the private sector—I do not know. It would be a guess. They have not raised them with me, but I have had it reported back to me by managers that there has been some resistance. It was certainly raised, as I understand, by the union at the department’s joint consultative committee—concerns about privatisation of assessments. That has never been the intention. But there is a backlog at Acacia and they can do that work.

**The CHAIR:** I would like to bring this back to the submission, please, because we have some specific questions. Your submission refers to a 102.8 per cent increase in cases that have been lodged in the Magistrates Court for illicit drug offences over a five-year period. What do you believe is driving this?

[4.20 pm]

**Mr Johnson:** Everywhere that I travel, I ask questions of my clerks of courts or other members or stakeholders that we speak to. I ask what are the main issues within those locations. It invariably comes down to drugs, alcohol and family and domestic violence. It is not that it is in a particular area, it is everywhere. That is the only reason that I can give for that—that it is across the board.

**The CHAIR:** In appendix B of your submission, you state that 41 per cent of prisoners were received into custody for drug-related offences. However, you note that this may not include people with drug problems who are committing other types of crime, such as burglary or assault. How does the department account for the true extent of drug-related offending?

**Mr Johnson:** Again, when I ask the questions, I ask: what seems to be the reasons in your area for why some of the offences are being committed? Invariably, it comes back to drugs—to fund their drug habit.

**Hon AARON STONEHOUSE:** We cannot quantify that, though—it is merely feedback you are receiving from the clerks.

**Mr Johnson:** Yes.

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**The CHAIR:** We have heard that the proportion of people that are coming before the parole board with a drug problem is likely to be higher than 41 per cent. Can the department provide the number of people who applied for parole in 2017–18 who were identified as having a drug problem? I appreciate that we will probably need to take that on notice. Firstly, is that data that you have?

**Mr Hassall:** Madam Chair, I would have to check. We will take that on notice.

**Mr Johnson:** We would have to check, because I am not sure that we would have that information.

**The CHAIR:** Right. If you do have that data, we would appreciate being able to take that on notice. That leads to the next question, which is: does the nature of the offending impact someone's eligibility to access drug-related services in prison?

**Mr Hassall:** Do you mean, for example, if their underlying motivator was drugs, but they are a violent offender?

**The CHAIR:** That is correct. It may not be directly apparent; however, that may be what is going on for them, and that is the issue that is leading to their offending behaviours. Certainly they may not have any convictions for drug offences per se.

**Mr Hassall:** Certainly, it would not preclude them from services, but we would take an individual approach on individuals —

**The CHAIR:** Assuming that they are not there for less than six months.

**Mr Hassall:** Correct, which will change. We take individual circumstances into account with offenders. There would be some services in different locations, for example. Institutional behaviour may be a factor. All of those things would come into account.

**The CHAIR:** Would that require the individual prisoner proactively seeking out that assistance, though? Because they may not come to attention otherwise.

**Mr Hassall:** That could be a possibility, yes.

**Mr Johnson:** In terms of the community, Madam Chair, offenders that are charged with sexual offences, drug trafficking, or offences of high-level violence are not eligible for some of the diversion programs that are available to courts, like the pre-sentence opportunity program, the supervised treatment intervention regime, or the Indigenous diversion program.

**The CHAIR:** You have now raised the issue of the diversionary courts, and we do have some questions we wanted to ask about that. For the information of the committee as a whole, could you please explain the Drug Court model, and also provide a very brief history of how it has operated here in Western Australia?

**Mr Johnson:** Thank you, Madam Chair. This is both for adults and children. The Drug Court is an intensive regime that addresses the needs of the most complex offenders who require medium to long-term treatment, and who would otherwise be imprisoned if no Drug Court existed. It currently operates in the Perth Magistrates Court and the Perth Children's Court. Participants are referred to the Perth adult Drug Court from the Magistrates, District and Supreme Courts and may be managed by the Perth Drug Court if required to appear in the District or Supreme Court for final sentencing. The Perth Children's Court also delivers a Children's Court drug program, which aims to divert young people who are experiencing drug-related problems into intensive case management and treatment.

In order to make application to the Perth Drug Court, offenders must admit to their drug-related problems and plead guilty to their offences. Participation is voluntary, and participants must commit to the program. Inclusion in the program is decided by the Drug Court magistrate, based on the assessment by the Department of Justice's court assessment and treatment service officers.

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Individual programs run for approximately 12 months, depending on the participant's circumstances. Depending on the offender's circumstances, the assessed complexity of substance use, and the offence, the participant will be managed through one of the following programs: the Drug Court, for those offenders facing serious charges with criminal records and a history of drug abuse; pre-sentence order, for offenders who face immediate and substantial prison sentences; and conditional suspended imprisonment. This option was introduced to accommodate offenders who committed the referral offence while on parole or suspended sentence.

The Drug Court commenced in WA in the year 2000, and has operated basically out of the Perth Magistrates Court at Central Law Courts and the Perth Children's Court since that time. Madam Chair, do you want me to go on to the diversion programs?

**The CHAIR:** I will just ask a little bit more about this. There was a review taken in 2006 of the effectiveness of the Drug Court.

**Mr Johnson:** There was an evaluation review in 2003 by the Crime Research Centre from the University of Western Australia, and then, in 2006, there was an internal review of the operations of the Drug Court.

**The CHAIR:** Do you know if there has been any subsequent evaluations or reviews of the Drug Court?

**Mr Johnson:** No. That is the only evaluation and review.

**The CHAIR:** There have been recommendations, as I understand it, though, to extend the Drug Court to the regions. Is that correct?

**Mr Johnson:** I have not got any specific knowledge of that, but I think I agree that —

**The CHAIR:** It might have been in the 2009 Law Reform Commission report.

**Mr Johnson:** Yes, there may have been something. I have an inkling that there was something, but I cannot recall it at this time.

**The CHAIR:** Do you think that would be something that would be useful, if it was extended out to the regions?

**Hon MICHAEL MISCHIN:** I thought it was extended out to Bunbury.

**Mr Johnson:** No, the Drug Court has never gone to Bunbury.

**The CHAIR:** Do you think it would be something that would be useful—to be extended out to the regions?

**Mr Johnson:** It would be very useful for any of the communities to have that, but that would be a matter of an application to government for resources.

**The CHAIR:** Of course, but I wanted your opinion as to whether that would be something that would be useful.

**Mr Johnson:** Yes.

**The CHAIR:** I am happy to take this on notice, unless you have the information there in your notes. How many Drug Court participants have successfully completed their programs? I would be interested both in numbers of human beings as well as a general percentage of success. Do you have any of that information with you?

**Mr Johnson:** No, I do not have any of that information. The only information I have with me today is that in the year 2017–18, 1 063 participants passed through the Drug Court, Children's Court or the diversion program. I will see what the exact wording is so that I get it right. Including the Drug Court, a total of 1 063 offenders throughout the state gained access to diversion programs in 2017–18.

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**The CHAIR:** So they gained access to them, but that is not necessarily an indication of how many people were successful.

**Mr Johnson:** About success, no.

**The CHAIR:** Again, if we could have that information on notice, that would be fantastic  
[4.30 pm]

**Mr Johnson:** I think that would be from the Drug Court, because the others are diversion programs that they complete and the report goes back to the magistrate and then the magistrate sentences.

**The CHAIR:** Of course, there are a number of diversionary programs, as we know, and we could have even more, maybe. But for the purposes of this inquiry, I think we are specifically interested in the Drug Court, please.

**Mr Johnson:** Okay, I will see if we have those figures.

**The CHAIR:** Have you got the average cost per person going through the Drug Court?

**Mr Johnson:** No, that would be something that we would have to undertake to find those figures. We do not keep those figures.

**The CHAIR:** The Department of Justice does not keep those figures?

**Mr Johnson:** No. I am not aware of any figures kept on the cost of somebody going through the Drug Court.

**The CHAIR:** Okay. Of course, we have figures about rates of recidivist behaviour, have we not?

**Mr Johnson:** I would have to check on that also, because I am not aware of them.

**The CHAIR:** That, of course, should be the ultimate measure of a Drug Court, as to the degree of recidivism that occurs afterwards, so it would seem to me that if we did not have that data, it would be a problem.

**Mr Johnson:** There has not been any review or evaluation since those two that I talked about, that I am aware of.

**The CHAIR:** I am happy to take this on notice: could you please find out whether there is any data available since 2006 as to the recidivism rates arising from participants who have gone through the Drug Court and how that is comparing to people who are going through the regular court system. Could you also please give the committee some information about the sorts of factors that you have already touched on a little bit that would preclude someone from being able to participate in the Drug Court.

**Mr Johnson:** Yes, I do not have it here for the Drug Court, actually; it is only the minor diversion programs that I have it for. It would be up to an assessment —

**The CHAIR:** You have already listed some. Firstly, someone needs to plead guilty as a starting point.

**Mr Johnson:** Yes, you must plead guilty and voluntarily apply to go to the Drug Court, that is right.

**The CHAIR:** And presumably certain types of offences would also preclude you from being able to access the Drug Court—is that correct?

**Mr Johnson:** My understanding is that it is, particularly sexual offences —

**The CHAIR:** Yes, and presumably offences of murder.

**Mr Johnson:** — and other violent offences, but I would need to check that, just to be certain.

**The CHAIR:** Okay. I am happy to take that on notice, but it would be useful for the committee if we could know which sort of offences would completely preclude someone from being able to access

the Drug Court. Also, generally, how well represented are Aboriginal people within the Drug Court client group, especially considering that the Drug Court is not available in the regions?

**Mr Johnson:** I would have to take that figure — I believe it is quite low, but I —

**The CHAIR:** Quite low?

**Mr Johnson:** In the Perth Magistrates Court, but I would need to check that and reserve my comment about that.

**The CHAIR:** Okay, can I please ask: I would like to get information as to both numbers and percentage of Aboriginal clientele, and how that compares to the general numbers within the broader court system, please.

**Hon AARON STONEHOUSE:** I just have a follow-up question. You listed a few types of offences that would make someone ineligible for diversionary programs like the Drug Court. You mentioned one I think, as being drug trafficking convictions or offences.

**Mr Johnson:** Yes.

**Hon AARON STONEHOUSE:** I wonder if any data is kept by Justice on drug use rates within prisons. That would be hard to measure, but perhaps participation in drug treatment programs while in incarceration, based on the initial offence that someone was convicted or incarcerated for. For instance, how many people convicted as drug traffickers are enrolled in some kind of drug treatment program while in prison? Would that kind of data be available?

**Mr Hassall:** I would have to take that on notice. We certainly would know the start and completions of programs. Trafficking is slightly different. I would have to take that on notice; I just would not be confident in answering it now.

**Hon AARON STONEHOUSE:** The intention of the Drug Court is to divert personal use drug users away from custodial sentences to intervention. However, my concern is that the definition of “drug trafficker” in the Misuse of Drugs Act is rather arbitrary. Merely having a certain quantity of drugs determines whether or not you are a trafficker. Confirm this if I have it right: there is nothing in place for someone who is a drug user who has a large quantity of drugs for personal use perhaps, but is not engaged in any sort of commercial activity with their drug use, merely possession, but is caught with the right quantity of drugs to be convicted as a drug trafficker. They would not have access to diversionary programs; they would merely be looking at custodial sentences instead.

**Mr Johnson:** I think that is right.

**Hon AARON STONEHOUSE:** That is an accurate assessment?

**Mr Hassall:** I understand your question, absolutely. We will have to take that on notice.

**Hon MICHAEL MISCHIN:** That, with respect, is not quite right. There is a presumption of an intention to sell or supply if you are over a certain threshold, but that is a different thing to being deemed a drug trafficker, which is a much higher quantity of the particular drug concerned, so that one is the one that makes you liable to a declaration and forfeiture of property and the like, so there are different tiers. One is a rebuttable presumption.

**Hon AARON STONEHOUSE:** Trafficker, in particular, excludes you from access to diversionary programs.

**The CHAIR:** Yes.

**Mr Johnson:** Yes.

**Hon MICHAEL MISCHIN:** Possession with intent is a different thing.

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**Hon COLIN de GRUSSA:** Just to get some regional context on some of the statistics and programs that again may be on notice: I am just wondering how these services and pathways-type programs, are they delivered reasonably, what prisons are they available in, what is the uptake like, and also the individual management programs and, again, the numbers of prisoners who have been able to get an individual management program created for them?

**Mr Hassall:** I brought some information about regional services, if you could just bear with me. In April 2018, there was a whole suite of contracts let by the department; pathways in the south west and great southern regions. I have some data here that I am happy to table, if that is acceptable, on some of the program numbers that we run. It may not be in the detail that you require, but I am certainly happy to take that on notice, if that is okay.

**Hon COLIN de GRUSSA:** If you could, that will be fantastic. I guess specifically chasing the numbers of prisoners without IMPs or waiting to have IMPs in regional areas, similar to what we have.

**The CHAIR:** In all regional —

**Hon COLIN de GRUSSA:** Actually, not just the regional context —

**The CHAIR:** It would be really useful to have a breakdown of those prisoners by prison.

**Mr Hassall:** I can certainly do that, Madam Chair.

**The CHAIR:** Great.

**Hon COLIN de GRUSSA:** That is probably a better approach.

**Mr Hassall:** The vast majority are at Hakea and Acacia, but we can certainly give it to you by prison. We have some programs in terms of regional service delivery here, so if I can table this.

**Hon COLIN de GRUSSA:** Excellent.

**The CHAIR:** I am aware that we are rapidly running out of time, but we also have a series of other questions that we may just put to you that are likely to have to be put on notice, if that is okay. I would like to know: how long do you estimate that a sentenced prisoner usually has to wait until they can actually start a drug program? That is different from the assessment.

**Mr Hassall:** I would have to take that on notice, Madam Chair.

**The CHAIR:** Okay. I also expect I will have to take this one on notice: do you have the numbers of prisoners who may have been denied parole because they had not completed a drug treatment program that they were required to?

**Mr Hassall:** Certainly, in the pack that I have handed over, parole is not denied just because somebody has not done one aspect of their IMP. There is a whole range of factors—and we can certainly get this for the committee—that the parole board would take into account, so it would not be just one determinant.

[4.40 pm]

**The CHAIR:** Do you know if there have been individual prisoners who have been denied parole because of that?

**Mr Hassall:** I do not know, but we can take that on notice and, certainly, get back to you with the process and the numbers that we have.

**The CHAIR:** I also want to come back to the Wandoo therapeutic community, which has been spoken about. We also have taken evidence from Cyrenian House, who have also spoken about this. The early results are looking quite promising. What is the cost per person per day for this, and how that compares to programs in a mainstream prison?

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**Mr Hassall:** I have to take that on notice. From just working it out in my head, the total cost of the prison we did last year when we did the contract, bringing it back in-house, so I can take that on notice.

**The CHAIR:** I am happy to take it on notice, but are you able to give an early indication to this committee, because we are hearing that it certainly has got potentially a higher level of success. I am curious to know whether that has come at a considerable dollar value.

**Mr Hassall:** Certainly, early indications are it is incredibly successful. As I mentioned, we had the first graduation last week and all the early indications are that it is a success. I can tell the committee that when we insourced back to prison, it was certainly within the funding envelope of the existing prison. I am happy to get that information for you by breakdown of prisoner per day and what we spend on programs.

**The CHAIR:** That would be great. When will that program be formally evaluated?

**Mr Hassall:** I have got the evaluation framework here. It is quite complex. I am happy to table it.

**The CHAIR:** If it is complex, it means it is probably looking at it properly, so that is not a problem. Yes, could you please table that.

**Mr Hassall:** I am happy to table it. The evaluation we are doing is a rolling process, so we are working on that, but I am happy to table that.

**The CHAIR:** Is that document able to be made publicly available? The committee just needs to know.

**Mr Hassall:** There is nothing secret in there, so I have no issue with it. I will just double-check, though, and send it into the committee, if that is okay.

**The CHAIR:** Can I just confirm: is it your request that we do not make that publicly available or are you seeking to see whether you can?

**Mr Hassall:** I just want to double-check the document. I read it last week; there was nothing in there. I just want to test it out with a couple of people in the department to make sure it is okay.

**The CHAIR:** I am afraid I am aware that we have quickly run out of time, unless there are any urgent questions that we wish to put on notice.

**Hon MICHAEL MISCHIN:** This one on notice. You say that the graduation occurred only last week, yet the indications are that it has been incredibly successful. I would like to know more as to how that assessment is made. Simply completing a program is one thing, but surely the test of success is whether there is recidivism on the part of the offenders that are being graduated. I would have thought even a week is a little early to tell on that, so if you could provide us with some information on that, I would appreciate it.

**Mr Hassall:** I guess, the context in what I measure, by success I meant the number of women that I have applied to go to Wandoo—the number of women who have got onto the program and stayed on the program.

**The CHAIR:** Okay, so staying on the program.

**Mr Hassall:** Yes. We had a very, very low dropout rate. The premise of your question, I guess is, the longer-term study about whether those people come back into the justice system. That is part of the evaluation.

**Hon MICHAEL MISCHIN:** What advantage is it to them to get onto the program and stay on the program to its completion? Does it mean that it is credit to parole or better conditions they are living under? What is it that encourages them apart from getting off drugs?

**Mr Hassall:** Every prisoner has their own motivation for why they want to do something. The way we operate Wandoo is certainly different from any other state jail; it is run under the therapeutic

community-type model. For some people, that can be incredibly challenging and requires a lot more motivation to stay on that type of program. There is a lot more onus, if you like, on personal responsibility—taking responsibility for your own actions. It can be quite challenging for some offenders in that type of environment. It is not a traditional prison, if you like. In terms of the other point to your question: what do they get? We have had some prisoners released. It would be considered—whatever the release mechanisms are—that they are on that program or not or whether their sentence has finished. Some women have gone onto Boronia; some have been discharged from Wandoo; I know some women have gone into the program in the community with Cyrenian House, for example.

**Hon MICHAEL MISCHIN:** The other question that was raised by the Inspector of Custodial Services is that it seemed to have replaced therapeutic programs for juveniles. Is there one for juveniles?

**Mr Hassall:** Banksia Hill is the juvenile detention centre. I think what he may be referring to is young adults, which I think were up to 27. Wandoo, as you know was for young adults in the age range from 18 to 27. At the moment, there is not that type of facility in the network now.

**The CHAIR:** Can I confirm: when this evaluation for the Wandoo rehabilitation is completed will that be publicly available?

**Mr Hassall:** It will not be my decision. If we can take that on notice, I will have to get back to the Chair.

**The CHAIR:** Thank you. I do want to thank you both for attending today. Can we please end the broadcast at this point. A transcript of this hearing will be forwarded to you for correction. If you believe that any correction should be made because of typographical or transcription errors, please indicate these corrections on the transcript. Errors of fact or substance must be corrected in a formal letter to the committee.

We have got several questions on notice for you, so when you receive your transcript of evidence, the committee will also advise you when to provide your answers to the questions on notice. If you do want to provide additional information or elaborate on particular points, you may provide supplementary evidence for the committee's consideration when you return your corrected transcript of evidence. If you feel you have not had a chance to fully explain what you meant today, you will get the opportunity do that in writing. Thank you both for your time; it is much appreciated.

**Hearing concluded at 4.46 pm**

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