

Division 33: Office of the Inspector of Custodial Services —

Mr S.J. Price, Chair.

Mr P. Papalia, Minister for Corrective Services.

Mr E. Ryan, Inspector of Custodial Services.

Ms J. Higgins, Deputy Inspector of Custodial Services.

Ms K. MacGregor, Acting Manager, Corporate Governance.

Mr R. McFarlane, Principal Policy Adviser.

Mr R. Harte, Senior Policy Adviser.

[Witnesses introduced.]

The CHAIR: The estimates committees will be reported by Hansard and the daily proof will be available online as soon as possible within two business days. The chair will allow as many questions as possible. Questions and answers should be short and to the point. Consideration is restricted to items for which a vote of money is proposed in the consolidated account. Questions must relate to a page number, item or amount related to the current division, and members should preface their questions with those details. Some divisions are the responsibility of more than one minister. Ministers shall be examined only in relation to their portfolio responsibilities.

A minister may agree to provide supplementary information to the committee. I will ask the minister to clearly indicate what information they agree to provide and will then allocate a reference number. Supplementary information should be provided to the principal clerk by noon on Friday, 31 May 2024. If a minister suggests that a matter be put on notice, members should use the online questions on notice system to submit their questions.

The Leader of the Liberal Party has the call.

Ms L. METTAM: I refer to page 489 of budget paper No 2, volume 2, and the line item “Inspection and Review of Custodial Services” in the table headed “Service Summary”. I refer to the department’s continuing review of services at Banksia Hill and unit 18, as highlighted there. The minister recently provided an update, on 15 May, regarding part 2 of the 2023 inspection of Banksia Hill Detention Centre and unit 18. The minister noted that the most recent visits and data analyses showed some slippage in relation to staffing numbers and the return of services. Can the minister clarify what is meant by “slippage”? Is it to do with staffing numbers or the return of services?

[11.40 am]

Mr P. PAPALIA: I will ask the inspector to respond. I think that it was his report.

Mr E. Ryan: The media release the member is talking about is an announcement of a review we are commencing. It is the follow-up to the report *148: Inspection of Banksia Hill Detention Centre and unit 18 at Casuarina Prison (part one)*, which was tabled in June of last year. We flagged that we would go back and look at the services for detainees. The riot in May of that year delayed that. We have been monitoring the out-of-cell hours, staffing numbers and services being provided at both Banksia Hill Detention Centre and unit 18. We have certainly noticed that the out-of-cell hours, staffing attendance and activities that have been running are starting to improve; as a consequence, we think that now is a good time to go back and do the additional work that was flagged in the 148th report, and that is what we are talking about.

The reference to “slippage” in my announcement was that we saw quite positive out-of-cell hours in the earlier part of this year. It has come off a tad at the moment, and that is obviously attributable to a whole range of things. It is not a decline. There was an overall improvement, it has backed off a little bit, and it is continuing on that trajectory. That is the reference to recent slippage.

Ms L. METTAM: Is it a slippage or decline in service or numbers of staff?

Mr P. PAPALIA: Members should understand that the Inspector of Custodial Services is not there all the time. He is going to do another report, so he will go and do another assessment. I will let him answer that. Basically, he was making that observation based on out-of-cell hours, because we regularly report those to the inspector. He is going to go and look for himself, but I will let him answer.

Mr E. Ryan: It is not necessarily the services being delivered. It could be that the average out-of-cell hours might be five and a half hours, for example, and it might have come back to five hours or thereabouts. It is just a reference to that. It is not that services are being discontinued. Obviously, as in the previous division, if there is an incident and the centre has to go into lockdown for a particular reason, that affects the average out-of-cell hours.

Ms L. METTAM: Are services going backwards? Is that a better way of saying it?

Mr E. Ryan: That is the whole purpose of the review. As the minister mentioned, we are not out there all the time. We are out there fairly regularly and we keep a close monitoring of the available data we get through from our own sources and from the department, but the whole idea of the review is to actually go out, talk to the staff and service providers and have a look at the extent and frequency of, and access to, those services.

Mr P. PAPALIA: This review by the inspector of both Banksia Hill and unit 18 will give everybody an independent view of the situation. We cannot really give the member an answer on the current status in advance of doing that review, because the inspector is not there all the time. The review is a good thing; I welcome it, and it should be welcomed by everybody. The inspector is independent of government. He will tell us if he does not think it is good.

Ms L. METTAM: In this update, which really refers to the inspection and review of custodial services, there is a reference to “visits”, which could be interpreted as slippage occurring over multiple visits. How long has the department been witnessing this trend?

The CHAIR: Minister, the question relates to the statement, not to the budget.

Mr P. PAPALIA: I make that observation; the member should be asking about the budget. But with that aside, it is the inspector’s media release. As the member indicated earlier, the inspector was suggesting that there might have been a minor slippage in some out-of-cell hour averages. I can tell the member that I get the figures every week. For unit 18, it is monitored down to individuals; for Banksia Hill, it is monitored more broadly by different categories of detainees. The conditions in both Banksia Hill and unit 18 have vastly improved. At Banksia Hill, the weekly average is around eight and a half to 11 out-of-cell hours a day. As the inspector indicated, the average out-of-cell hours at unit 18 has been somewhere between five and five and a half hours a day, depending on individuals, because that place is separated into three cohorts. I would absolutely refute any suggestion that there is a slippage in service delivery; there has actually been a significant increase in service delivery to both sites and it continues to increase all the time.

As we indicated in the previous division when we talked about staffing numbers and the recruitment of additional officers, firstly the allocation of additional officers and then the recruitment to that target is underway. Officers are showing up and attending work at far higher numbers than at the time when there were concerns around that having an impact on conditions and service delivery. We have other initiatives like the Aboriginal services unit, which did not exist a year or eight months ago. Services like the Aboriginal elders mentoring program are constantly being delivered to both sites. There is now in-reach from the Mental Health Commission from specialist paediatric services. Additional services provided by not-for-profit organisations were provided before, but they are now able to be delivered more frequently because of the more stable conditions in the unit. All those things mean that service delivery is up, and we will keep working on improving and enhancing it. That observation by the inspector was about out-of-cell hours.

Ms L. METTAM: Can the minister provide some more information on this slippage or this trend backwards? We are referring to the inspection and review of custodial services.

Mr P. PAPALIA: Yes, the member is, but she is not talking about the budget.

Ms L. METTAM: That is in the budget. That is what we are budgeting.

Mr P. PAPALIA: No, it is not a line item in the budget. The media release referred to the future inspection by the inspector, which is not in the budget because it has not happened yet. But that aside, I refer to the average out-of-cell hours. I think, at the time of that media release, I can tell the member that for unit 18, since the start of the year, in January, the average out-of-cell hours was four hours and 22 minutes; in February, it was four hours and 27 minutes; and in March, it was four hours and 59 minutes, so if we are talking about unit 18, there is not a slippage of any description. There have been a few disruptions—not a large number—to out-of-cell hours on weekends in Banksia Hill, which would have impacted the average out-of-cell hour numbers. I think this is the slippage that the inspector referred to. The average out-of-cell hours for Banksia Hill in January was nine hours and 37 minutes; in February, it was 10 hours and 22 minutes; in March, it was nine hours and 23 minutes. All it takes is an individual to climb a roof and, for the safety of everybody involved, the response has to be a constraint on the movement of everybody else, and that impacts on average out-of-cell hours. It depends on what time of the day it occurs. Obviously, it is not great, but it is better for average out-of-cell hours if the disruption happens later in the afternoon, closer to the evening, when the detainees would be going to bed anyway. It is not great if a disruption occurs in the morning and takes a few hours to resolve. It is not like Banksia Hill has gone back to three hours out of cell or anything like that. It has vastly improved on what it was when we took on this role.

[11.50 am]

Ms L. METTAM: The minister is talking about this slippage being related to extraordinary events such as when those in detention climbed on the roof. How many of those incidents over the last 12 months are we talking about?

Mr P. PAPALIA: In the absence of the Inspector of Custodial Services conducting the review that he has announced, he would be looking at and referring to out-of-cell hours, but he does not know the cause of it, other than from the observations we make. An asterisk might be under the report that he gets weekly, and a note says, “This may be due to a disruption from some detainees” but he does not have specifics. That is why he will do the review, and then he will be able to inquire into what is going on and what is happening.

Mr E. Ryan: I would not be able to add any additional detail to that. The reference to slippage is, as the minister said, that the average out-of-cell hours at Banksia Hill have dropped off a little bit. That is me being scrupulously honest in the announcement of the review to say that it was improving, but it has come off a tad in the week or so before we made the announcement.

Mr P. PAPALIA: In fairness, too, I know that the member is conflicted about when to ask the question. The member could have got the answer to these questions from the Department of Justice people if she had concerns about what drove this data at that time. The inspector has not yet gone in to inspect, so it is not really fair to ask him. We regularly reveal information of that type to the inspector and to the President of the Children’s Court so that they have visibility over the metrics that give them an indication, but they do not know what the cause is until they go in and have a look. The member is talking about one month, too.

Ms L. METTAM: It is a recent event.

Mr P. PAPALIA: Yes, but it is one month, and it is 20 minutes.

Ms L. METTAM: It is a recent event, and the minister has his staff here. I wonder what has contributed to this recent slippage. The minister must be aware.

Mr P. PAPALIA: The inspector cannot give the member that answer because he has not got access to what was driving it. With respect to my knowledge of it, it is minor. It is an indication of just how significant the improvement has been. The member is now fixated on a drop from 10 hours and 22 minutes out of cell in the daytime to nine hours and 23 minutes. I reckon that a few parents around the suburbs would be ecstatic if their kids got out of their bedrooms for nine hours and 23 minutes. That is not to say that it is acceptable to have any sort of backward movement in out-of-cell hours. Our ambition is to keep growing it, but there is only so far it can grow. They will be out of the cell for half the day, and for half the day they will be in it because it is bedtime. That is just a natural limit that will be confronted.

I will go back a little bit further at Banksia Hill, so the member gets an indication. There is no trend the wrong way. I have given the member three months. If I go back to October last year, the average out-of-cell hours at Banksia Hill was nine hours and 15 minutes. In November, it was nine hours and three minutes; in December, it was eight hours and 56 minutes; in January, it was nine hours and 37 minutes; in February, it was 10 hours and 22 minutes; and in March, it was nine hours and 23 minutes. The point is that we get occasional disruptions. I am not saying that this has occurred because we have had significant improvements in numbers with staff showing up to work and not being sick to the extent that they were, but if COVID went through, and it has done at different times, that could impact a shift of staff and have an impact. They are not dropping a significant amount. It has pretty successfully improved since we came to the role.

I do not know whether the member remembers, but I took over in October or June last year—June. In June 2023, the average out-of-cell hours was seven hours and 46 minutes, so there has been a significant improvement, and we will focus on it. The inspector can go there and check it out, and the member can ask all the questions about whether he is concerned about it not going the right way. I think it is going the right way, but if it is not, he can find out. His report will be published.

Ms L. METTAM: That is part of my further question. When will that report be published? Just to clarify, was the slippage the trigger for the report, or is it just what the inspector does anyway?

Mr E. Ryan: We anticipate that the report will be published before the end of the year. It is a snapshot review; it is not a full inspection. The timeline we set for the project is for November or thereabouts. The slippage I referred to in the release—which, it turns out, might be a slightly misleading turn of phrase—was not the catalyst for the report at all. We had seen improvement in our regular contact with both facilities. We had observed greater time out of cell in our data tracking. We were told by the staff on the ground, not just custodial staff but also general staff, that things were happening; education was happening, and we were seeing recreation happening.

Ms L. METTAM: Was this report not due last year or is it a different report?

Mr P. PAPALIA: This is an unscheduled one, actually.

Mr E. Ryan: Ordinarily in our inspections, we would look at services like education programs and recreation, but when we did the 148th report, *2023 inspection of Banksia Hill Detention Centre and unit 18 at Casuarina Prison (part one)*, which was the last published report on Banksia Hill, we decided to focus on three key areas in that report. We flagged that we would look at those other additional areas in part two. As I said in an earlier answer, a major

disturbance in May resulted in infrastructure damage, and so a number of those things meant that those services were not happening. We have monitored the situation closely in the intervening period and noticed that those services are now recommencing, and out-of-cell hours are improving, so it is time to go back and, as the minister said, go into the detail and see how effectively and how often they are happening and the extent of it. Then, we will be able to report publicly on that.

Ms L. METTAM: The terms of reference for part two of the report include whether any deterioration in the progress been mitigated, to the best it can be, by appropriate departmental contingency planning. Considering the inspector has already stated that there is a reference to a slippage, which could be interpreted as extended periods of time, has any mitigation already been outlined? I know that the publication of the report is anticipated later this year.

Mr P. PAPALIA: This is so out of budget, it is extreme. That aside, the member keeps focusing on it. It is a media release by the inspector that referenced a slippage of one hour in average out-of-cell hours between February and March, noting that February had elevated out-of-cell hours. If we go back a couple of months prior to that, the average that the member is referring to as a slippage was nine hours and 23 minutes.

The inspector has more things to do than just deal with juveniles, because the adult estate is way bigger and he has a schedule of inspections. He has indicated that he will fit in this review, which is good. I welcome it. I would rather it happened next week and was over and done with and reported on by the middle of the year, but I do not think he is able to accommodate that target. We welcome the independent verification of just how much things have improved. I anticipate that that is what will happen. At the moment, the out-of-cell hours that I referred to are an indication of just how significant the improvement has been at both Banksia Hill Detention Centre and unit 18. Regular external oversight is provided by people like the inspector and his staff, but the President of the Children's Court has also made unscheduled independent visits to both sites. The response of those people has universally recognised that things are vastly improved from late last year.

[12 noon]

The CHAIR: Before the member asks her next question, you have really been given a lot of latitude to follow the statement questions. The minister and inspector have been very indulgent in their responses. You really need to get back to something that is relevant and in the budget.

Ms L. METTAM: I refer to the 2023 inspection of Banksia Hill Detention Centre and unit 18 on page 489. This is a different line of questioning.

The CHAIR: Whereabouts on page 489 are we looking?

Ms L. METTAM: Under the service summary. I understand that part two of the review was meant to be released in the months following the release of part one of the review in May last year. The Office of the Inspector of Custodial Services publicly stated that part two could not be released during this period as the intended objective of the second part of the report could not be achieved with any services not consistently delivered. Which services are not being consistently delivered?

Mr P. PAPALIA: I have to address what the member is talking about here. The member needs to understand what the Inspector of Custodial Services is talking about in that report. His last review of Banksia Hill was in late 2022 to early 2023. In May 2023, there was a riot and 25 per cent of the buildings were burnt down, with \$40 million worth of damage—I lose track of how much. As a consequence of a great deal of disruption throughout the first half of last year, there was a significant reduction in out-of-cell hours. Subsequently, there has been a change in practice and management and an increase in staffing and service delivery. What we are dealing with now is not something that happened in 2022 or early 2023, but what has happened subsequently. I will go back to June last year. If the member wants to go beyond that, obviously the out-of-cell hours were lower. By the way, that is only one measure. A whole range of service delivery measures are also provided to the inspector, the President of the Children's Court and me. In May last year, the average out-of-cell hours was five hours and 24 minutes. Since June, it has not dropped below eight hours and 36 minutes; that is the lowest figure in a couple of months. Beyond that, it is all over nine hours.

Asking about something in the previous budget year is irrelevant for a number of reasons. First, it is not in the budget and members are not supposed to ask about it; and, second, everything was different to the extent that there was a massive disruption over an extended time, including probably the most serious riot experienced in juvenile detention in May last year. That has not happened since, and the out-of-cell hours are indicative of the impact of the measures employed.

Ms L. METTAM: By way of supplementary information, is the minister able to provide a breakdown of the out-of-cell hours?

Mr P. PAPALIA: No. I have read into *Hansard* the average out-of-cell hours at Banksia Hill since June last year.

Ms L. METTAM: Can we get a breakdown of the out-of-cell hours since 2021?

Mr P. PAPALIA: I might get the member to put that question on notice. There are two issues with that. Unit 18 started running in the middle of 2022, so we went from one facility to two, with different measures and impacts. If the member puts that question on notice, we can give her the average monthly of out-of-cell hours.

The appropriation was recommended.