

# **STANDING COMMITTEE ON PUBLIC ADMINISTRATION**

**INQUIRY INTO STATUTORY OFFICE HOLDERS**



**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
MONDAY, 6 MAY 2019**

**SESSION ONE**

## **Members**

**Hon Adele Farina (Chair)  
Hon Jacqui Boydell (Deputy Chair)  
Hon Ken Baston  
Hon Kyle McGinn  
Hon Darren West**

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**Hearing commenced at 10.11 am**

**Mr EAMON RYAN**

**Inspector, Office of the Inspector of Custodial Services, sworn and examined:**

**Mr DARIAN FERGUSON**

**Deputy Inspector, Office of the Inspector of Custodial Services, sworn and examined:**

**Mr DEREK SUMMERS**

**Manager, Corporate Governance, Office of the Inspector of Custodial Services, sworn and examined:**

**The DEPUTY CHAIR:** Good morning. Thank you for attending today. On behalf of the committee, I would like to welcome you to the hearing. Today's hearings will be broadcast. Before we go live, I would like to remind all parties that if you have any private documents with you, keep them flat on the desk to avoid cameras. We are ready to begin the broadcast. I will introduce the committee to you before we get started. On my left is Hon Kyle McGinn and to my right is Hon Ken Baston. I apologise for the Chair today, who is unwell. Also Hon Darren West, who has tabled his apologies to the committee.

I now require you to take either the oath or the affirmation. You will have also signed a document entitled "Information for Witnesses". Have you read and understood that document?

**The Witnesses:** Yes.

[Witnesses took the oath.]

**The DEPUTY CHAIR:** Thank you. I advise you that these proceedings are being recorded by Hansard and broadcast on the internet. Please note that this broadcast will also be available for viewing online after this hearing. 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 please quote the full title of any document you refer to during the course of this hearing for the record. 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—it is hard for Hansard to hear—and please try to speak in turn so it can be recorded. I remind you that your transcript will be made public. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in private session. If the committee grants your request, at that point 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 you like to make an opening statement to the committee? I am aware that it is your first day today, Eamon.

**Mr Ryan:** I was going to be drawing on my hour and a half's experience in the role. It is just that this is my first day as the inspector. The announcement was only made last Wednesday, so it is a very short period and I obviously have not had time to prepare to the depth and extent I would ordinarily like. I seek your understanding if I am not able to answer questions and we have to take them on notice. Darian and Derek will be able to answer questions in probably a little bit more detail.

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I would like to put on the record and acknowledge the significant contribution of my predecessor, Neil Morgan. He has made an enormous contribution to the work of the office and the custodial estate generally over the past 10 years. I just acknowledge that. I am very positive and very honoured to be given this great responsibility. I am looking to a period of consolidation. There may well be things that we change and things that we do slightly differently, but obviously we will work with you and keep you informed of that as time goes on. Consistency and consolidation is the plan.

**The DEPUTY CHAIR:** Excellent. Welcome to the role and thank you for taking the time in your very brief history in the role to be here today. I, on behalf of the committee, will put on record our thanks to the previous person who filled the role, Neil Morgan. He was a great disposal to the committee at all times and a great source of information. We wish him well.

**Mr Ryan:** I will endeavour to have a similar relationship with you.

**The DEPUTY CHAIR:** Great. Thank you. How I will proceed is to give a bit of a summary and then follow on with some questions from there. We have a bit to get through, so we will see how we go and progress. If at some stage we might need to put some questions on notice, we will do that.

At the 2018 hearing, on page 2 of the transcript, of which I am aware you do not have a copy, but, bear with me, you may still be working on this issue—I can provide a copy to you if you need it—officers and the acting inspector advised that there had been in the past some difficulties in obtaining information from the Department of Justice but that the situation had improved. Officers also advised that the two MOUs between the Office of the Inspector of Custodial Services and the department were being finalised. The answer to question on notice 3 from the 2018 hearing identified that the provisions in division 2 of the act relating to the obtaining of information from the department could be strengthened. An excellent example is provided in the ACT's Inspector of Correctional Services Act 2017. Having said that, what is the current situation with regard to the Office of the Inspector of Custodial Services obtaining information from the department? How is that going currently and has either MOU being finalised?

**Mr Ferguson:** The situation in relation to the provision of information from the department has greatly improved. A couple of years ago, I think the relationships between the parties were probably at their lowest and the department was quite resistant to the provision of information to the inspector. Over time, things have changed. We have a new commissioner in place, the relationship between certainly the previous inspector and the new commissioner is good and we have had little difficulty in getting the information that we actually require from the department. The MOUs are still not finalised, but we do have a commitment from the department that they will work with us to progress the MOUs to finalisation. We would expect that to be completed sometime in the next six months. They have been drafted. It is just a question of us sitting down and going through the detail and making sure that we are happy with all the detail.

**The DEPUTY CHAIR:** Without the MOU being in place at the moment, your work is currently operating on former arrangements?

**Mr Ferguson:** Yes, we certainly are. We operate under the guise of our act, which sort of talks about our access to information. I have not been at the office for a long time, I have only been there for 12 months, and we certainly have been able to work through any issues that we have had with the provision of information with the department. We have never had, certainly in that period, any real resistance, I guess, by the department to actually providing that information. There have been periods of uncertainty. I think, for instance, when there was the transition to a new service provider as part of that, the transitional period was slow and there was a degree of confusion surrounding that. But in the main the information we have been getting from them has been good.

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[10.20 am]

**Mr Ryan:** What I would add to that would be, as Darian said, the basis of the exchange of information is found in our legislation. The legislation provides for the inspector to have free and unfettered access, so the MOU is largely a procedural document about the nuts and bolts of how we make that happen on a day-to-day basis—who we talk to and that sort of thing. It is not necessarily a document that would restrict the information we would have access to, but it might say that for large requests, we will give them ample notice so they are not overly burdened, and that kind of thing. But the fundamental power for the exchange of information is found in the legislation.

**The DEPUTY CHAIR:** Is it still the view of OICS that division 2 of the act should or could be strengthened?

**Mr Ryan:** I am certainly not in a position to answer that today.

**Mr Ferguson:** It would certainly provide greater clarity if it was strengthened. I think the view of the inspector's office would be that, yes, there would be some advantages to having those provisions actually strengthened. However, that is not something that we have put forward to the government to pursue, given the government's legislative framework and the other legislative changes going through. Some of it, we would have thought, would not have been given high priority.

**The DEPUTY CHAIR:** Okay. Again, just relating to the 2018 hearing, in answer to question on notice 4 from that hearing was the advice that —

The scorecard assessment of implementation of recommendations ... was ceased in 2017, following ... Report No 113.

Has there been any consideration of reinstituting the scorecard assessment of recommendations?

**Mr Ferguson:** We have not reintroduced the scorecard. Part of the reason is that it is a little subjective, so we tend now to go through and we are aware of the previous recommendations when we undertake our inspections, so if nothing has happened in relation to that recommendation, we are unlikely to restate the recommendation, simply because it is still on the department's books. But certainly, if it is a recommendation that the department has accepted, it is still on their books, but we might note in the body of the report that we have made this previous recommendation and what has happened, whether nothing has happened or whether it has only been partially implemented. But we have not reintroduced the scorecard simply because my understanding was that we felt that it was a little subjective about how we measure the department against that.

**Mr Ryan:** I guess one of the things I will be turning my mind to is the recommendations we make, the number of them and, more importantly, the follow-up and the follow through and how we report that in a way that is clear and transparent.

**The DEPUTY CHAIR:** Okay. Just moving on, this on page 6 of your annual report —

Our Act imposes a minimum 32 day embargo period after a report is received by Parliament.

The effect of this is that the public release of the reports is delayed for over a month. We note that this issue was also addressed in the answer to question on notice 3 from the 2018 hearings as follows —

... the embargo provision in section 35 of the Act prior to the tabling of inspection reports and reviews in Parliament ... unnecessarily delays the release of the reports by 32 days which diminished their value. There are extensive due process arrangements in place that render that embargo process unnecessary and no other accountable agency is so constrained.

In was also noted in the August 2018 report into allegations of ill-treatment at Banksia Hill —

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I am disappointed that we have not been able to report earlier.

The act —

... requires that our reports sit in Parliament for a minimum of 32 days after we have lodged them, and that, as far as possible, our reports should be tabled on a sitting day. The earliest this could be arranged was mid-August 2018, seven months from the date of the direction.

In what ways does the 32-day publication delay diminish a report's value, in your view?

**Mr Ferguson:** The delay just adds an additional month before the report can be released to the public, so the report is, for all intents and purposes, finalised, and then is required to sit in Parliament for a further 32 days before it is released. These reports take a while to draft; they generally take up to three months to be drafted. Then, of course, there is an extensive consultation process that we go through with the department. The draft report is sent to the department, number one, so that they know what we have found, and number two, to fix any inaccuracies that might have appeared in the report. We do not always get it right all the time, so the department is provided with the opportunity to advise us of those elements that we have actually got wrong so we can fix it in the report before it is finalised. Once it has been through that process, we finalise it, we have it printed, and then we send it to Parliament, and it has to sit there for 32 days before we can release it to the public.

**Mr Ryan:** Just building on what Darian said, I guess if there were issues that posed a residual or ongoing risk—the safety or welfare of particular individuals—that is something that we would pursue vigorously with the commissioner and the director general, irrespective of the fact that we are waiting for that report to be made public. I do not think we would sit and not do anything and not follow up with the department. The issue would be it would not be in the public domain until the report is actually tabled.

**Mr Summers:** If I could just add something: the 32 days assumes that we have not gone through proper legal process. If we name or describe things that can identify people, it assumes we are not doing that, and that has already been done prior to the lodgement of the report, so it is effectively a redundant and ineffective process that has already been performed. That one-month delay makes a difference, especially with some of our reports and the pressure to get them out into the public domain. The 30 days makes a bit of difference.

**The DEPUTY CHAIR:** I think the constraint on you to identify with the public your actions is sometimes not positively reflected in the actions you are undertaking. Would you agree? Just in relation to safety issues being addressed, do you get a chance at some point to report that after, that you have addressed those issues in that 32-day period?

**Mr Ryan:** In a public way? No, once a report is tabled, we would not look to seek to add an addendum to it, unless there was a glaring error or something.

**The DEPUTY CHAIR:** Do you get a point to say during this period, “These are the actions we’ve undertaken to ensure safety et cetera”?

**Mr Ryan:** Not that I am aware of in a public way, in a report or a document. Obviously, we do internally. In our day-to-day interactions with the department, each facility has a designated liaison person and it is their job to continue that dialogue, but we would not necessarily do that. I do not think there is anything to stop us doing it, but we would not necessarily do it. I guess some of the reports do tend to generate a little bit of public attention and that is an opportunity for the inspector or the office to make a statement about a lot of work having been done. The department will often do the same thing and highlight the work that is already in place and is being done to remediate a risk or an issue.

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**Mr Ferguson:** Certainly after inspection, we have a debrief for the department, so we go back and tell them in fairly broad terms what we have found as part of that inspection. If there are issues of concern they will be highlighted to the department at that debrief. They get a copy of the debrief as well and, as Eamon says, we have liaison officers, or inspection and research officers, who undertake a liaison function with that prison, so if there are areas of concern, these are things that would be raised with the superintendent and, potentially, with the commissioner, if they are serious enough. So that ongoing dialogue continues.

**The DEPUTY CHAIR:** Okay. In relation to the Banksia Hill example, what were the ramifications of the delay in the context of such a high-profile review, because you did have public scrutiny of what was going on there?

[10.30 am]

**Mr Ferguson:** There was a lot of public pressure. There was a lot of interest in the community about the issues that had been raised and the issues that were the subject of the directed review, because they go to the, I guess, really the heart of how young people are treated in Banksia Hill. There was an enormous amount of interest both within community; there was also an enormous amount of interest from some of the human rights bodies as well and, of course, particularly Amnesty International, who the complaints were actually raised through. There was a degree of, I guess, pressure on our office from the external agencies who wanted to find out what the outcome of our review actually was. Of course, we actually cannot reveal to them what it is until the report becomes publicly available.

**Mr Ryan:** In any of this kind of work, time is a bit of the essence, and the sooner and the more contemporary your report is to the time of the work and the review, the more value it is both to yourselves, the Parliament more generally and the general public.

**The DEPUTY CHAIR:** Is the inspector's office undertaking any sort of conversation with government to take out that 32-day embargo?

**Mr Ryan:** No. I think as Darian said, there has been nothing formal that is certainly on the current agenda. I do not have an opinion either way just now. That might be something we explore down the track, but right now the answer would be no.

**The DEPUTY CHAIR:** What are the due-process arrangements, referred to in question on notice 3 in the 2018 hearings, in place that render the embargo process unnecessary in your view?

**Mr Ryan:** Like Derek alluded to a few moments ago, the due process allows the procedural fairness requirements. If the inspector is going to include in a report commentary that is critical of an individual or the agency, there is a requirement to give them advance notice and give them an opportunity to comment and respond, and that is the process Darian mentioned as well. I suppose it is relative to the report; it is an iterative process, so we provide a draft report and draft findings and the department gets an opportunity to go through that in some detail. I think we allocate a period of a number of weeks—maybe up to four weeks—and that is often extended to give them time to gather data or to understand our recommendations. We will often meet with key people in the department in infrastructure areas or adult custodial to talk through issues. So there is a considerable process of negotiation—not horsetrading, but negotiation about the findings. Ultimately, the report is the inspector's report and ultimately the inspector will make a recommendation, will make findings or will make observations based on what they see and hear. We always try to make sure that it is evidence based and not based on opinion, and we try to triangulate sources of information for particular things. As Darian also said, we are also open to input from the department. If they come back to us and say, "Look, you've got that wrong for these

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reasons,” then there is often amendments and changes that go through. What results in a final report does not necessarily mean that everybody agrees with it and does not necessarily mean that everybody is particularly happy about it, but it is a report that ought not to contain surprises. There might be a surprise to people who are unaware, but certainly for the players it ought not to contain surprises, and that certainly would be the intention I would have going into the future.

**The DEPUTY CHAIR:** Moving onto the introduction of alcohol and other drug facilities, in 2018, Wandoo, which had been achieving good outcomes as a reintegration facility for young men, was repurposed as an alcohol and other drugs rehabilitation prison for women. It was announced that a male alcohol and other drugs facility will be accommodated within Casuarina Prison instead of the previously announced conversion of the women’s Melaleuca Remand and Reintegration Facility into a male meth rehab facility. In your opinion, are the currently planned alcohol and other drug facilities sufficient to meet expected needs, and has the increased alcohol and other drugs facilities come at the expense of necessary facilities for the broader prison population, such as reintegration?

**Mr Ryan:** This is a difficult question for me to answer today, but I guess what I would say is that it is important that we are all acutely aware of the scourge of methamphetamine and other substance addictions and the impact that has on people who finish up in custody or in prisons. Obviously having a facility for women is a good thing, so having a facility for men will be a good thing. Philosophically, it is not for me or the office to have a view one way or the other, but we will pay particular attention as those facilities come online and as the opportunities for them to make a difference come to fruition. Obviously, the facility at Casuarina for men is in the construction phase. We will keep an eye on that and monitor it and see how it is going, but it is very difficult for me to say. I am not sure that either of my colleagues would be able to give a definitive answer to your question right now. It is a work in progress. It is something that we will be acutely interested in, but the facilities have to be built, made ready, implemented and then the programs obviously will take time to start to get traction. That might be some years down the track. But it is a positive thing that there are going to be those facilities dedicated for men and for women, and they will be in the metropolitan area obviously. That seems to be a good thing, I think.

**Mr Ferguson:** We have got Wandoo scheduled for our first inspection in November. As they are scheduled, it generally means that it is going to happen, but lots of things could occur that means it does not. But it is so far scheduled for November. That is just short of 18 months after Wandoo was repurposed. We like to give new facilities about 18 months to bed-in before we go in and have a look. We have been hearing some very good things about Wandoo, but, as I say, we have not been through and done a comprehensive inspection as yet so we do not know. We will certainly be looking at their measures of success and that sort of thing about the program, but, as I say, from our liaison visits and certainly from the commentary that we have had coming out of Wandoo, it all seems very positive. We will have a report out about Wandoo probably in about May of next year.

**The DEPUTY CHAIR:** I look forward to reading that.

**Mr Ferguson:** It will be a very interesting inspection. And it will be the same thing with the male AOD facility as well. Casuarina is actually scheduled for inspection in September. That facility will not be finalised by then, but we would look to go —

**The DEPUTY CHAIR:** Do you know when that will be finalised?

**Mr Ferguson:** There are two stages of the building phase, I understand. One, I understand, will be finished by the end of this year and one maybe by the middle of next year.

**Mr Ryan:** I guess the most accurate answer to that question is from the department.

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**Mr Ferguson:** Yes. But after a suitable period of time, we will look to go back in and see how that is progressing as well.

**The DEPUTY CHAIR:** The committee will definitely take note of the interest in that area for sure.

I am going to move on to the single facility for youth justice. The annual report says of the 2017 report on behaviour management at Banksia Hill that —

The report attracted considerable public attention and support, and the Premier announced that the government will examine options for detaining young people from the Pilbara, Kimberley and the Goldfields in their local region rather than Banksia Hill. It will also examine alternatives for young women and girls. These are welcome developments but are yet to be realised.

The same was noted in the 2016–17 annual report. Are you aware of any progress on developing the options for detaining young people in their local region?

**Mr Ferguson:** No. We are not aware of any that has progressed in that space at this point in time.

**The DEPUTY CHAIR:** At the May 2018 hearings, on transcript pages 8 to 9—if you do want a copy of them, we will provide it to you—it was noted that the department runs the education services at Banksia Hill and does not consult with the Department of Education about these services. Has that situation remained the same or has it changed?

**Mr Ferguson:** I think it remains the same. Certainly we can say that all the teacher positions have been filled and they also have a—I am not sure if it is called a principal, but they have a principal in place as well. Some of the issues that we have identified with education at Banksia Hill have been resolved by virtue of the fact that they now have a full complement of staff. I am not aware of any liaison that has happened with the Department of Education.

[10.40 am]

**The DEPUTY CHAIR:** Do you think there should be a liaison with the Department of Education?

**Mr Ryan:** Now I am wearing my hat from two jobs ago when I spent 10 years as the executive director in the Department of Education. Please do not hold me to this—this is just for your information—but I think there was some discussion between the particular areas of the department in relation to how the education ran at Banksia Hill, but I am not sure whether it is a formal process or whatever. I do think there is dialogue between the two, but, like I said, when Darian was answering that question, it just came up. I do remember a conversation when I returned to the Department of Education, after a brief stint in this position in 2016—some conversations with some of my executive director colleagues about the work they do. So I think there is some cooperation, but I am not sure of the extent of it. It was not the area I was involved in in the department, but it could be something worth exploring. We could possibly take a question on notice if you wish and we could explore that to see the extent of it, or it might be a question better asked of the department.

**The DEPUTY CHAIR:** We will take that as question on notice 1 to seek some further advice on interactions and consultation within the inspector's office and the Department of Education about those services. I think there would be a public expectation that there would be some negotiation.

**Mr Ryan:** I will make some inquiries.

**The DEPUTY CHAIR:** Thank you. Moving on to page 10 of the annual report, the majority of cells in the state's prisons are now routinely double-bunked. In 2010, the department said the double-bunking was a temporary measure. That was never a credible position and double bunking is now routine practice. There are no signs at double-bunking will be reversed at this point. We also note



that this issue was raised in particular in the report on the birth at Bandyup Women's Prison as a safety issue, and we will get to that report separately. Have there been any changes on the issue of double-bunking since the 2018 hearing?

**Mr Ryan:** Again, with your understanding I will provide the best answer that I can right now. I am pretty sure that double-bunking is standard practice throughout the country now just due to the demands of infrastructure versus a spiralling prison population. I think the annual report you are referring shows the prison population is starting to plateau at around 7 000, so I imagine it is unlikely to be reversed, because as a consequence of that you would have to increase infrastructure. There are plans underway for some 500 beds in Casuarina and in Bunbury.

**Mr Ferguson:** One hundred and sixty beds in Bunbury.

**Mr Ryan:** Yes, so the government is doing things in relation to increasing the estate. It is unlikely to change. It was an issue when I was acting in the position in 2016. But I remember—I have done a little bit of preparation in anticipation of coming into the job and also in coming here today—that some of the new design is designed for two beds rather than one, so double-bunking of floor space that was designed for one. I think it is an unfortunate reality to be honest. It is not ideal, but I think it is the reality we have to deal with, with the number of people coming in. They have no control over that.

**The DEPUTY CHAIR:** Has the department responded to the issue in relation to the findings in the Bandyup report in particular?

**Mr Ferguson:** Yes, they have. As part of the work we do, the report goes to department and they indicate which recommendations they support and which recommendations they do not support. That process has been undertaken. I am afraid I cannot recall whether or not the department has supported all the recommendations, but from memory I think they supported the great majority of the recommendations within that report.

**The DEPUTY CHAIR:** We will get to that, because we are going to ask some questions specifically in relation to the Bandyup report, so we might extend that a bit further when we get to that, if that is okay with you.

**Mr Ferguson:** Yes, certainly.

**The DEPUTY CHAIR:** Staffing arrangements are inflexible and further penalise prisoners. This increases prisoner of frustration and tension. These are likely to have been factors in the riot that occurred in the Greenough Regional Prison in July 2018. In what ways are the staffing arrangements inflexible; and how does this inflexibility lead to increased prisoner frustration and tension?

**Mr Ryan:** I could guess the answer, but I am not going to because that would be unreasonable for you, so I will ask Darian.

**Mr Ferguson:** The prison has staffing level agreements, which are based on the numbers of prisoners within that prison, and they also have staffing deployment agreements, so if they are short on any particular day, the staffing deployment agreement determines which positions will be held vacant in order for the prison to operate. What happens when they are short-staffed of course is that prisoners are subject to a more restrictive regime, so they get locked down more. In some of the bigger prisons that may be locked in their wing behind grilles. If you think of a wing as a corridor, there is a grille that comes across and they are locked behind that, so they are not locked in cells. In other prisons they are locked in cells for what can be extended periods of time. This means that they have less opportunity to participate in education activities, in recreational activities or in some of the work they do as well. As I say, locking people down for large periods of time and not giving

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them anything to do or them not having much to do and not being able to get out and get some fresh air and get some exercise leads to an increase in frustration in the prisoner population.

**The DEPUTY CHAIR:** I am going to move on to the potential reduction of prisoner numbers or targets. The government stated that it wants to stem the prison population growth. The annual report outlines a number of options for reducing prisoner numbers, including a focus on Aboriginal community justice mechanisms. At the 2018 hearing, it was indicated that there was a resource within the Attorney General's office being dedicated to reducing prisoner numbers, which was supposed to be completed by the end of the financial year and that the inspector would be given a briefing. Did that briefing occur, and has the office been provided with any details of government's proposal to stem the prison population growth?

**Mr Ferguson:** I am certainly unaware of whether or not that briefing occurred, and I am not aware of any plans that the department may have developed.

**Mr Ryan:** That may perhaps be a question we can take on notice to go back to the office and clarify on that question—did the briefing take place?—and then perhaps we can provide you with some information if it did.

**The DEPUTY CHAIR:** Yes. That is a question and is to provide the details about whether that briefing occurred and what the government's proposal in relation to stemming the prison population growth is, if you have received it.

**Mr Ryan:** Yes, if we have that. Obviously, we would have seen the announcement in the newspaper over the weekend about the Attorney General announcing some plans to look at some of the opportunities to manage people in the community rather than—but the extent of my knowledge is what I have read in the newspaper.

**The DEPUTY CHAIR:** I hope the Attorney General is not seeking to advise you through the media of the government's proposal. If you have the proposal, we will take it as question on notice 2.

Have the options set out in the annual report for reducing prisoner numbers been addressed directly by the government in your view? I guess if you do not have the proposal, you would not be sure.

**Mr Ryan:** No, we would not be in a position to answer that right now.

**The DEPUTY CHAIR:** I will add that to question on notice 2 and see whether you can answer that on notice.

**Mr Ryan:** And you will provide us a summary.

**The DEPUTY CHAIR:** Yes, we will. We will provide you a summary of all the questions on notice.

I am just going to move on to the rate of Aboriginal incarceration. Aboriginal prisoners make up 40 per cent of the total prison population—an increase from 38 per cent in the previous year's annual report—78 per cent of young people, of the population, are in prison, and 47 per cent of that of female prisoners. A new statistic is included in this year's annual report that around one in 30 Aboriginal people is in prison at any given time in Western Australia. In the inspector's office, are you aware of any strategies in place to reduce these numbers, including community justice mechanisms?

[10.50 am]

**Mr Ferguson:** We are not aware of any community justice recommendations. Certainly there are some prisons which have programs that are specifically designed for Aboriginal people, but there is not a consistent approach across all of the estates. It is difficult to provide a comprehensive

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response to that question simply because the rates are about the same, I think, looking at the statistics this morning. There are still high numbers of Aboriginal people in prison.

**The DEPUTY CHAIR:** Could we add that as question on notice 3, in asking about whether the inspector's office has received any information in relation to the community justice mechanisms? If you do have anything, I think that would be useful.

**Mr Ryan:** I suppose that community justice—what happens outside of the prison environment—may fall outside of our jurisdiction. That may well be the reason why if there is extensive work going on in the inputs or the outputs, our jurisdiction is the bit in the middle, where they are in prison. But certainly we can take it on notice and if we are able to provide some answers—if not, it may be a question better asked of the director general.

**The DEPUTY CHAIR:** I quote —

People on remand must be a priority in government planning of future prison construction. They must also be given more support services, both in prison and on release.

That is something we hear repetitively. At the 2018 hearing, it was indicated that short-term programs—for example, drug and alcohol—are not available to remand prisoners, some of whom are on remand for over 12 months. To deal specifically with the different requirements of remand prisons Casuarina Prison had given a verbal briefing that they were putting in additional units and would be upgrading certain facilities to accommodate remand prisoners. Has the situation changed with regard to the programs available to remand prisoners and have any of the proposed changes to the remand accommodation at Casuarina eventuated?

**Mr Ferguson:** I am assuming, if they are talking about additional accommodation at Casuarina, they are talking about the additional 512 beds that are actually going in. Hakea is the main remand facility in the state. It just so happens that the growth in remand prisoners has been such that Casuarina now holds a number of remandees as well. I am certainly not aware of whether or not remandees have access to programs. Certainly, the basis upon not giving remandees access to programs is that of course they may not be found to have committed the crime, and of course they would be released and any investment in programs for those people would not be warranted. But whether or not that situation has changed, I do not know.

**Mr Ryan:** A number of the programs, for example, the sex offender treatment programs, require an acceptance of guilt and responsibility and then the program builds on that. I think that might be a reason why some programs are not suitable for prisoners who are not convicted and sentenced. But I think the question you are asking in relation to immediate rehab support for someone who is taken into custody obviously under the influence of drugs or other substances, obviously there would be a need for that sort of care and I imagine there is some clinical care that they get, but I am not aware of detailed programs as such—rehabilitation-type programs.

**The DEPUTY CHAIR:** I think I would agree with you on the longer-term programs, but certainly short-term programs where there is alcohol and drug issues that potentially remand prisoners—there may be a community expectation that they receive some assistance.

**Mr Ryan:** That would be a good question to put to the department, because obviously they would be in a far better position than us and far more knowledgeable to say, "These are the detailed things we do on a day-to-day basis", and it could be just support, counselling, medical intervention, or whatever. I just do not have the depth of that knowledge.

**The DEPUTY CHAIR:** I quote —

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In the short term, Hakea should be turned into a dedicated remand facility and sentenced prisoners should be dispersed throughout the state.

I am referring to page 11. I keep forgetting to tell you what part of the report I am referring to, sorry.

**Mr Ryan:** I have seen you madly turning pages.

**The DEPUTY CHAIR:** Sorry about that; you should have pulled me up on that! On page 11—I will start trying to do that from now on —

In the short term, Hakea should be turned into a dedicated remand facility and sentenced prisoners should be dispersed —

Throughout the other prisons throughout the state. Has that suggestion been progressed from the report?

**Mr Ferguson:** No. Hakea still holds some 200-odd sentenced prisoners.

**Mr Ryan:** I think in an ideal world, you would have a single remand facility, but until the infrastructure changes or whatever that are currently being implemented, it physically would not be possible, I do not think.

**Mr Ferguson:** There are some complexities associated with the management of certain prisoners, which means that they may not have the flexibility to be able to send them to other prisons whether it be as a result of their affiliations, or whether it be as a result of where their families and the such like are located. It would be unlikely that they would send a sentenced prisoner from Hakea to a regional prison, particularly if that person's family and friends are all based in Perth, because it sends them away from their support structures. As I said, there are some complexities about the management of prisoners which means sometimes it is difficult to move them throughout the prison's estate.

**The DEPUTY CHAIR:** Yes; I understand that. Moving to page 12, I am conscious of the time, because I do want to get to the Bandyup report as well before we run out of time. In 2017–18, women made up almost 11 per cent of the prison population, compared to almost 10 per cent in the previous year and eight per cent a decade ago. The annual report states that —

... the pressure on the women's estate reduced when Melaleuca opened. It will be further reduced by the opening of the repurposed 77 bed Wandoo Rehabilitation Prison.

The department's website indicated that Wandoo was opened as a dedicated alcohol and other drug rehabilitation prison on 6 August 2018. Is that correct, and has the office of the inspector noted any changes following the opening of Wandoo?

**Mr Ryan:** As Darian said earlier, Wandoo is on our inspection list for later in the year. Obviously, that will be a wonderful opportunity to be able to answer your question in detail, but, obviously, that is some months ahead. I was speaking to one of my colleagues in the office this morning and they said that the opening of Melaleuca and the opening of Wandoo has relieved a significant amount of pressure, and there is a less tense and less heightened environment within Bandyup now. But that is largely anecdotal; that is not based on anything other than a brief conversation this morning talking about Bandyup and how it was going. But I think it is worthwhile sharing.

**The DEPUTY CHAIR:** Yes, thank you. Again, on page 12 of the annual report, it outlines some problems in the transition to the new re-entry services contract, the ReSet consortium and some reductions in the scope of services. What has the office's ongoing monitoring shown about the continued transition to the new provider and the new scope of services?

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**Mr Ferguson:** That was what I was referring to a little while ago when I said there were some issues with respect to the transition of service providers. It was particularly in relation to the re-entry services where there was some uncertainty for quite a period of time. Certainly, those issues appear to have resolved themselves and the ReSet consortium appeared to be delivering a reasonably good service across the estates. The issues with the contract transition were specific to a period of time but since then, they have had a chance to bed those services in. The concerns that we mentioned in the annual report appear to have been largely ameliorated.

[11.00 am]

**The DEPUTY CHAIR:** I will quickly move on to mental health services. At the 2018 hearing—page 12 of the transcript—it was advised that the office of the inspector was in the process of doing a review, focusing on the transport of prisoners to Graylands, which had morphed a little bit into talking about the problems with mental health in general in custody. The report of this review was tabled in September 2018. One of the recommendations of that report was for an increase in the number of secure forensic mental health beds. The report noted this alliance with the “Western Australian Mental Health, Alcohol and other Drug Services Plan 2015–2025” and everyone who responded to the draft report appeared to support this recommendation. To alleviate pressure in the interim, the report recommended that lower risk people should be diverted into other hospital settings. What has been the response to the September 2018 report and are the recommendations being implemented?

**Mr Ferguson:** Certainly in relation to the diversion of people into other facilities, we would have to take that on notice because I am not sure what has happened there. There has been discussion. I understand that that discussion has largely occurred in the health setting. I am personally not aware of exactly what has transpired in that space.

**The DEPUTY CHAIR:** Okay. If you could take that as question on notice 4, into how other low-risk people should be diverted into other hospital settings.

At this point, I am going to move on to the Bandyup report, because I am just conscious of time and that we are not going to get through it all. At this point, we will move into private session.

**[The committee took evidence in private session]**

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