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Western Australia

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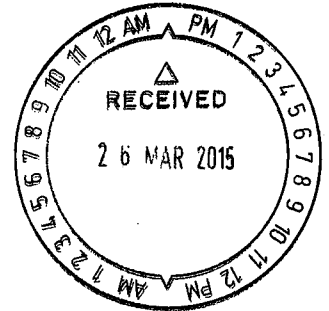
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24 March 2015

Hon Liz Behjat MLC  
Chairman  
Standing Committee on Public Administration  
Legislative Council  
Parliament House  
PERTH WA 6000



By email: [lcpcac@parliament.wa.gov.au](mailto:lcpcac@parliament.wa.gov.au)

Dear Hon Liz Behjat MLC,

**INQUIRY INTO THE TRANSPORT OF PERSONS IN CUSTODY IN WESTERN AUSTRALIA**

I refer to your letter dated 27 November 2014 requesting written submissions on the terms of reference for the above mentioned inquiry.

In the past, deaths of persons in custody whilst being transported, particularly where there are links between the death and a vehicle that is not fit for purpose, has been a serious concern. We therefore welcome this inquiry into the transport of persons in custody in Western Australia and thank you for the opportunity to respond.

- a) **Oversight and management of the Court Security and Custodial Services Contract, including subcontractors, by the Department of Corrective Services.**

We are not in a position to make comment in relation to this term of reference.

- b) **Whether the current scope of the contract adequately meets service demand.**

We are of the view that the current scope of the contract does not adequately meet service demand and the particular issues are expanded on in part d of our response.

- c) **The interaction between stakeholders in the performance of the contract.**

Communication between court staff and custodial staff

We have concerns about communication issues between court staff and custodial staff, particularly when breakdowns in communication result in persons incorrectly being detained in custody.

An example is where a person in custody was transported from court to prison on a remand warrant that was no longer valid. The person had been in custody on a remand warrant. They were subsequently granted bail for the duration of a trial. It appears there was miscommunication between custodial and court staff which resulted in the person being held in custody overnight on the original remand warrant despite bail having been granted.

Communication between stakeholders is paramount to the performance of the contract and it appears that the communication between stakeholders, specifically court staff and custodial staff needs to be reviewed. It is our view that handover protocols should be reviewed and specific training for both Department of Corrective Services and Serco staff be considered.

#### Duty of care for prisoners moving between prison and court

We have received complaints from persons in custody, particularly those appearing in court for trial, about access to food.

In particular we note that during trial, persons in custody are transported to court early, therefore missing breakfast at the prison. When they arrive at court, persons in custody report being told by custodial staff that it is not their responsibility to provide them with food. They then return to prison, after a full day in trial, missing dinner as a result. In these instances persons in custody have reported receiving one sausage roll in lieu of dinner. In cases where trials run for a number of weeks, this has been a recurring issue on a daily basis.

As the failure to provide persons in custody with appropriate meals could seem to be a failure to provide necessities of life as required in the contract, we suggest that Department of Corrective Services and Serco review provision of meals for persons in custody travelling to and from court.

#### Handover of persons in custody to Hakea Prison on weekends

We understand that on weekends the reception staff at Hakea Prison will not accept handover of persons in custody being transported by Serco from Perth Watch House after 4pm on a Saturday and 3pm on a Sunday.

A Bail Coordinator is present at court on the weekends to assist persons in custody who have received surety bail to contact their surety. We understand that the Bail Coordinator has been employed to reduce the number of persons in custody needing to be transported to prison and processed into the prison whilst they await the arrival of their surety. Due to the cut off time for acceptance into Hakea Prison, most persons who are granted surety bail from the Magistrates' Court sitting at the Perth Watch House are still transported to prison in order to arrive at Hakea by the cut off time. We suspect this in turn creates additional work for staff at Hakea as they have to process persons in custody only to hold them for a number of hours at most until their surety arrives.

We suggest that this process is reviewed to improve efficiencies between Serco and Corrective Services.

**d) Implications for Department of Corrective Services on regional transportation of prisoners and contract scope.**

A concern has been raised by our staff about transportation of persons in custody in regional areas to court subsequently being released to bail without any assistance to travel home.

For example, regional Police stations such as Katanning, Gnowangerup and Ravensthorpe do not always hold persons in custody in their police station overnight. Instead the person is driven to Albany police station and then handover of the person occurs with Serco the following morning. The person then appears in court and if released to bail, they are released from the courthouse. It is a common occurrence that the person, unless they are able to seek assistance from an Aboriginal Legal Service Field Officer or an Indigenous Court Liaison Officer, is not provided with any assistance to travel home.

In an effort to assist persons in custody to travel home, we frequently find that Magistrates will remand a person in custody to appear in a court located closer to their home. For example if the person resides in Northam and has been transported to Perth to appear in court, the Magistrate will remand the person in custody to appear in the Magistrate's Court at Northam so that Serco will transport the person back to their home town. The concern with this practice is being remanded in custody to be transported home results in the person spending at least one night in custody when they would otherwise have been released to bail. This places people residing in regional areas at a disadvantage simply because they need assistance to travel home.

In our view the contract scope needs to be widened to allow for the optional return transport of persons who were in custody back to where they were initially transported from, particularly in regional areas.

**e) Any other related matters.**

Transport of prisoners to court

We note that under schedule 6, sections 3, 7.1 and 7.3.2 of the contract, persons in custody are to be delivered to courts at least thirty minutes prior to the time scheduled on the warrant to allow sufficient time for consultation with legal representatives and other required visits. Despite this, in our experience, prisoners are often not transported to court on time.

As an example, in the Central Law Courts or the District Court building in Perth, it is a frequent occurrence that prisoners do not arrive to the court building until after the time of their court appearance. In addition, after their arrival, there are further delays whilst prisoners are processed and transported to custody cells within the court buildings by custodial staff.

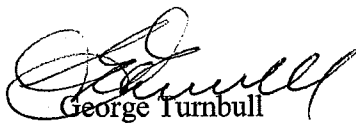
These transport delays cause delays in the time that court is able to start and also causes issues for prisoners being able to access legal advice and receive other visits as required before the court appearance.

Staffing of Perth Watch House

The Perth Watch house in Northbridge has been running for a significant period of time. We understood that court would sit on a daily basis from the court house in the building. This is desirable as the transport of persons in custody in a vehicle to and from lock up to Central Law Courts in Perth would be eliminated in the case of Magistrate's Court matters and this has a number of positive benefits for the persons in custody, custodial services staff and for the court. These benefits include reduced time spent organising and undertaking the transport of the persons in custody, reduced risk for custodial staff in transporting persons in custody and time efficiencies in accessing legal advice and appearing in court. For these reasons, we would urge consideration of future funding for the Northbridge Court to operate on a daily basis. Funding would necessarily need to include the Court, Legal Aid and the Aboriginal Legal Service as well as the Department of Corrective Services.

The difficulties for persons in custody in regional areas is highlighted in the submission from the Pilbara Criminal Law Services and we refer you to that submission for more detailed information pertaining to regional areas.

Yours faithfully,



George Turnbull  
DIRECTOR OF LEGAL AID