

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

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

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 15 JUNE 2015**

SESSION NINE

Members

Hon Liz Behjat (Chairman)
Hon Darren West (Deputy Chairman)
Hon Nigel Hallett
Hon Jacqui Boydell
Hon Amber-Jade Sanderson

Hearing commenced at 2.49 pm**Mr RAY WARNES****Executive Director, Court and Tribunal Services, Department of the Attorney General, sworn and examined:****Mr RONALD RANDALL****Director, Court Security, Department of the Attorney General, sworn and examined:**

The CHAIRMAN: On behalf of the committee, I would like to welcome you to our meeting. Before we begin, I ask you to take the oath or affirmation.

[Witnesses took the oath.]

The CHAIRMAN: You will have both signed a document entitled “Information for Witnesses”. Have you read and understood that document?

The Witnesses: Yes.

The CHAIRMAN: The proceedings are being recorded by Hansard and 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, and please be aware of the microphones and try to speak into them and ensure that you do not cover them with papers or make noise near them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today’s proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that 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.

We did not receive a written submission from the Department of the Attorney General to the inquiry, but we have now received from you a tabled paper here with various tags on it. I am assuming that is by way of your submission to the inquiry.

Mr Warnes: And also any reference I was going to make today to documents.

The CHAIRMAN: We want to talk about the CS&CS contract, and we have just been hearing from the Commissioner of Corrective Services that there is a governance working group established between DCS, DOTAG, WAPOL and Treasury comprising the joint management group, which is the senior officers, and a directors general governance group. What we have heard is that the joint management group of the senior officers is yet to meet, but the directors general governance group has been meeting. Is that your understanding of those groups as well, and do you participate?

Mr Warnes: That is my understanding. I have not participated in the directors general one, but I know my director general has participated in the meeting.

The CHAIRMAN: Do you know in broad terms the issues that were discussed at that governance group meeting?

Mr Warnes: I think one of the items was setting the work agenda for the senior officers group in terms of what issues needed to be explored at that operational level.

The CHAIRMAN: The December 2013 Inspector of Custodial Services report into court custody centres comments that responsibility for the CS&CS contract was delegated to DCS as a result of the split of the Ministry for Justice in 2005. However, DOTAG—if I can use the acronym—is the primary client for court services. What difficulties does this pose in practical terms, or is it easier to have a single principal to a contract regardless of which agency is the primary client?

Mr Warnes: I think it is easier for the contract entities to have a single entity to negotiate with. It would certainly be difficult, I imagine, for Serco to negotiate with us or with DCS. Who is the primary client would be an issue. It is also further complexed by the PPP arrangement that we have with the Western Liberty Group for the District Court building. Again, ultimately, the commissioner is responsible under the CSCS act for that and principal of the contract, so it makes sure the issue of transport and also custody management is with one person. There are issues that come up from time to time, but I think the governance arrangements enable us to table those issues we have and have a working group or working responsibility around resolving them.

The CHAIRMAN: You mentioned the Western Liberty Group. Does DOTAG have any input into Western Liberty subcontracting their services to G4S? Do you have any input into how that all works?

Mr Warnes: There is a five-year benchmarking exercise that gets done as part of that contract, so every five years Western Liberty Group can go back and retest the market if they want. We have some part in that benchmarking exercise if we do not think things are working very well.

The CHAIRMAN: You do not think they are working very well?

Mr Warnes: No; we think they are. It is G4S that are managing that within the District Court. There are times when the interplay between Serco delivering transport to the District Court and then the handover regime can cause us some issues.

The CHAIRMAN: What are those issues? Can you be specific on those?

Mr Warnes: The issue for us is one of lateness to court. That is ultimately what we worry about—that the judge is not sitting, waiting for a person in custody being moved to the court. Sometimes the handover point is where a delay might be occurring, so if they are late because they have been busy coming through traffic or late clearing from the prison, it is making sure that the judge knows that they are going to be late by 30, 40 or 60 minutes so we can work around our court listings, which inevitably we do, because sometimes it is well beyond the transport person's control coming late into court. The interface is then making sure that G4S quickly prioritise those offenders who are coming off a truck to get those we are waiting for within the courtroom environment.

The CHAIRMAN: When there is a late arrival to court for an appearance and it causes a disturbance to the court, the DCS keep records of that, and we have asked for all of those to be given to us on notice today as to the numbers that have happened in 2013–14 and up to date in this financial year. So far as DOTAG is aware, when there is a disturbance such as that and someone does arrive late to court—our understanding is that you are meant to arrive at least 30 minutes before your actual appearance time so that you are then given that chance to settle in and also to take advice from your solicitor who may be acting for you at that time—if there is a notification that someone is going to be late to court and that things need to be rejigged a bit, do you factor in that 30 minutes, or does that have to go by the board and the person basically is straight in there and doing what they have got to do for their appearance?

Mr Randall: Ordinarily, we will work with the court on the basis of having someone be at some other mention or court matter so the court can proceed at the commencement time. In terms of when that person arrives, that will depend on whether or not there are other matters being heard by the presiding officer or, indeed, as to whether or not the court is not hearing other matters. The presiding officer would then set aside and come back when the person presents themselves in court.

Mr Warnes: Further on that, one of the exhibits that I have given—No 4, I think, for you—is the late delivery information that we keep for the District Court. It shows predominantly that we are getting a service where people are delivered on time, but there are a number that obviously are not that we track, and there are usually exceptional circumstances why that is the case. The very first table, late deliveries to DCB from facilities—being prison—is the stats that I am referring to there.

The CHAIRMAN: DCB—District Court?

Mr Warnes: District Court building. On that exhibit also there is the middle table, late deliveries from Northbridge to the Central Law Courts—that is the Magistrates Court. That is one where you can see we have a lot more late deliveries. So we certainly get a lot of attention around late deliveries to the court building. Again, because of our warrants that are issued in terms of time of delivery, Serco do their best to make sure that those times are being delivered. There are no warrant times for the arrest from Northbridge and moving them to the Central Law Courts.

Hon NIGEL HALLETT: I just noticed that your collections are relatively high based on an hourly rate. Why is that?

Mr Randall: The contract stipulates that it is one hour after the last court. Within DCB, there are many courts and, as a result, it depends on whether or not there has been any transport through the day or whether or not there is ultimately transport later in the day that affects the person's time within custody after their court appearance. In essence, currently within the contract, the provider has only to comply with one hour after the last court, but, as you would appreciate, there are many people going to the District Court and there are many courts operating within the District Court. That means a number of courts would commence and a number of courts would close through the day.

[3.00 pm]

Hon NIGEL HALLETT: What would be the latest the court would finish?

Mr Randall: On those papers that we have provided you, we have attached a small case study in relation to a matter that Justice McKechnie dealt with and it highlights some of those times that you make reference to.

Mr Warnes: That is the last two pages.

Mr Randall: There was a five-week trial. As a consequence of the lateness of the collection of the person in custody being conveyed back to prison, it resulted in difficulties in them being able to see their counsel, being able to rest and being in a fit state to present themselves to court the following day. I think they are the last two pages on those papers.

Mr Warnes: We have provided that. That is for all the exceptional circumstances; not the norm. It shows a long trial. The demeanour of the prisoner coming back in day in, day out is certainly a concern to the judiciary. When a person goes back to prison, they still have to go through prison processing as well. Of course there are difficulties.

Hon AMBER-JADE SANDERSON: This is really useful data. It would be useful to have the overall deliveries, not just the late ones, so that we can gauge what the percentages or ratios are, if that is at all possible.

The CHAIRMAN: You are requesting the data concerning all deliveries, not just the late ones?

Hon AMBER-JADE SANDERSON: Yes, the total numbers. It does not need to be broken down by much.

The CHAIRMAN: Are you able to provide that on notice to us?

Mr Randall: Yes.

[*Supplementary Information No F1.*]

The CHAIRMAN: Deliveries from Northbridge to the Central Law Courts: my memory is there is a court located within the watch house. What is the situation with that court at the moment? When is that utilised; when is it not utilised? Is that for weekends only?

Mr Warnes: On Saturdays and Sundays.

The CHAIRMAN: Is that fully utilised at the moment?

Mr Warnes: On Saturdays and Sundays it is, yes.

The CHAIRMAN: Because I know initially when it first opened, am I right there were some issues concerning the transport of people there from other places?

Mr Warnes: I am not aware of that. There were issues about using the facility during weekdays. The Chief Magistrate has said that he will list a magistrate there when front-of-house security is the same as what it is in other courtrooms.

The CHAIRMAN: And it is not?

Mr Warnes: Not at this moment, no.

The CHAIRMAN: It could be a fully utilised Magistrates Court which would negate the need for there to be late deliveries from there to the Central Law Courts.

Mr Warnes: I understand Greg Italiano has met with Duane Bell and I, and is keen to deal with that issue—that middle chart—that shows some of the volume around Northbridge. I think we are investigating to say that we could actually be saving the money by not transporting, but using that money as front-of-house security which means we will then station a magistrate at that location.

The CHAIRMAN: That would seem to make a lot of sense. Is no-one seeing commonsense in that at the moment; is that what you are saying?

Mr Warnes: I think Greg Italiano, since he started with DCS, is working on that line.

The CHAIRMAN: My recollection of seeing it, it is quite a large courtroom and it is quite comparable to anything that is down at the Magistrates —

Mr Warnes: It is purpose-built and also has the AV facilities that would enable the regional police stations that have AV facilities, when they cannot get the local magistrate, to be able to link in via videoconferencing and have the matter dealt with.

The CHAIRMAN: That segues into my next question: you have given us some very good statistical data here with regard to the AV facilities in WA courts. We have been talking to a number of people about it today. You have given us—at tab 2, members, on the pages that we have been given—a whole rundown of where there are videoconferencing facilities and what rooms are available et cetera. What it does not tell us is whether or not they are fully utilised. For instance, today we heard evidence that in Katanning they do not use videoconferencing facilities, yet this would indicate that those facilities are available. Is there any reason why they would not be used?

Mr Warnes: I am trying to quickly find Katanning for myself.

The CHAIRMAN: It is in the great southern region on page 3 of the notes. Albany, Katanning and Narrogin are listed together.

Mr Warnes: Katanning has one AV facility. It is a type C+, which means it can do audiovisual conferencing, whereas only a “C” means it cannot really be used for videoconferencing. This one has been enabled to do that. I cannot tell you why that has not been used. I could attempt to get supplementary information; a breakdown in terms of utilisation figures by these locations.

The CHAIRMAN: If you could, I think that would be very helpful to us to make it a complete list as to the utilisation.

[*Supplementary Information No F2.*]

Mr Warnes: As you can see by one of the other reports, we do break down into jurisdictions, being Supreme Court, District Court and Magistrates Court. It is a matter of whether I can go down further into the specific Magistrates Court locations.

The CHAIRMAN: We have heard that using modern technology and videoconferencing really is probably the way that the world is headed in relation to this. I am assuming that at the same time we are headed this way that DOTAG is also very mindful of the ability of the person in custody to be able to understand the proceedings that are going on and that sometimes is the reason why we would not be using those facilities.

Mr Warnes: I think every judge would want to have assurance that a person understands; if they do not, they will call for an interpreter. That usually means bringing the person in person.

The CHAIRMAN: Members, are there other questions you have for the department that is not covered?

Are there any other areas you wanted to bring to our attention with regard to our terms of reference?

Mr Warnes: I only make the point that the very first tab shows you the judiciary are pretty strongly committed to the use of audiovisual links. The very first paragraph there is from the Chief Justice with respect to the Supreme Court, again wanting to minimise transport not just from a cost point of view but also from an inconvenience to the offender's point of view. If they have to get up for a 30-minute hearing, that could take a whole day process. The judiciary are very concerned about making sure people are not inadvertently transported that do not need to be.

The CHAIRMAN: This 3.2, that is a directive from the Chief Justice to judicial officers?

Mr Warnes: To the judiciary. 3.2 is a practice direction from the Chief Justice for all judges in the Supreme Court. Following that one, the Supreme Court also has a Magistrates Court, located near Stirling Gardens. Halfway through paragraph 2 of that is the statement again, for any matters that appear before the Magistrates Court at Stirling Gardens, with a preference for appearance by video link. The third one is again from the District Court—pretty similar to what the Supreme Court have—giving a direction that again AV should be the default, reserving the right for judges to —

The CHAIRMAN: That third one is actually identified properly, but the other two are not —

Mr Warnes: I think from our point of view the other issue we are working through with DCS is where a prisoner that is in the custody of G4S within the District Court, for example, needs to go to hospital, G4S will take them to hospital, but the contract at the moment is not necessarily clear on the handover. It is not necessarily G4S's responsibility to get them back to the prison. We are working our way through with DSC and Serco at the moment where that responsibility for handover lies so Serco can come to the hospital and take them by authority back to prison. That is probably the only other issue we have not touched on today: clearances from court at the end of the day and late deliveries. There has been a turnaround project in existence for 12 to 18 months where we have tried to look at what we need to change within court process, transport process, prison process to smooth the way a bit better than it was 18 months to two years ago. We have seen the effect of that in a positive way with what we are seeing.

The CHAIRMAN: And times and dates for returning accused, you have given us a case study to look at.

Mr Warnes: A case study more at the extreme end, too—it is not the norm. I would not want you to think that is the case. We have had another trial of a more recent time, post this one, that was scheduled for 15 days, I think. So, similar circumstances were going to happen, but DSC and Serco got on the front foot of that from the learnings of this one and they have made sure we have not had similar circumstances.

The CHAIRMAN: I think this might be the one we have been talking about today. Members, are there any questions?

Thank you so much. That is great information. We will send you a notice of those questions that we have put on notice. We will write to you about those. We appreciate you taking the time to appear in front of us today.

Hearing concluded at 3.11 pm
