

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

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



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 11 MARCH 2019**

SESSION ONE

Members

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

Hearing commenced at 2.48 pm

Professor NEIL MORGAN

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

Ms ROWENA DAVIS

Director Reviews, Office of the Inspector of Custodial Services, sworn and examined:

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

[Witnesses took the affirmation.]

The CHAIR: You will have signed a document entitled “Information for Witnesses”; have you read and understood that document?

The WITNESSES: Yes.

The CHAIR: These proceedings are being recorded by Hansard and broadcast on the internet. 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 talk into them and ensure that you do not cover them with papers or make noise near them. Also, if you could please try to speak in turn to make it easier for Hansard.

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. Would you like to make an opening statement to the committee?

Prof. Morgan: I would like to make just a few comments. You will have received a submission from us. I have no intention of repeating the details of that submission, but, as always, on reflection, you think of the things that you might have said as well as the things that you did say. I suppose one point that I would like to make is that in my position as Inspector of Custodial Services, in a sense my role is quite narrow, and narrower than your committee’s role; in other words, we are dealing with the end where people are actually in prison and the ideal situation would be where we have actually reduced the number of people going into prison in the first place for, particularly, drug-related crime.

I would also like to say that I welcome not only the opportunity to put in a submission, but actually the establishment of this committee. I think if it goes well, then it seems to me that it is the opportunity we need in this state for a bipartisan approach—listening to all arguments and then taking some, no doubt, quite hard decisions and recommendations as a result. However, I think it is a great opportunity, and having had the opportunity this morning to read some of the submissions to you, I think it is fair to say that they have come from everywhere. There are organisations that I had certainly never heard of previously that intrigued me, like the Australian Psychedelic Society,

which was a new one for me, alongside the usual suspects of the health department, the justice department and so on. It did seem to me that people are coming at things from quite different angles in one sense but actually from a uniform view—that we need to think about doing things differently. To the extent that we can contribute to that, then I am absolutely delighted.

One thing that we do not know entirely up front—except that we know there are a lot of people in prison with drug and alcohol problems—is that we do not know the actual figures. We are not very good at nailing down exactly what it is. I note the Department of Justice's submission to you has an appendix that talks about people in prison for drug-related crime. The problem I have with that is that they are talking about people who are in prison for drug offences like possession, sale of drugs, manufacture of drugs and so on. But, of course, a very, very large number of people who are in prison for offences like burglary are committing those offences because of drug issues. Actually nailing the proportion of people and what substances are at issue is extremely difficult, but speaking from experience in this job, on the parole board and on the basis of research, I remember that when I was on the parole board it seemed to me that upwards of 90 per cent of people coming before us had an alcohol or drug problem.

Hon MICHAEL MISCHIN: How many?

Prof. Morgan: I would say 90 per cent. I do not know whether that accords with your own experience, but when you look to the backgrounds, the multitude of factors that are contributing, particularly amongst Aboriginal prisoners, then invariably there is a substance abuse issue—and often multi-substances.

We talked in the submission to you about a number of issues. I did feel that the methamphetamine task force had come up with, if not the solutions, certainly a lot of really interesting and important ideas that are worth further pursuing. In terms of our particular submission, we identified, amongst other things, the problem of assessments for prisoners being well behind schedule, which means that they are not able to access the programs that they need. Again, going back a few years, in simple terms the frustration was that people were being assessed for programs and then the programs were not being delivered prior to their parole date. We now have actually an even deeper problem, which is that there is such a backlog in assessments that people do not even know what it is that they have to do, let alone meeting the need to deliver those programs, and that is a very significant issue.

I should also really have said something—and my apologies for not doing this—in terms of the prison population. We have a huge number of people in our prisons at the moment who are on remand. The total population of our prisons as of last Saturday was 6 935 people.

Hon MICHAEL MISCHIN: Male and female?

Prof. Morgan: That is male and female.

Hon MICHAEL MISCHIN: Adults?

Prof. Morgan: Adults only. It is 6 935 adult prisoners, male and female, and that is the total. Of those, 1 987 were on remand, so that is close to 30 per cent, and 4 851 were sentenced. In my submission, I guess when we were talking about the assessments being done and programs offered, we were really talking about the sentenced prisoner population, primarily, and one area that I think we need to do much better on is providing better services to people on remand. You only need to think of the cases involving prominent Eagles to think about a situation where people are going in on remand with drug problems, and some of them are out quite quickly, and some of them are in there for a significant period of time. I think, if you look at the remand numbers, they have gone up dramatically from about 17 per cent 10 years ago to closer to 30 per cent of the total population,

and I think—with great respect to the people who have been managing Corrections over the years and the governments—I do not think we have really got our head around what it is we need to do in terms of remand prisoners, and what it is we can do that is a shorter intervention. We are very much focused on programs that are of quite lengthy duration for sentenced prisoners, so I would like to see more initiatives in terms of that group who have come in, sometimes for short periods.

The CHAIR: Can I just ask some additional questions around that particular issue of remands?

Prof. Morgan: Yes, of course.

The CHAIR: We do have a line of questioning specifically about that. You noted that the meth action plan did talk about this—the fact that remand prisoners are not able to access treatment. Do you know why that is and do you know of any legal impediment to remand prisoners being able to access treatment?

Prof. Morgan: There are a number of reasons. One is that the legal impediment is that you are innocent until proven guilty. What that means is that we have traditionally taken the view that you cannot require people to do programs while they are legally innocent, and we have the same issue with sex offenders. So, if people are pleading not guilty to sexual offences or if they are putting in an appeal, having been convicted, the law generally says that they are entitled to pursue those legal avenues, and it is the same with people with drug and alcohol problems. That is the technical legal impediment, if you like, but what I have found is that certainly when it comes to drugs and alcohol, I think every prisoner I have ever spoken to has wanted to deal with it.

The CHAIR: So —

Prof. Morgan: So I think they are waiting, and if they are on remand for a period of time, I think it is an opportunity. The other practical impediment—sorry to cut across you—is that you do not know how long people are going to be there for. Rowena's team in the office did a piece of work—was it five years ago now?—looking at remand population, and the figures were really interesting. I am going to go off memory, which is not perfect, but we can correct the details with you later if we have to. My memory tells me that 25 per cent of people put in remand were out within less than a week, so they had managed to arrange bail, and roughly 50 per cent were out within a month.

[3.00 pm]

If it is okay with you, we will double-check those figures and get back to you. But it meant that you would get a lot of turnover. It is very difficult for the department to know how to allocate resources when you have that level of turnover. The sort of initiatives I am interested in, and the methamphetamine task force touched upon some of these, are whether there are, on occasion, ways to keep people out of prison and use some alternative placement for them instead of them going into prison on remand. I think they touched upon the idea of more diversion and treatment facilities. But, secondly, once people are in, even if you do not know how long they are going to be there for, does it not present an opportunity to try to connect them with services in the community? We tend to be holding people rather than proactively pursuing —

The CHAIR: What sorts of services or supports do you think would be appropriate for prisoners who are on remand?

Prof. Morgan: The first thing is that you may say that it is not directly related to drugs, but it is very clearly related in other respects, which is that if people are in prison for two weeks, they will potentially lose their job, they are worried about their house, they are worried about the kids—they are worried about a whole series of things going on in their lives. Connecting to those sorts of support services and making sure that people know what is going on, and they have the ability to sort out their cars, their dogs and all that sort of stuff—the very practical advice is what I would like

to see. Through that, you might take away some of those stress factors that affect their lives when they do go out. But I think, also, probably just a strategic focus that says, “What are the drug and alcohol treatment options for you when you get out? You may only be here for two weeks, but what do you want to do about the behaviour that got you in here?”

The CHAIR: One of the things you talked about was that people were not accessing drug treatment because they are deemed innocent, of course. But that is not the same as somebody coming in and going, “I’m innocent, but I still have a drug problem and I would like some assistance.” Are you advising the committee that even those people cannot access any sort of treatment within the prison system at the moment?

Prof. Morgan: People on remand have very few services; it is as simple as that. The focus, in terms of treatment programs, is on the sentenced prisoner population.

The CHAIR: Is that because there is just a limited number of people who are able to access it and therefore priority is given to sentenced prisoners?

Prof. Morgan: Priority is given to sentenced prisoners because of limited resources, plus the fact that you know they are going to be there. If you are going to offer, say, a two-month program, you know that you are not going to have somebody leave after two weeks. You can plan around the sentenced prisoner population much more than you can around the remand population.

The CHAIR: Of course, people can be held on remand for months and months as well. Is there no capacity for people who are likely to be long-term on remand to be able to access these services as well?

Prof. Morgan: I think you are reinforcing the point I was trying to make earlier, perhaps clumsily. I think we need to be more nuanced and think about how we can target this group. As you say, some people may well be out very quickly. For others, you are pretty sure they are going to be in there for six to 12 months, given the court delays, the nature of their offending and the fact that perhaps they were actually already on parole when they were charged with the further offences. Is it schedule 1 of the Bail Act—the schedule that says basically that if you are on parole or bail already and you are charged with further offences —

Hon MICHAEL MISCHIN: I think it is schedule 3.

The CHAIR: In any event, we do not need to worry too much.

Prof. Morgan: Whatever it is, there is a provision in the law that says that if you are out on bail or parole and you are charged with further offences, it is most unlikely that you will get bail.

Hon MICHAEL MISCHIN: I just want to tease that out a little more. I have to say that the presumption of innocence argument never impressed me all that much. If you are providing a treatment program, you can identify someone as having an issue, in the same way as you are going through the induction process and you are finding out their name, address, age, ethnicity and all the other information you need to find out, such as whether they have any communicable diseases and all that sort of thing. As part of a health assessment, they may or may not—it is up to them—reveal whether they have issues with substance abuse of one sort or another. I thought it was the limited resources that were always the problem, and the remand. To start any serious program, you have to have some commitment to someone wanting to do it and for a period of time. You said that, as a rule of thumb, from memory, about 25 per cent are out within about a week, so that is pretty hopeless in terms of setting up a program within prison, but presumably there may be ways of setting up a program outside of prison, if they are prepared to acknowledge that they have an issue.

Prof. Morgan: Yes.

Hon MICHAEL MISCHIN: Was it 15 per cent or 50 per cent who are out within a month?

Prof. Morgan: From memory, 50 per cent are out within about a month.

Hon MICHAEL MISCHIN: Within about a month. Again, that is possibly a little too brief to really induct them into a program, but it might bring them around to saying, “I want to have something outside of prison.” Of the ones who are in there longer, there is going to be a small cohort of them who will be remanded in custody as such. Are you able to say roughly what proportion of the prisoner population are remanded in custody, pending either sentence or trial, and for what periods of time roughly? They may be a candidate for it, particularly if it is, in a broad sense, a drug-related offence—there was an element of drug use or other substance abuse involved. Again, there needs to be greater liaison. Is there that greater liaison with facilities and support outside, where people who are identified can be referred to a centre where they can take on work on their problem outside of prison, even while on remand? Is that sort of thing available?

Prof. Morgan: First of all, what you have done is to again clarify what I said; what you said was very similar to what I said. I think you need different options for different cohorts of remand prisoners. If you know they are going to be there for a long period of time, you can deliver a program. If they are short-termers, I am in full agreement with you that the question is: what can you link them into in the community, whether it is existing initiatives or things that might come along? With respect, I think there is great value for the committee to perhaps explore what more could be done in that space. I also agree with you, although I said earlier the legal impediment is normally the presumption of innocence. I drew the parallel with sex offenders. They are slightly different scenarios, because somebody who is convicted of a sex offence is basically saying, “I’m not a sex offender; I’ve never done it.” Somebody who is remanded in custody or serving a prison sentence for burglary might be saying, “I didn’t do that burglary. I’m legally innocent, but I do actually have a drug problem.” Picking up what you said, I am in agreement that the legal-impediment argument can be finessed around those different scenarios. Perhaps if I take one step back: the system is so far behind on its assessments for sentenced prisoners that it is not even getting into the space, really, of what it can do better for remands. It does not have the capacity to deliver what it needs for the parole board in terms of sentenced prisoners, let alone new initiatives in the remand space. Does that help answer the —

The CHAIR: Professor Morgan, your submission does talk about the backlog of assessments making it difficult to be placed in a drug treatment program. Could you just briefly outline what the assessment process involves?

Prof. Morgan: There is a complex assessment process for people who go into Hakea. When they go in initially, they go through a basic risk assessment. They might be on remand. Once they have been sentenced, the system kicks in and says, “Okay, what programs do we think they need to do in order to reduce their offending behaviour? What prisons offer it? Where should we place the person?”

[3.10 pm]

The ultimate objective of any prison system, when it comes to programs, is to have the right person in the right place doing the right program at the right time. You will hear that mantra frequently. Actually doing that is very difficult. The assessments involve psychologists, prison officers, and there is a whole sort of holistic approach to that. What they have to work out is: which of our different programs is the one that is most suitable for this person? Is it a program that might last six months? Is it a shorter-term intervention program? On the basis of that, people are allocated to prisons, essentially, and told “You will be waitlisted for a program at this particular prison.”

The CHAIR: What is the current situation with the backlog; and also if you could distinguish between juvenile offenders and adult prisoners as well?

Prof. Morgan: I do not actually have the details on juveniles. With Banksia Hill —

The CHAIR: Excuse me, Professor Morgan: are you happy to take that question on notice, if that is okay?

Prof. Morgan: About juveniles?

The CHAIR: About juvenile offenders.

Prof. Morgan: Yes, we can certainly take that one on notice.

The CHAIR: I appoint that question on notice 2.

Prof. Morgan: Could I just clarify: we will need to request that from the department. I know you are seeing Tony Hassall, the commissioner, next week. I am happy to take it on, but we will effectively be saying to the department, “Can you give us that information?” and we will send it on to you. Are you comfortable with that arrangement?

The CHAIR: It is fine with me. The sooner the better.

Prof. Morgan: Okay.

The CHAIR: It might be useful for your information as well.

Prof. Morgan: Absolutely. I would say with the youth, there is less of an issue because of the numbers.

The CHAIR: Because of the much smaller population?

Prof. Morgan: The numbers are down at 140 or so, generally, these days. It is a little bit more individual focused, but when you are looking at the adult system, the backlog—did we give you a figure?

Hon MICHAEL MISCHIN: You said “a small number of assessments (approximately 50) being completed”. That is at the bottom of page 3. Then you go on to say that they are supposed to be conducted within 28 days of sentencing. By 7 January —

Prof. Morgan: There were 538 at that point.

Hon MICHAEL MISCHIN: — were due to conducted; “483 of which were past the 28 day requirement”. The other problem seems to be, if I might flag this as interesting, that Acacia is privately operated and it is not resourced to undertake assessments. It seems that that is at least partly because the department has taken the view it should be doing it rather than briefing it out to Acacia. I would like to hear your comments on that—when you get to it, sorry.

Prof. Morgan: I will talk about numbers first. Quite independently of this committee, we had been so concerned about the backlog that we wrote to the department in January requesting a monthly update on the status. One of the difficulties I have is that this only came in this morning. I am trying to get my head around some of the language. It is like everything in government: things that you think will be simple to count actually turn out to be subject to all sorts of different definitions. The current situation, on the advice given by the department to us today, is that there are 784 overdue initial individual management plans.

The CHAIR: That is a lot.

Prof. Morgan: Seven-hundred and eighty-four. You need to also add to that figure another 236. What happened last year is that the department, partly because of the backlog, decided that it would in fact exclude some prisoners from what is called the IMP process—the individual

management plan process. They took the view that it was not necessary for those prisoners to have an IMP.

The CHAIR: Why?

Prof. Morgan: They fell into a number of categories. That is a question that I would prefer that you ask the department when you meet them next week.

The CHAIR: Okay. Thank you.

Prof. Morgan: Sorry, I forgot where I was at with that. We have 784 overdue initial individual management plans. There is another 236 people who were excluded by the change of policy who are now being brought back in and are now assessed also to need an individual management plan. Forgive me if I sound confusing, but this is what I said to you: I am trying to get my head around the advice I only received this morning, but if you add those two figures together—the department itself is calling these both overdue initial IMPs—then you have a figure of 1 020. What I would also ask you to do is to put that alongside—going back to what we talked about earlier—not the total prisoner population but the sentenced prisoner population because you do not do IMPs for remands —

Hon SAMANTHA ROWE: That is from the 4 851 sentenced?

Prof. Morgan: Yes, which is 21 per cent. So, 21 per cent of people in prison at the moment have been sentenced and are overdue their plans. What that means is until you have had your IMP, as they call it—individual management plan—the system cannot work out what it is you need and what they are going to deliver to you. Do you remember I said earlier we used to get frustrated because people were assessed to need programs and the programs were not delivered? We are back at the stage now where the assessments are not being done to say what people need to do, let alone delivering.

Hon COLIN de GRUSSA: Of those, is it possible to work out how long they have been waiting?

Prof. Morgan: These are probably questions again that we would have to —

Hon COLIN de GRUSSA: It would have to be on notice, I guess.

Hon MICHAEL MISCHIN: Obviously, more than 28 days post-sentence.

Prof. Morgan: Sorry?

Hon MICHAEL MISCHIN: At least a month post-sentence.

Prof. Morgan: Yes.

Hon COLIN de GRUSSA: So, it is at least a month, but some of them were a lot longer than that.

Prof. Morgan: They are supposed to be done within 28 days. This overdue group are the people who have not met the 28 days. Given the figure we gave you was 483 and it has now gone up, you can bet that some of those 483 are still within that figure that they probably have not been assessed yet.

The CHAIR: Professor Morgan, how long do you estimate that a prisoner who has been sentenced usually has to wait until they can actually start a drug program?

Prof. Morgan: I do not think I could estimate that. What tends to happen is that to some extent the timing of the programs used to reflect certainly the parole eligibility date. That is why different prisoners might have different waiting periods. It makes perfect sense that if you are serving a three-year sentence—so, you are going to be coming up for parole after 18 months—then you should get into the program, potentially, before the person who is doing eight years, who has got six years to

serve before they get parole. You want to make sure that people are getting their programs before their eligibility date. It is an interesting question but I think the real question is: are people getting their programs in a timely way relative to their sentence and their expected eligibility date for parole?

The CHAIR: I understand that there are currently prisoners who are required to undertake drug programs in order to be eligible for parole and who are unable to get into those programs and hence parole is being delayed through circumstances beyond their control.

Prof. Morgan: Absolutely. The parole board, if you look at their website, place a good deal of weight on program completion.

The CHAIR: As you would expect, and I think as the community would expect as well.

Prof. Morgan: Yes. For many years, the system has simply not delivered programs on time. But as I say, it has got to the stage now where we have got the double whammy: there is the delayed assessment and then there is a question of whether you can get into a program.

Hon MICHAEL MISCHIN: How long has this backlog been going?

Prof. Morgan: We drew attention to it three years ago.

The CHAIR: Has it been getting worse since then?

Prof. Morgan: It appears to have been getting worse.

Hon MICHAEL MISCHIN: What was the extent of the backlog, say, three years ago, roughly?

Prof. Morgan: I would not be able to answer that without looking back at our reports, but we certainly drew attention to it—I am not sure; I could go back and crunch the numbers—in a report on Casuarina Prison that was released in 2017, and the inspection itself was done, from memory, in around August 2016.

The CHAIR: So, Professor, is it getting worse because we have more prisoners presenting with increased levels of acuity around drug use, or just increased rates of drug use, or is it also that there has been a reduction in service availability?

Prof. Morgan: First of all, we have had more numbers coming in, no doubt about it.

The CHAIR: So, it was the sheer numbers of prisoners?

[3.20 pm]

Prof. Morgan: The sheer numbers have added to the pressure, but I keep coming back to the point of the initial assessments. When more numbers of people were coming in, the system needed to put the resources in to do the assessments and deliver the programs. It is actually not difficult; it is not rocket science. There is a kind of terrible inevitability to this. Then, when you have staff shortages, and what we call adaptive regimes where they lock down parts of the prison because they are short of staff, and they reallocate staff from one area to another, what we found at Hakea Prison, which is the assessment centre, is that assessment staff were being redeployed to go and do something else, as general officers, because they did not have enough staff on the ground. So assessments became an area that you drew people away from in the same way that they would draw people away from training programs to deliver the basic custodial oversight. I have not forgotten the question about Acacia either.

The CHAIR: Just to be very clear, because of the lack of investment to keep up with the prisoner population, we have got an increasing number of prisoners with drug issues that are not having it treated in their prisons, which means that by the time they are actually leaving prison, they have not had their issues adequately addressed. That is the upshot of it.

Prof. Morgan: That is the upshot. People will not have done their programs when they leave, and, secondly, if you look at the issue of the prisoner population, the problem you have is that, because the parole board places a lot of weight on program completion it means people are actually staying in prison longer than they might otherwise have done —

The CHAIR: Which is expensive —

Prof. Morgan: — which is expensive. There is also a sub-issue here, which is that we actually have not been very good at doing high-quality assessments of what works. There is an assumption, sometimes, rather than robustly tested evidence, that programs actually reduce the risk of reoffending. That is another space that we should be getting more evidence on—what is it that works for whom and why?

Hon MICHAEL MISCHIN: Leave aside the Acacia one for a moment, but I would like to get the answer there. Speaking about the resource issue for assessments, I entirely agree that if you are getting a greater influx of people, you need more resources to do the assessments in a timely fashion and the like, and that will come in waves as well. You get a court sitting at the end of the month sentencing a raft of people to prison, and you are going to have a sudden influx of people into prison, and that puts strain on the system. At other times, a few might dribble through—breach of parole or something like that—and you will not necessarily have that. But from what you have told us, it is not a simple matter of just hiring more prison officers to do assessments. You have psychologists and you have other specialists that are making sensible decisions based on an individual approach to each prisoner. How long, roughly, do you happen to know, does a proper assessment take?

Secondly, do you have any observations as to the quality of those assessments and whether they are being done as effectively as they should be, and coming up with reliable assessments rather than simply trying to clear a backlog as quickly as possible and tick the boxes?

Lastly, it is one thing to have the assessment and to say someone needs a specific program. Are the programs available for those people to do them even if you are prioritising based on an earliest release eligibility date, and what is the quality of those programs? There seems to be a palette of different programs. Can you comment on whether those cover the field sufficiently? Are they overwhelmed with numbers, and so you are not going to end up, even if you have all the assessments done in a timely fashion, with a backlog somewhere else, or what? How does the system work?

Prof. Morgan: I would have to do some further work to find out. The first question, I think, was how long it takes to do a typical assessment, if I can put it that way. That is probably a question to ask the commissioner. I am certainly happy to go and do some further digging around if I can.

Hon MICHAEL MISCHIN: Twenty-eight days post-sentence is all very well, but if you cannot do a sensible assessment within 28 days, then maybe that needs to be looked at.

Prof. Morgan: Sorry, I took your question more to be how long—does it take two hours, five hours, eight hours or whatever?

Hon MICHAEL MISCHIN: That, too, but there are a number of factors that go into it.

Prof. Morgan: How reliable are they? We have never done any particularly detailed research on it, but the assessment regime is pretty rigorous. There is an argument, which, I think, needs to be asked, which is whether, in some instances the assessment regime is overkill. Do we need to be looking at a more nuanced approach where we invest more into certain areas because those offenders need much more by way of a detailed assessment, and can we do something which is shorter and just as effective for a number of other prisoners? That is certainly an area that has come up in conversation with the department many times over the years, but it has not yet been actioned.

Again, it is probably good to ask them directly. On the program availability, you are absolutely right. The problem is that historically, and still today, even when people are assessed, it is difficult to access the programs. So, you have got a lot of prisoners who know what they are required to do, and they cannot get them. So the answer is there is one backlog which is doing the assessments and there is another one which is actually program delivery.

I think your fourth question was about the quality of the programs, and I think I said earlier that I think we as a state actually need more robust research into what it is that works for whom and why. The reason I put it that way is that I think we rely a lot on saying that our programs are based on international best practice. That is fine, but 40 per cent of our prisoners are Aboriginal. That adds a different dimension to the questions that you are our tackling.

The CHAIR: Professor Morgan, on this issue, I am aware that Hon Samantha Rowe wants to ask some specific questions around the Pathways Program, so I might just hand over to her.

Hon SAMANTHA ROWE: Thank you, chair. Just quickly, because there are lots of questions for you, could you talk to the committee about how Pathways is meant to work—how it works in the prisons—and, I guess, your criticisms or observations.

Prof. Morgan: I am actually not really qualified to comment on that. Pathways is the main intensive program that the department has delivered. I note that the methamphetamine task force did look at this, and I believe their conclusion was that it had not been validated as being a particularly good program. But I think I am a little bit out of my depth on that. I am a lawyer, not a psychologist, for better or for worse, so my apologies for that.

Hon SAMANTHA ROWE: That is okay. Do you think there are other treatments out there that we should be looking at instead of Pathways?

Prof. Morgan: I think there are lots of people who are better qualified than me to actually give an answer to that. I think that we should be tapping in more—going back to my point about what works for whom and why, I think some of the initiatives recently around getting Aboriginal organisations to be more involved in program delivery—Wungening Aboriginal Corporation, and so on—that offers some interesting opportunities, because it may open the door to delivering, certainly in the south west, programs and reaching out to people who might have been uninterested or dismissive of those options previously. I am not a treatment expert. I repeat my concern that I am not convinced always by the argument that what we do is international best practice, because I think you have to say, “What’s our audience?” Is an international best practice model that has people sitting in a classroom, largely, going to work for a lot of our Aboriginal prisoners? The answer is no.

[3.30 pm]

The CHAIR: Can I just ask, from your observations how accessible are illicit drugs within our West Australian prisons?

Prof. Morgan: They appear to be reasonably accessible. The evidence is really difficult to come across. The department does its own drug testing of prisoners, and some of that is targeted and some of it is random. I think it is just an accepted fact of life that there are drugs in all our prisons; the question is how much and how is it getting in there.

The CHAIR: Your submission referred to needle cleaning agents. Are there any other harm reduction measures that are currently available in WA prisons that you think we should be potentially considering?

Prof. Morgan: I think in terms of the drug issue, I guess a lot of the focus has been on supply, and we all know that a holistic drug strategy is about supply, demand and harm reduction and so I think we probably need to put a bit more into the demand side and into the harm reduction side.

The CHAIR: What sort of initiatives around harm reduction in particular would you be recommending for our prisons?

Prof. Morgan: Certainly, I would recommend some option for cleaning needles. I mean, I know we are not going to get a needle-exchange program into our prisons. There is a lot of research done that points to the benefits of that system from a medical perspective, but it is simply not politically palatable and is said to carry other risks. The methamphetamine task force did recommend. I would recommend some sort of opportunities for cleaning needles. In terms of harm reduction, the other areas that are always talked about are improved education and improved programs, so it takes us back to the question of program delivery. We do have various programs when people go into prison and they are quite good, basic programs about the risks that you run if you share needles, if you get into this type of activity. The system, I think, has become much more tuned into the risks of prison-acquired hepatitis, so there have been a number of initiatives around that, which, again, the department's own people, particularly the health people, would be well qualified to speak to you about. But, as I say, I think the focus has been very much around reducing supply, and we need to be a bit smarter than that.

The CHAIR: More holistic.

Prof. Morgan: More holistic.

The CHAIR: Can you comment, when it comes to the delivery of programs as well as assessments and backlog, are you noticing any distinct differences between our regional prisons and the metropolitan prisons?

Prof. Morgan: No, not that I would be able point to.

The CHAIR: So it seems to be a fairly uniform problem across the board?

Prof. Morgan: I think it is a uniform problem. What I should just clarify on that however is that it has tended to be the practice at times to bring people down from regional prisons to Perth in order to do their programs, and that is to do with having a critical mass. But it is not ideal, when you think about it, to have people who really belong in Kimberley to be down in Albany, which is where they are often taken to, to do a program, especially if then that program does not get delivered

The CHAIR: And also confirming that the Pathways Program does not have any cultural-specific components either; is that correct?

Prof. Morgan: I do not know whether it has no culturally specific—but it was not culturally designed. A lot of the programs have been tweaked, for want of a better word, where they say they have put in a cultural dimension, but they are not actually built up from a cultural knowledge base.

Hon MICHAEL MISCHIN: How effective are these programs in your experience, or are you not able to comment?

Prof. Morgan: I think I can only repeat what I said earlier and I keep going back—it frustrates me enormously that we do not have enough robust evaluations of what works for whom and why. If we go back to many, many years ago when I was on the parole board, the board was constantly being asked to deny people parole or put their parole off until they had done a sex offender treatment program. As you would have done, I said, "Where's the evidence that it works, cause you're asking me to do two things here? You're asking me to release somebody because they've done a program and you're telling me it reduces their risk. I want some evidence that that is the case, particularly

when I look at their record. On the flipside of that, you're asking me to keep people in for another two years because you say that the program that you haven't yet delivered to them will reduce their risk." I have to say, when the assessments of those programs were done, they often did not show the kind of dramatic effect that you would hope.

The CHAIR: Do you have an overview of either Australian or international best practice of what drug treatment does work within prisons?

Prof. Morgan: I do not have an overview of international best practice or Australia. I think the thing we need to do is trying to cater for those individual needs. I mean, the dynamics of people coming from the Kimberley are very different from people here. I do not like the word "holistic" very much, but we need to be holistic about the drugs that we talk about too and the addictions, because time and time again you see the multiple addictions. We are not just talking drugs and alcohol; we are talking gambling. The things that often go together in this package are incredibly destructive.

Ms Davis: Can I just jump in? We did do a piece of work back in 2013 on recidivism rates. We looked at treatment programs at the time. When we did that, what we discovered was that the people in the programs area did make a very concerted and robust effort to get international best practice to support their programs, so we were confident they were getting what they could. We were not confident at all that then it was being evaluated afterwards, and that was the criticism we made at the time and, as far as I know, nothing has changed since then. It was really, really difficult to tie the effectiveness of the treatment program to recidivism. That is a whole minefield of what could have and could not have gone on.

The CHAIR: So it is a little bit of flying blind in this space then, from what you are describing to me.

Ms Davis: Yes.

Prof. Morgan: To some degree. Sorry, can I just add something to what Rowena said, which is I think it would be wrong to put all your eggs in the treatment basket, too. I think what the evidence does tell us is that it is around a whole load of other factors as well. The criminologists talk about what they call the desistance literature. Traditionally, what criminologists did and psychologists did was to say, "Why did this bloke or this woman commit this offence? Why did they do what they did?" They try to get into their psyche. The really interesting question is: Why do people stop? Why do they desist, particularly if it is somebody who may have had records through their younger years up to, say, the age of 25 or 28 or so, why do some people stop? And so, it is often not to do with the treatment programs—that may be part of a package—but it is to do with what you offer by way of support to people upon release and the networks —

Hon MICHAEL MISCHIN: Sometimes they grow up!

Prof. Morgan: Yes, they grow up.

Hon MICHAEL MISCHIN: Or form relationships that are meaningful to them.

Prof. Morgan: Yes. I mean, I am all for setting up an app on dating while people are in prison because love is the thing that helps people see the truth and the way to behave.

The CHAIR: Love will sort all sorts of things out.

Hon MICHAEL MISCHIN: That sounds like a John Lennon song!

Prof. Morgan: It does, does it not? Seriously, I think it is a whole set of different things. I think treatment programs are part of it, but I think we need to wrap it around with enough support around the basics.

Ms Davis: I think this is something the methamphetamine task force really did do quite a bit of work on because they have made the very clear comment that you can do the best program in the world, the person can be very, very successful at it, which can also happen in custody, but if you return to the same environment that you were in before you left, it makes it very hard.

The CHAIR: Of course. Having said that, we are interested in exploring the models that may or may not work. We have got, of course, the therapeutic community model, which is being used at the Wandoo reintegration prison. You may be aware that we will be meeting with Cyrenian House after this particular hearing. Could you please give me some of your thoughts about how that program is working? We are aware that we have had the first graduation from that therapeutic community only recently.

[3.40 pm]

Prof. Morgan: It is early days, and again you need longer-term evaluations, but it is very promising. That is about all I can say. I like the model.

The CHAIR: What do you think are the elements of the model that are leading to its early indications of potential success?

Prof. Morgan: I think it is the engagement with Cyrenian. Wandoo previously, when it was a facility for young men, also had that model where they were engaged with the not-for-profit sector, so you are delivering a more holistic program—get that word “holistic” again. It is engaging the agencies that offer you the potential for support on the outside as well.

The CHAIR: So it is that throughcare element?

Prof. Morgan: It is that throughcare, but it is very individualised. What Wandoo is doing really well with the women now, and what it had done previously well as a young men’s re-entry facility, is that every young person, and now every woman there, is treated as an individual. They know now, and they knew previously, about every single person; they knew their strengths and weaknesses and what the issues were. I think that is probably what leads not only to the women having recently graduated, which was terrific, but that incredible sense of empowerment they get. For the first time in their lives, they have actually been recognised for something instead of being told off. That is priceless. We take that stuff for granted. I remember going to a graduation of some women at the Alice Springs prison—it is a dreadful prison. It was incredible—the program they had done and the pride. It just made the hair stand up on the back of your neck to think about having witnessed that. I think those are the ways that you can chip away. When you are in a big prison—Acacia is now 1 500, Casuarina is nearly 1 000 and is going to go up to 1 500, and Hakea is almost a kind of court-servicing treadmill that is just keeping people for a short period, but it is again the best part of 1 000 people—it is very hard to get that individualised treatment.

Ms Davis: It is also, for want of a better phrase, a 24-hour model. What you are doing outside of just the classroom program counts—how you interact with one another et cetera—so you are getting a much bigger, broader foundation of what will set you up in a positive manner on the way out, as opposed to what we generally deliver in the prisons.

Hon MICHAEL MISCHIN: I would like to find out a little more about Acacia.

Prof. Morgan: I knew that was coming.

Hon MICHAEL MISCHIN: As I understood, it is one of the better operations. It is not allowed to undertake its own assessments. A lot of the backlog appears to be at Acacia. Is there an argument for outsourcing these sorts of assessments to professionals? Is there a shortage of people within the department to do it because they cannot find people willing to join the department with that skill

set? Are there others who could do these sorts of triaged assessments? You have mentioned the nuanced one of being able to say, “This is someone who knows they’ve got a problem; this is a relatively cheap, quick program we can put them on. This one is going to need more work.”

Prof. Morgan: I suppose the in-principle decision is that the state feels that whilst it is prepared to outsource prison services, it really ought to be responsible for assessing what people need to do. That is the assumption underlying it. I think we have reached the point now where we need to be looking at how we clear the backlog. As you say, if there are 500 or so people at Acacia, then at the moment they are sending people up from Hakea. They travel up to the prison; that is an hour and a half in the car each day to get there and back. It seems to me we should be looking at bringing them in and making sure that they deliver those assessments to the standards that we expect. In the other privately-operated prison, now Melaleuca, we do actually allow Melaleuca to do some preliminary assessments of women, even though they are a much less experienced contractor. Whatever the arguments in theory might be that the state ought to retain oversight and control of those assessment processes, I think we have reached the point where we have to do something. That, of course, would be a matter that again needs to be raised with the department itself.

Hon MICHAEL MISCHIN: It is not a practical problem—a policy decision.

The CHAIR: On that, we might need to wrap up the proceedings. I want to thank you for attending today. A transcript of this hearing will be forwarded to you for correction. If you believe that any corrections should be made because of typographical or transcription errors, please indicate these corrections on the transcript. The committee requests that you provide your answers to the questions which have been taken on notice when you return your corrected transcript of evidence. If you want to provide additional information or elaborate on particular points, you may provide supplementary evidence for the committee’s consideration when you return your corrected transcript of evidence.

Professor Morgan, I would like to take this opportunity to thank you for your years of service as our Inspector of Custodial Services. I noticed your impending retirement and I really wanted to put on the record what a fantastic job you have done. The state has been very, very lucky to have your services. I also note that you have been internationally recognised for the work that you do, as well as the wonderful work you have done here in Australia. I wanted to particularly take the time to thank you for that. Thank you to both of you again for coming here today.

Prof. Morgan: Thank you for the generous comments. It looks as if I will probably be in the position through until around the end of April rather than the end of March, as the processes go through for my successor. Can I just say I have always treated my engagement with Parliament as really crucial. I mean, I am accountable to Parliament and I treat that very seriously. I thank you and all your colleagues elsewhere in the house for the respect that you have always shown me and the interest that you have shown in the area. Thank you very much.

The CHAIR: Thank you.

Hearing concluded at 3.46 pm
