

**COMMUNITY DEVELOPMENT AND JUSTICE
STANDING COMMITTEE**

**“MAKING OUR PRISONS WORK”: AN INQUIRY INTO THE EFFICIENCY
AND EFFECTIVENESS OF PRISONER EDUCATION, TRAINING AND
EMPLOYMENT STRATEGIES**

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 15 SEPTEMBER 2010**

Members

**Mr A.P. O’Gorman (Chairman)
Mr A.P. Jacob (Deputy Chairman)
Ms M.M. Quirk
Mr I.M. Britza
Mr T.G. Stephens**

Hearing commenced at 10.02 am

MORGAN, MR NEIL ANDREW
Inspector of Custodial Services,
examined:

ACRES, MR JOHN
Director of Operations, Office of the Inspector of Custodial Services,
examined:

GIBSON, MS NATALIE
Acting Deputy Inspector, Office of the Inspector of Custodial Services,
examined:

The CHAIRMAN: Good morning. Thank you for coming in again. This committee hearing is a proceeding of Parliament and warrants the same respect that proceedings in the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as a contempt of Parliament. Have you completed the “Details of Witness” form?

The Witnesses: Yes.

The CHAIRMAN: Did you receive and read an information for witnesses briefing sheet regarding giving evidence before parliamentary committees?

The Witnesses: Yes.

The CHAIRMAN: Do you have any questions relating to your appearance before the committee this morning?

The Witnesses: No.

The CHAIRMAN: Do you have any opening statements that you would like to make before we throw some questions at you?

Mr Morgan: No, other than to say thank you for inviting us back. I think there was probably a bit of unfinished business last time, and we are happy to be back.

The CHAIRMAN: There was, and hopefully we will get back to that point. First of all, I will throw it over to Margaret as she has a couple of questions in particular about female issues in prisons.

Ms M.M. QUIRK: Professor Morgan, there was certainly a trend maybe five or six years ago, which was acknowledged within the Department of Corrective Services, that women prisoners had to be treated differently. I think there was certainly some progress made, and opening Boronia was one of the areas in which some progress was made. Is the current overcrowding prejudicing the capacity, especially of regional prisons, to maintain, if you like, that differential in treatment?

Mr Morgan: Certainly, the current levels of overcrowding are quite severe in the women’s estate. It is not just in the regional prisons; it is actually across the whole system. I believe that last time we provided some figures on the distribution of women across the estate. Probably the most severe overcrowding has been at Bandyup. At the end of July, there were, I think, around 90 women —

Ms Gibson: Ninety-one.

Mr Morgan: — sleeping on mattresses on the floor. Very recently, a mattress-inspection process was carried out and our understanding is that something like 140-odd mattresses were removed on the basis that they were mouldy, soiled or damaged. I think that indicates the difficulty that the system had got into. It had even got to the stage at Bandyup at which the prison had ordered or intended to order a machine to put plastic covers on mattresses. That was apparently subsequently rescinded. The department is currently going through a process of redistributing the women, if I can put it that way; so that the grossest overcrowding in Bandyup is in unit 1 but they are now redistributing this, so that unit 2, which has in the past been a more privileged unit, will take more women. Unit 5, which is, if you like, the top end of the real estate at Bandyup—it is the so-called village—will also take a number more women.

Ms Gibson: I think it is one per unit.

Mr Morgan: It may be two per unit. I forget the precise figures; we can find them if you like. The new units in unit 5 will be to some extent double-bunked and Boronia will also take around 12. Our understanding is that they are taking around four a week extra to build up to that.

The CHAIRMAN: Does that have an impact on the operation of Boronia, because Boronia essentially has a pretty unique set-up and until now they have never been asked to double-bunk? Is that correct?

Mr Morgan: They certainly have a unique set-up, and I think we touched upon this last time as well. Your question poses a dilemma. You are faced with a really difficult situation at the moment whereby you have women at Bandyup in terribly unsatisfactory conditions and you have Boronia, which is a flagship and for good reason. Do I think Boronia can cope with something of an expansion? Yes, I do, but it is certainly not what you would advocate. It is a sign that the planning has not really been there for the increased number of women prisoners. We have designed in some highlights, particularly unit 5 at Bandyup and Boronia, but in the overall picture, that is a relatively small number. The number and proportion of women in prison have been increasing quite rapidly over many years. It was quite predictable that this would continue to be the case. Unfortunately, it is my view that in the past 12 months, although there has been a lot of focus on expanding prison beds, there has not been enough focus on the needs of women.

Ms M.M. QUIRK: That was going to be my next question. This inquiry obviously is about programs in prison and trying to enhance rehabilitation and limit the risk of recidivism. You would agree with the proposition that the day-to-day juggling of finding beds and spaces is preoccupying the department's time to the detriment of implementing these long-term programs or other measures.

Mr Morgan: I think the point is that it obviously makes it increasingly difficult to meet those long-term program goals if, as you say, you are constantly looking for places to put people.

Ms M.M. QUIRK: Just in relation to Boronia, are you aware whether that is currently at capacity or is it below? It usually operates below.

Mr Morgan: It was interesting in that it had been a very slow build-up from its opening until it became full capacity. It was full not long before we did the inspection last year.

Ms Gibson: For the past 12 months it has basically been at capacity, and they have now started the extra fill.

Ms M.M. QUIRK: So capacity is what—75?

Mr Morgan: Seventy.

Ms Gibson: Seventy.

Ms M.M. QUIRK: Of that, how many are Aboriginal women?

Mr Morgan: Again that has fluctuated. But at the time of the inspection last year, it was around 20, I think. That number has dropped back subsequently. It moves up and down a bit, but it is always well below the proportion of Aboriginal women as a proportion of female prisoners.

Ms M.M. QUIRK: Do you think that is in some way a systemic problem that there are rules or guidelines as to who goes to Bandyup and that disproportionately impacts on Aboriginal women?

Mr Morgan: There are a couple of ways to look at it. In our report on Boronia last year we said that we should leave out of the equation the women from regional prisons, because you can run the argument that however good Boronia is, it is actually better to keep the women closer to home. Even when you discount that group, there certainly seems to be a smaller number than you would expect reaching Boronia. That is going to be a good deal to do with security and classification systems.

Ms M.M. QUIRK: Do you think that there are things within the classification system that embed, if you like, some level of systemic discrimination?

Mr Morgan: I think the difficulty is that you obviously have a situation in which to some extent the classification system is based on static matters; they are things that have happened in the past. It is a bit like when a court looks at a person's criminal record; it has happened and it is there. Again, if you have people with reasonably extensive criminal records, that is clearly a static factor that is quite difficult for them to overcome. I might invite John to add to that.

Mr Acres: It is an interesting question and it is a very difficult one to find a reasoned answer to. I think the reality is that there are wider things at play than simply how prisons construct classifications that drive the reason why there are fewer women at Bandyup, such as societal issues, domestic violence and those sorts of risk issues that mean that placing an Aboriginal woman at Boronia carries a higher level of risk for the department to manage. They tend to come up higher in the classification tool as a result of their more social systemic issues that are driving it more than the actual tool or any notion of classification itself.

Ms M.M. QUIRK: Can I put a specific case to you, John? It may well have changed. Let us say, for example, that when an Aboriginal woman was arrested, she might have been drunk and hit a police officer when she was put in the van. That would then give her some history of violence, which would then impede her classification, which is transferred to somewhere like Boronia. Is that sort of thinking still in existence or have you managed to convince them otherwise?

Mr Acres: It has been much reduced in the new tool that is used. The new tool is more dynamic and is more reliant on in-prison proof of behaviour than it has been in the past. It is less reliant on some of those static issues that the inspector has raised. There is more than one gate for Boronia. The first gate is their security classification, so they need to be minimum. But not all minimum security women make it to Boronia and so there is more than just their security classification that comes into play.

The CHAIRMAN: Neil, we have been made aware that there are fewer women taking up senior positions in DCS, and there is no female representation on the prison officer transfer committee and there has not been for some time. Do you think this is having an impact on how women, both prisoners and officers, are treated within prisons?

Mr Morgan: That is a really interesting and quite difficult question for me to answer when I am not actually in the department. But what I would observe is that this office was very concerned when the position of director of women's prisons was abolished. We believe that that position had offered a great deal of drive in the area of women's imprisonment.

[10.15 am]

It had helped Boronia get to where it has. It had helped drive some of the initiatives at Bandyup. I have to say, sitting where I do, it seems to me that if that position had not been abolished there

would have probably been a stronger advocate in the last 12 months or so for more planning around the women's estate. As I said earlier, it is a little difficult to understand why, given the numbers going the way they are, that the focus has been almost entirely on increasing capacity for the men. In terms of the female representation on the committee—do you know?

Ms Gibson: When we go into the prisons and do our inspections we routinely meet with women staff as a separate group, just that historically there has been a lot of issues around women in what has been a male-dominated workplace. While the proportion of female staff is going up slightly, when we speak to women on the ground they are very adamant about gender not making a difference and how much of that is the expected hubris that their male colleagues should expect of them versus how they really perceive things. But there is some feeling around lack of role modelling for younger female staff. Given that there has been quite a large recruitment drive and there are a lot of younger or less experienced staff now in proportion to the overall workforce, there has been voiced in some of those groups a distinct feeling about lack of strong female role models for them in the higher ranks.

The CHAIRMAN: It seems pretty extraordinary to me that you do not have a senior woman in senior management in an organisation that caters for both. Obviously there is a much smaller percentage of women prison officers but surely it does not stand to reason that you actually abolish —

Ms M.M. QUIRK: There is no career path in DCS. Whenever there is a senior appointment, they get them from outside. Anyway, I am only editorialising.

The CHAIRMAN: Even the director of women services, surely they could maintain that position. Is there a particular reason they got rid of it?

Mr Morgan: You would have to ask the department that question. I do not know the answer to that. The view seems to be that they can divest those responsibilities to other people but if people are already running overcrowded and complex prisons, it is not easy for them to take on those additional —

Ms Gibson: The model they have taken on is to delegate to superintendents' portfolios, who are supposed to take responsibility for various areas. One of those has been women's custodial estate. Neil's point is around the fact that every facility for the past 18 months has been trying to crisis manage and cope. So, being able to strategically take on board those issues in such a diverse range of facilities, the women in regional prisons in my view seem to have suffered a lot. When you get to the point where the main women's metropolitan prison is also struggling, and I suppose the point I would make is they abolished that position, they handed it to the position of superintendent of Bandyup, of whom the whole management team has been male for the past 18 months to two years. When you read the department's own strategic women's plan it talks about "women centred" and how having a female perspective of that is so key to that, yet you have no female person representing that or driving that. The contradiction and the almost futile nature of having the position stands out from our perspective.

The CHAIRMAN: It is kind of sending it all back 20 years really, is it not?

Ms Gibson: It has, yes. The position was only in existence for a relatively short period of time. Within those seven to eight years that it was around, it achieved mammoth amounts compared to what we found at Bandyup, for example, when we did the first inspection there. In the three years that the position existed between that inspection and the subsequent one, the change was amazing. That was a demonstration to us about what happens when someone takes ownership.

The CHAIRMAN: Natalie, you mentioned crisis management. Are you suggesting that some of our prisons, if not all of them, are now in a crisis situation with the level of muster that is there at the moment?

Ms Gibson: Over the past 18 months various ones have been. With the population easing off a bit now, there has been a bit more opportunity to sit back and try to do broader level planning. But there have been times where definitely prisons were very much running day-to-day, crossing their fingers and hoping nothing happened. We joked that a lot of the time the prisons only managed by the good graces of the prisoners really. They have just gotten on with it —.

The CHAIRMAN: That is not a good way to be, is it?

Ms Gibson: No, not at all.

The CHAIRMAN: We are relying on those people in the community who have been put in there for committing offences to actually behave in there just because they are in there.

Ms Gibson: You speak to some of the prisoners sometimes and they are quite up-front about it. They say, “We’ve just decided that we’re not going to cause any trouble.” That is their point of view anyway.

Ms M.M. QUIRK: We have a hot summer ahead—sorry, John.

Mr Acres: If I may add it is not simply the notion of the prisons being overcrowded from a prisoner population perspective. The department has also faced significant staff shortage issues which it has been working to address. Those staff shortage issues continue and have led to significant use of overtime in the department to try to address those staff shortage issues and deliver a safe prison environment in overcrowded prisons. The department has recently been looking at addressing that overtime issue through an across-the-board reduction in overtime which may have significant impacts upon the actual number of staff available in a prison on a given day.

Ms M.M. QUIRK: It also has occupational health and safety implications clearly as well.

Mr Acres: Yes

The CHAIRMAN: It also has implications for the education and training programs.

Ms M.M. QUIRK: That is what I wanted to go on with. Especially in the regional prisons—tell me if I am wrong—in terms of program delivery for women, you would have to say that was below par, would you?

Ms Gibson: It is all relative. It has improved from what it was but —

Ms M.M. QUIRK: Starting from a pretty low base.

Ms Gibson: — starting from a low base. They are putting more people through. There is some wider choice but some of the programs still are not female specific. They are the generic programs that are delivered across the board. There are a few more female-centric programs now but it is nowhere —

Ms M.M. QUIRK: But just anything at all—they are mostly getting something, are they, or not?

Ms Gibson: Yes, mostly.

Mr Acres: Education service provision has certainly improved for female prisoners in regional prisons. Work opportunities have improved in some prisons, but it is certainly nothing that you would consider to be across the board and proven outside the education. A number of programs are still only offered to women in the metropolitan area.

Mr Morgan: I think the other thing to add is that although there has been some investment in upgrading some of the female units in the regional prisons, they are basically small, claustrophobic, confined, almost cage-like. I was up in Broome recently. They have put a lot of money into it. The bottom line is it is still an unsatisfactory place for long-term stay. The infrastructure places inherent limitations on all prisoners, but especially on women, if they are a small group in an essentially male domain.

The CHAIRMAN: Are we actually setting some of these prisoners up for failure because we cannot deliver the services? We have them in cramped conditions, and it essentially sets up a bad atmosphere for them to re-enter the community.

Mr Morgan: I think it is “difficult”, whether one uses the term “setting them up to fail” or not. We are certainly not maximising the opportunities that imprisonment could offer to improve their chances of not returning to prison.

Mr A.P. JACOB: You mentioned Broome prison and the upgrade of the women’s facilities there. I was wondering if you had any comments about the proposed Derby prison. Obviously it has set aside a specific women’s area. Have you looked at the plans?

Mr Morgan: I have looked at the plans. In fact, I went to the site last week. Indeed we also took the opportunity while up there to travel out a little bit to talk to some of the local Aboriginal organisations.

Mr T.G. STEPHENS: Can I ask which ones?

Mr Morgan: We visited KALACC, the Kimberley Aboriginal Law and Cultural Centre, which is also linked into the Kimberley Land Council and various other language organisations up there. I personally believe KALACC is a critical player in this. The Derby prison site looks very good. It is a big site. I think the women will have a reasonable amount of space. There is clearly an investment also in resources for women in terms of health services. One of the challenges Derby will face is how many prisoners they take. It is very difficult to get a clear answer to that at the moment. It is designed for 150. Shortly after I took on this job I raised the question about how many prisoners would actually be at Derby. I was subsequently portrayed as having advocated double-bunking at Derby by certain people in the department. That is very far from the truth. I just wondered what the real numbers were likely to be. My guess is that it will creep up towards 200-ish. The key issue for me around Derby is not merely the Derby site, which is looking very good, but how this fits as part of a Kimberley plan. You should be looking not only at Derby but at Broome, at Bungaran work camp and at Wyndham work camp, and asking how these all mesh in together.

If we pick up the theme of the women, for example, one of the ideas at Derby is clearly that some of the women, if they are minimum security, can go out, but what about a women’s work camp? When I visited KALACC—I do not put ideas in people’s heads; to me there is nothing better than sitting around listening and talking to some of these old people, with their wisdom—they said, “What about a women’s work camp?” I do not know whether that is on the agenda but it is the sort of thing that, in our view, needs to be considered. In terms of the future it looks as though Broome may end up being primarily a remand facility. That seems to be a possible plan, so that most sentenced prisoners would go to Derby. Again, that is going to depend on numbers a great deal.

Ms M.M. QUIRK: That was certainly the intention, but things change.

Mr Morgan: There are real opportunities. I am certainly not going to get involved in a case of who is right, but there is a very different view in KALACC about the level of engagement by the department from what the department has said in evidence to you. There need to be bridges built there, in my view. The good side of it is that the person out at Broome prison who is responsible for the work camps has already developed quite good links with KALACC. There is a basis from the ground up, if you like, to build, but I think at the higher levels there is room for improved communication.

Mr T.G. STEPHENS: You mentioned the Kimberley plan to the extent you focused in on Derby, Broome and Bungaran. The department showed a preoccupation through its asset investment or management efforts and ambitions for the East Kimberley prison. I am interested in systems and interested in the fact that systems put pressure on government for resources of these custodial options. I am trying to work out where the pressure comes from within this justice portfolio for investment in the non-custodial sentence options, and the investment from government but

specifically through the justice portfolio, or the corrective services area, in things other than custody and work camps. The systems of government will keep delivering what the empires of government require. I am looking for where the locus is—can you identify for me where the locus is?

Mr Morgan: I am not sure whether I can identify the locus for you. Certainly the issue is a profound one. We seem to be prepared as a society to spend a lot of money on custodial facilities. The proportion we spend on non-custodial options is much lower.

[10.30 am]

Ms M.M. QUIRK: With all due respect, it was in the forward estimates before royalties for regions came along. We will just badge that.

Mr Morgan: I retract that. My apologies for that. The fact that a lot of money is being invested in juvenile diversion programs is to be welcomed. How you get a shift in that general focus is very difficult.

Mr T.G. STEPHENS: Is it not worth someone spending time on this? I am thinking of an organisation such as KALACC with its diversionary ambitions. This is not a question of politics. Both sides of politics have wrestled with this and have not been able to find the institutional response to success.

Mr Morgan: I would certainly like to see organisations such as that supported. They cannot continue to just be consulted for nothing and then have people go away and say, “Well, we’ve consulted them.” There is a real opportunity in the Kimberley. There are organisations there that want to do things.

Mr T.G. STEPHENS: Is it in your brief to report that comment that you have just made to the committee within your reports for the purposes of government?

Mr Morgan: We could certainly make general comments to that effect. The primary function of our office is around inspection of custodial facilities. We do not have any jurisdiction over community corrections or parole or any of those matters. There certainly is a view that we should stick to examining what is within our remit.

Mr T.G. STEPHENS: Is there no-one else in a comparable role to yours who can be an advocate for pressing for this?

Mr Morgan: No, there is not really.

Ms Gibson: For juveniles, we might look to the Commissioner for Children and Young People, who advocates around diversion quite a lot.

Mr Acres: There is certainly a timely question with regards to community justice’s movements in the Kimberley to provide a hub service and an expansion of presence in the Kimberley. In the past our office has urged the department as a Department of Corrective Services, which includes both prisons and community corrections, to take a whole-of-regional perspective. As the inspector points out, we are limited to what extent we can push that whole-of-agency view.

The CHAIRMAN: You mentioned that some bridges need to be built between KALACC and the department. Could you explain that a bit further?

Ms M.M. QUIRK: I could explain it actually.

The CHAIRMAN: I would like it on the record.

Mr Morgan: When we asked about the consultation around the development of Derby, they said, “They came and talked at us”—“at” was the word used—“two and a half years ago and we have not seen them since.”

Ms M.M. QUIRK: I want to talk about the lack of engagement with organisations such as KALACC. It is my experience, but I want to ask you, that the department is quite risk averse to

engaging organisations such as KALACC who may, for example, suggest some alternatives or other ways of dealing with things. Is that your experience? How do you think we can overcome that?

Mr Morgan: Yes, the department and the government generally are probably quite risk averse to some of those potential partnerships. The department has the overriding duty of care to people who are undergoing sentence, whether it is a community-based sentence or a prison sentence. The Ward case highlighted that above all. I think that does make departments risk averse because if they feel they have no control over what is happening on a community-based program, they will feel that they are running a duty of care risk. That said, where you have strong organisations such as this with a strong community connection and a strong law, and you are on their land, there are opportunities for doing a good deal more. I do not think that carrying on doing what we have been doing, apparently with little success for so long, is the way forward.

Mr T.G. STEPHENS: The definition of insanity.

Mr Morgan: Yes, indeed. Mick Gooda, the Aboriginal and Torres Strait Islander Social Justice Commissioner, is quoting that one a lot at the moment. When I did some work with the WA Law Reform Commission on the Aboriginal customary law project, one of the key things in that report was that you have two sets of laws in a lot of these places. They will not meet. It is not about “incorporating” Aboriginal law into our law because that would be quite offensive to Aboriginal people because it suggests we are “taking over” their law. Where there are two sets of law side by side, are there ways that on occasions you can get them to meet and get some positive outcomes? I do not see that drive having come in the aftermath of the Law Reform Commission report.

Ms M.M. QUIRK: Just on that point, this committee has received evidence that the department is in many ways delivering services that are targeted towards the non-Indigenous population and many staff are not culturally attuned. I think they pay lip service. They have the big celebrations in NAIDOC Week but in terms of the systemic issues, there is probably not enough acknowledgement that there needs to be some more targeted work around the Aboriginal population.

Mr Morgan: I think that is right. I also hate to be too sceptical but it is quite painful when you visit prisons and you hear prisoners talk about something having happened in NAIDOC Week. These are the sorts of things that should be happening all the time. There should be people coming in. There should be elders coming in. Why is there a kangaroo feast only in NAIDOC Week? Why does this one event take priority? We go into many, many prisons and think there are a lot of activities that could be enhanced throughout. Staff training in cultural awareness is significant. The difficulty is that if they are not Aboriginal people, especially if they are not people from the region, it is very difficult to train people—I have done a lot of work with Aboriginal people; I do not profess to be an expert or understand very much at all—especially when you are pulling people out of their regions. There are Kimberley boys in Casuarina Prison at the moment. We have a lot of boys from the Goldfields and beyond, especially down in Acacia Prison. With the best will in the world, there is a limit to what any prison can do in that context. The best they could do is probably get more elders and others coming in.

Ms M.M. QUIRK: That is certainly something that has worked in Canada. Elders have had a positive effect on reintegration and rehabilitation. Why do you think that is not happening more here?

Mr Morgan: I cannot really answer why it is not happening. I believe it should be happening more. Some of it is relatively straightforward. The difficulty we have in the South West, for instance, is that we have such a concentration of prisoners and young people in detention in the South West. Some of them do not come from here. There are a limited number of Aboriginal people who have the time to come in and out, especially when it is generally expected to be on a volunteer basis or just on the basis of repayment of costs. Aboriginal people tell you constantly that they are sick of being consulted. People “consult” constantly but it is hard to see where the resources are coming in to build up their actual engagement times. The Rangeview Remand Centre was an interesting

example recently. A number of people go in but there is precious little engagement from, say, Aboriginal elders going in with a very vulnerable group of young people.

Ms M.M. QUIRK: That is the very time when they would be quite influential.

Mr Morgan: In my view, more can certainly be done but the government also has to understand that Aboriginal people cannot keep doing things for nothing.

Ms M.M. QUIRK: Following a royal commission into Indigenous imprisonment in Canada, one of the measures that they brought in was mandating programs for Aboriginal prisoners. Along with the other suite of measures, they have virtually halved their Indigenous imprisonment rate. Do you think that is something we should be considering here—mandating a program for Aboriginal prisoners? We should bear in mind that that is usually the cohort that tends to miss out on some programs.

Mr Morgan: What do you mean by mandating—that prisoners must do them?

Ms M.M. QUIRK: There is a requirement that Aboriginal prisoners get some programs while in prison.

Mr Morgan: When I asked what mandating meant—I look at it from two angles. One is that you should say that the department is “required to provide”. It may be a separate question as to whether you can force people to do it. If a person says they are not doing the program —

Ms M.M. QUIRK: Required to make available.

Mr Morgan: Required to make available is absolutely the key, particularly with Aboriginal people, but it could be made an issue across the board. I think you have heard from the Prisoners Review Board about some of the limitations in program delivery. It is a very difficult situation. Just take the example of some of the Aboriginal men in Broome, who may be minimum security, who are being told, “You really need to do a program. The only way you can do a program is to go down to Casuarina where we will put you in maximum security and we’ll put you in unit one”, which is for displaced Aboriginal prisoners. This is a remarkably awful choice for somebody to have to face.

Ms M.M. QUIRK: Given the Prisoners Review Board’s recent regime, if I can call it that, we have heard evidence that there is felt to be a disincentive among prisoners to do programs. They are saying, “What is the point? If we do the program, the Prisoners Review Board is not going to let us out anyway.” Is that something you come across?

Mr Morgan: We come across it anecdotally but on the flip side, we also get the feeling that some prisoners may say, “The only way I’m conceivably going to be considered for parole is if I do the programs.” Other people may see it as a possible incentive. It is difficult and it may play out differently with different people.

Ms M.M. QUIRK: There has also been frustration in the past that people wanting to do programs, especially in the context of wanting to present the best face to the PRB, cannot do that, and I understand that is still happening.

Mr Morgan: That is still happening. More programs are running now than was the case in recent years. To be honest, particularly in the public sector, it came off a very low base. There are more programs but there is still a backlog.

Mr T.G. STEPHENS: Have you made any recommendations in your reports about how to secure the recruitment and retention of corrective services personnel who are a critical part of the functioning prisons that create employment and training opportunities?

Mr Acres: Our office has. We have made recommendations in a number of inspection reports about the treatment of staff that speaks to the retention of staff, so the better you manage your staff, the more likely they are to be retained. Our report 30, which was a directed review of the department, at

the same time as the Mahoney inquiry, had a substantial section on recruitment and retention of staff. I think you will also find that some aspects of the Mahoney inquiry report touch on that.

Mr T.G. STEPHENS: From our experience of Singapore, it seems that a significant move was made to up the skills base and to lift the qualifications and remuneration of prison officers to the point where it became more of an attractive profession and attracted more professionals. The momentum for that to happen has to have some driving force for government, whether it is a parliamentary committee or an inspector of custodial services. I look at the Indigenous recruitment and the factors that prevent that. When people's values are particularly weighted towards family values and your employment expectations are long shifts with lots of overtime, you are designing in criteria that make it unattractive for people with family values to apply for those positions. This seems to be fertile territory for reports and recommendations to government on workplace practice for the hours that prison officers work, the pay that they get, the qualifications that they might have and whether they are experienced or graduates. Do you spend time thinking about this area?

[10.45 am]

Mr Morgan: It is an area that we think about, but it is a very good question in the sense that it is not an area where we have crystallised it in a particular report. I will take away today what you have said, because we also have the capacity to do what we call thematic reviews of issues, rather than issues at particular sites. But in terms of the issues that you raise on the family friendly or otherwise nature of the job —

Mr T.G. STEPHENS: You cannot recruit Aboriginal people into 12-hour shifts.

Mr Morgan: No, and also the tradition has been that to do the initial recruitment program they have to come to Perth. That is an inherent disincentive—to come down to Perth for a few months. We have certainly made recommendations in a number of reports; probably most recently in Greenough. My recommendation is that they roll out more regional training programs, because Aboriginal people—even from the Geraldton region—are not going to come to Perth to do a training program. Thank you for your input.

Mr T.G. STEPHENS: I will clue you in as well that in the resource sector the same thing happens. If you want to design Aboriginal people out of the resource sector, you simply create 12-hour shifts. Also, if you want to attract people to work, you might include the whole weaponry, which includes home ownership strategies. Housing is a prized thing for all of us, and if housing is simply departmentally owned and gifted accommodation, as opposed to strategies that give people pathways to home ownership through employment, it is a way of stabilising a workforce and attracting in people.

Mr Morgan: The other thing that I learnt—in a very different world perhaps, the university, but you see the same with Rio Tinto—is that you have to get cohorts of people. It is no good just recruiting the odd person here and there. When I started at law school, they had two Aboriginal students who were completely dislocated and isolated. We built up to a situation where the law school is admitting six or eight a year; you have a cohort, because they tend to study part time, of 25 to 40 students. You have gone from a situation in 1989, when I started, of one Aboriginal law graduate in the whole history of the law school, to something over 40 now. You need to build these things, but you have to have people going through together and a strategy, in my view around recruitment. It is the same with—we have talked about this in this committee before—moving people through a system. We touched on more women at Boronia. Well, some of the Aboriginal women will not want to go to Boronia because they will feel out of place. Part of the answer to that is, how do you stop people feeling out of place? You do it by driving, if you like, a group recruitment, in my view, rather than an individual recruitment. I think that is exactly, again, one of the issues around the recruitment of staff.

Mr T.G. STEPHENS: Cohorts.

Mr Morgan: Derby will be a very good testing ground for this. You know that the department has set a very high benchmark for Aboriginal employment, and it will be interesting to see if and how they get to that level and, therefore, what can be learnt from that for rolling out across the system more generally.

The CHAIRMAN: Can I take you back to an answer that you gave a little while ago about a female work camp. We have seen one or two work camps in our travels. Can you give us a bit of an idea of what you would envisage for a female work camp?

Mr Morgan: I have not really thought this through in full, but it seems to me there are a lot of activities the men do that are equally capable of being done by the women, if it is about basic skills and community engagement. The different work camps operate in different ways of course, but I really see no essential difference.

The CHAIRMAN: I just wanted to hear that.

Mr Morgan: Both practical skills, education and the ability to start leading a more normal life by going to the local doctor rather than having the medical centre on site are the sorts of things that many of the women in prison and the Aboriginal women are not very skilled at. I am sure there is capacity to build there.

The CHAIRMAN: The department has told us that individual case management and integrated offender management will take some culture reform. In what way do you believe that to be true?

Mr Morgan: Sorry? They are saying for them to have good case management would require cultural reform?

The CHAIRMAN: Some culture reform—not cultural reform.

Mr Morgan: I will ask John, who is probably the best and most knowledgeable in our office on case management.

Mr Acres: The department implemented case management, unit management and a range of other management issues in the nineties to much fanfare. Since then there have been numerous projects to try to actually implement case management and unit management in any meaningful sense. One of the most recent ones was in April 2007, which was a Way Forward document by the department, which acknowledged a number of issues around case management, such as a lack of understanding of what case management is and what it is intending to achieve in that. We provided quite a bit of commentary to the department at that time about that. We felt that even their significant review and Way Forward document actually only moved them forward in a minuscule way and they had set their bar way too low in regard to the issue of case management. This is a tricky and difficult thing to do in a prison setting where you have 12-hour shifts, so staff work three days and then have a significant amount of time off. You can be moved from one unit to another unit and you may not actually see your case manager for long periods of time. You might be moved between prisons on a regular basis, particularly if you are a regional prisoner and so you might have 16 to 20 case managers over the period of your sentence. How do you get continuity in that setting? That is one of the reasons why they set the bar so very low—so they can achieve something with regard to case management. The bar is set so low that all they are attempting to achieve is those things identified within an individual management plan, which is: turn up for this program and progress through your sentence. That is the engagement of the department to positively input into the offender to make a meaningful impact, which is part of the mission statement for the department. I cannot see how case management is actually a meaningful engagement with the offender.

More recently the department is again looking at the whole issue of case management and individual management planning as part of the report 51 subproject out of the review of assessment and classification, which wanted to look at how do you get the entire activity that happens during the sentence or the engagement of the offender positively moving in the one direction? But that is still at a pilot phase and has hit a number of walls in regard to trying to work out how they will do it

in a prison setting. Yes, they have case management, but I still do not believe in that. Whilst they have got significant policy documents that state this is what the intention is, I think the intention is confusing and it is certainly not owned at the unit level.

The CHAIRMAN: Is there anywhere that actually does case management properly?

Mr Morgan: What we find is there are differences and sometimes it comes down to individuals. You can find that up at Karnet. When we did the recent inspection, the transition manager at Karnet had introduced a scheme that appeared to us to be quite sensible. I am not saying it is full-on case management, but it was actually having a look at people's needs with a detailed checklist and so on, and it seemed to be following through quite well. From my point of view, the point, though, is that it should not depend on individuals; it should be a system that is developed and it should not be process driven but more outcome related.

Ms Gibson: It is a process. That is what it is at the moment. It is about filling in documents and ticking boxes and "I have done this process". The meaningful engagement is really not there. I suppose the department is talking about cultural change. They just need to look, say, at their prison officer training program. How much time do they spend in that program on case management versus how to use a baton? The whole balance of priorities is out of whack right from the very start, when the message you are sending to the people coming into your organisation in your training package is "This is what we expect you to do". If case management is taking up a minuscule amount, what do you expect your outcome to be at the other end of that? I do not know to what extent that comes down to the fact that the training program went from 16 weeks to 12 weeks to 10 weeks, and what was cut from that sort of program.

Ms M.M. QUIRK: What is the current length of the training program?

Ms Gibson: I am not 100 per cent sure.

Mr Morgan: I am not sure; I am sorry for that, and it is worth clarifying the amount of time that has been cut back and what the content reduction was.

Ms Gibson: It has definitely decreased over the past five years.

Mr Morgan: Even if you reduce your initial recruitment training, you can always go back and do something else afterwards.

Ms Gibson: And because they have been trying to put people through the initial training courses to get people on board, the ongoing training to some extent is not as robust as it could be either, so those follow-on modules are not there.

Ms M.M. QUIRK: Presumably you would expect things like the diversity-type issues or cultural issues to be the first to go, I imagine.

Mr Morgan: I do not think we could comment on that.

Mr Acres: If I could take you back to a previous question you had around the women services directorate. A lot of the driver for case management and the renewal of case management and making it more meaningful from a prisoner and staff engagement perspective was coming out of the women services directorate before it was disbanded. Since then, I am not sure whether we are able to identify a champion for the notion within the department.

The CHAIRMAN: I was going to ask you that question directly. Does it make a difference that we do not have a senior woman officer in the department advocating? It seems to me that women do that case management type of thing very well?

Ms Gibson: It was around a lot of changes they were looking at at Bandyup where they have created a different sort of structured day and how they value the different activities within the facility. So, if you look at a gratuity for a prisoner, you look for what gratuities they earn for going to do their job. In a male environment it all revolves around, "Did you go to work today?" Whereas

Bandyup has developed a program where it is very much what activities did you participate in, what programs did you go to, did you go to education, did you have visits with your family and did you go to some sort of personal development program? All of that is incorporated into what value the facility puts on your day, and you are remunerated accordingly. That is a much more holistic attitude as well towards individuals. If you are looking at case management, it should be revolving around what the holistic needs of the person are that is going to help them come through the sentence and possibly come out at the other end.

The CHAIRMAN: It is quite a different way of looking at it.

Ms Gibson: It is. The other thing I was going to suggest when you talked about culture is we notice some difference with the case management at Acacia. Acacia, being a newer facility, the staff have gone through a different training regime and there are different cultural expectations. While they are not perfect there by any means or what we would ideally see as an ideal case management system, on the whole there are, I think, some differences there which make staff a bit more engaged. But you still come across the issues of the shifts and all those things that provide structural obstacles.

Mr Morgan: Perhaps I could add something that ties in with what Mr Stephens said about the Singapore experience. I am actually very familiar with the Singapore prison system. I have to be careful how I express that! It must be remembered that it is still, by our standards, a very punitive society in the sense of lengths of sentence, so they have not really developed community-based sentencing in the way that we have. They decided it was time to change the philosophy and they came up with this notion of prison officers being captains of lives. It may not be the sort of language that fits well in Australia, but there was this view that you had to reinvent the prison officer, so that no longer were they the turnkey and the slightly oafish, sort of bully boy-type character that is characterised in the movies, but they had a much more professional role.

[11.00 am]

I must say that when you go there, you are impressed with the youth, vigour and qualifications of a lot of their staff. I do not believe that can be translated over to our system, but it has certainly been a transformation from when I first visited a prison in Singapore some 20-odd years ago. Some of that was down to the previous commissioner there, who, interestingly, came from a police background but took the view that the system needed to be more focused on individual prisoner's needs and, very significantly, on a completely new staff culture.

Ms M.M. QUIRK: Professor Morgan, the last time you gave some evidence, I think you used the words, "You cannot measure what you do not measure".

Mr Morgan: Did I really say that?

Ms M.M. QUIRK: Sorry: "You cannot manage what you do not measure". That seems to me to bring into play the fact that despite the information that the department collects, what it is able to include about the system and how it is able to act, given that it has a dearth of evidence, it is more that it is going on the vibe rather than hard evidence. Is that something that you think can be improved; and, if so, in what particular areas?

Mr Morgan: I think it is an area ripe for improvement. For instance, just to pick a concrete example, when we did the inspection of Greenough last year, we took the department's statements of its goals, missions and so on and said, "Can you provide us with some evidence about how you are achieving these outcomes in terms of reduced recidivism and so on?" The first point was that there was barely any evidence. There were a lot of statements saying, "We are achieving these outcomes", but there was very little hard data to back that up. I think there does need to be an attempt to ask, "What are we doing well?" but also an attempt to ask, "What aren't we doing well?" and use evidence as it is meant to be used, which is potentially to show that certain things are not working, not merely to prove that what you are doing is good. If there is a slightly negative evaluation, let us make use of that, let us ask about it and let us ask what we can do to improve.

Ms M.M. QUIRK: One of the pointers that says that there is a better outcome in terms of recidivism is prisoners being close to their families. That is obviously in terms of Aboriginal prisoners. You have to at least pinpoint where they are from. Certainly in my experience, there was a recording only of the fact that they were Aboriginal, not what particular group they came from. Is that something that you are aware of or that you have come across?

Mr Morgan: I think the basic designation on TOMS would probably just be Aboriginal, but you can drill down into that and find out more. Casuarina, for instance, would be able to tell you how many people it has from the Kimberley and how many people it has from the Goldfields and beyond.

Ms M.M. QUIRK: But in terms of individual prisoner management, it is not possible without doing that additional —

Ms Gibson: I think it is very much based on the individual facilities gathering that information for their own management uses.

Ms M.M. QUIRK: It is a bit ad hoc.

Mr Acres: Aboriginal kin ties are very complex issues and very hard to log in any sort of meaningful way on a data system. It is largely left to the awareness of staff who know prisoners and families.

Ms M.M. QUIRK: But if the prisoners were asked to self-identify, for example, would that be one way around that?

Mr Acres: I would not think so.

Ms M.M. QUIRK: Okay; that is fine. My next question is in the context of transition to the outside world. I have come across an issue about funding for prisoners who want to get advice from a job network provider on assistance with doing up a résumé and learning how to write job applications. While they are in prison, they are not entitled to commonwealth subsidies to enable job providers to give them advice. Is that something that you have come across or are aware of?

Ms Gibson: I know that a number of the prisons have providers go into the facilities, so they are getting some sort of service. I am not aware of the detail about what funding is or is not available. Most government funding stops for someone once he walks into a jail. Medicare and those sorts of things do not continue, so it would not surprise me.

Mr Morgan: An interesting example is that, as you probably know, you can get commonwealth Medicare funding for a certain number of psychological counselling sessions a year, but that does not apply if you are in prison. You could say that that is a very high needs group. If you have a gambling problem, you are unlikely to access much counselling in prison. It is also going to be almost impossible to tie into an external service provider.

The CHAIRMAN: Professor, the Auditor General has done some calculations on the cost to the justice system of dealing with about 250 mostly Aboriginal young people who had the most contact with the juvenile justice system in their juvenile years—that is, between 10 and 17 years. He has calculated it to be approximately \$400 000 for each and every child in that group. In your opinion, where is the rehabilitation strategy failing for these offenders?

Mr Morgan: I have not looked at how the Auditor General calculated his figures, but I will assume that that is the cost of incarcerating and processing them —

The CHAIRMAN: Over a period.

Mr Morgan: — over a period of time. I would have to say that Aboriginal youth is a very difficult group to access. It is not simply the responsibility of the Department of Corrective Services; it is, in that classic modern jargon, a whole-of-government or joined-up approach. I think that where we have probably not tapped in enough is into Aboriginal organisations and into a more holistic

approach to Aboriginal youth offending. When you go to Rangeview or Banksia Hill, you are faced with this sea of primarily Aboriginal young people who are not only offenders, but also victims. They have generally been victims of abuse or violence themselves. They generally have very high levels of substance abuse. It is interesting that some years ago the department introduced and invested very heavily in a program called multisystemic therapy. My understanding is that that has just been withdrawn. That was an interesting example because at the time—I am not being wise after the event—I remember talking to my colleagues at the university and asking, “What’s this all about?” It was an American psychologically based program that may have considerable validity in the right fields, but I was never convinced that it was going to reach Aboriginal young men and women in Perth—indeed, in Western Australia generally—because I was not sure that its premises were right. I have not given an answer to the question because the simple answer is that there is no silver bullet. But I think we may have been not tapping into Aboriginal organisations enough.

Ms Gibson: The example that you have given has tapped into this evaluation issue. There was no proper evaluation built into that program initially either. On the point about using Aboriginal organisations, the program in America was using racially and ethnically appropriate psychologists and facilitators, yet here we were putting young primarily white women into some of the most fractured and difficult Aboriginal homes. We were starting from a point at which we were possibly setting it up to fail. It is not very easy to find Aboriginal psychologists who are going to relate in that sense in the way that the American program worked. There were some issues from the outset. Although it may work while in that environment, it is a case of seeing something good that works in a different context and trying to make it work here. There is quite a bit of that. The department has brought in some of the Indigenous programs from Queensland. They have worked with Queensland Indigenous people but there has been no evaluation of their suitability or how they work with Western Australian Indigenous people from all the different regions. Some of the anecdotal feedback we have had from prisoners, and also the Indigenous facilitators, is that they are not really working. They work better than what was there for the white fellas, but they are still not totally appropriate.

Ms M.M. QUIRK: What programs are they?

Ms Gibson: Some of the ones being run through the Aboriginal facilitation unit. I think there is the cog skills one. They are trying to deliver pathways in a guise as well, and that is still basically a white program. Mainly, it was the Indigenous cog skills program that has come over from Queensland.

Mr Morgan: I think it is important to sit back and look at the question of how many young people are coming into the system as well. I wish I had brought with me some figures that Judge Reynolds recently provided, but I can get them to you. I am sure that he would not be averse to that. He gave a presentation at a conference that my colleague John attended, which was about the prolific and profile offenders.

Mr Acres: Which would include the 250.

Mr Morgan: Judge Reynolds’ figures were really quite striking about the number of young people being picked up by the police and taken to Rangeview but granted bail as soon as they came before the courts. Again, this is a difficult issue for the police. It is about finding responsible adults. This is perhaps trespassing outside my immediate domain as Inspector of Custodial Services, but there are systemic issues about the kids flowing in. What we know from all the research is the greater the contact, the greater the problem; in other words, the greater the contact from a younger age, the more you are building in a problem. John, I do not know whether you remember the figures that Judge Reynolds provided, but I can forward them to Brian after this hearing. I will need to seek Judge Reynolds’ permission first.

The CHAIRMAN: We went to Queensland recently. I think you have just answered this question. I think you alluded to it in your answer. I go back to housing prisoners, particularly Indigenous

prisoners when they come out of prison. There seems to be a huge issue of reoffending if they do not have proper housing. Have you had any indication of what happens when Indigenous prisoners come out and whether they can go back into their community and back into their home? Has any work been done on rehousing prisoners when they come out?

Mr Morgan: I think the problem is not just about Indigenous prisoners; I think it is about all prisoners. Researchers can get very complicated in coming up with grand theories, but one of the amazing things that comes out when I talk to the people from the Asia-Pacific region who are involved in corrections is that the same things come up all the time. What people want when they get out is housing, a job and some family or friends. It is deceptively simple when you put it that way. It may well be that the program they have done in prison to address their offending behaviour is part of that package, but the reality is what are they going out to. I am not sure whether Natalie and John know more information on this, but there was a program for transition housing through the department.

Mr Acres: There is a stock of transitional housing available, particularly in the metropolitan area, but it is never anywhere near enough to meet the demand. It is transitional housing, so the intention is that they be in the house for a short period and then they transition to some other form of accommodation, assuming that they have not burnt all their bridges. Again, that is in the metropolitan area. I was having a conversation with Rio Tinto's Aboriginal recruitment officer and he was talking about the problems in the Pilbara with housing for prisoners once released, because there is a general dearth of housing stock in that area, and the high cost and difficulty of doing that, as well as the infrastructure associated with that. The Five Mile community, which is very close to the prison in Roebourne, has 50 houses but no viable water source, no electricity and a range of other issues, which means that you cannot release prisoners to that community regardless of whether housing is available.

[11.15 am]

Ms Gibson: The other issue is the prisoners actually are not getting out because of lack of viable housing. If they come before the Parole Board and have not got a stable, suitable place to go, then parole is just denied anyway. There have been probably quite well publicised cases around communities that are refusing to take back certain violent or prolific offenders. For people in those cases, once they walk out the door of the prison, unless they are under some sort of release order where they get support from and that "want" for family and friends—they might have the support of a parole officer or a community corrections officer initially but that is not the sort of support they want—there is that issue around you cannot mandate someone to either take the person back into the community or mandate where they can get that support from if it has not come to them naturally. Their capacity to be able to cope and succeed on release is a huge issue. Whether it is being able to provide some sort of program, counselling or whatever it is for those people to provide them with some resilience, because it is about providing them with that.

Mr Morgan: One of the paradoxes we saw when we were up in Broome and Derby is that with the Derby prison coming online, guess what is happening to housing prices? It is actually going to generate even more difficulty for people to find low-cost housing. There is a real crush on the availability of houses there, let alone the cost.

Mr T.G. STEPHENS: That is not just the prison; it is the accommodation of the detention facility plus the prison.

Mr Morgan: That is right.

The CHAIRMAN: I thank all three of you for coming in again. Before we wrap up, is there anything you would like to add that you think we should probably hear but we have not asked directly?

Mr Morgan: Probably not, except that we are off to Roebourne next week. We are doing the inspection of Roebourne prison. Obviously that will be an interesting inspection. Roebourne has probably progressed very significantly. One of the most interesting things up there is the fact that Rio Tinto, not only in its own interest—as they are quite happy for people to go and work for other organisations—they are putting so much in; it is a fantastic opportunity for the prison. One of the things we will be exploring is whether we think the system is maximising what Rio Tinto and others are prepared to offer, which will be a very interesting question.

The CHAIRMAN: I will be interested to read that report. When will that report be out?

Mr Morgan: The report actually will not be available for about six months. At the end of each inspection I provide at the end of the week what we call an inspection debrief. That is in the form of a PowerPoint presentation, highlighting the key aspects of the prison performance. I do not have a difficulty in sending that to the committee but with the caveat that that is the starting point. Obviously, the department and others might come back to us and we might readjust what we say in that. As a snapshot of what we felt at the end of the week, I would be prepared to send that to the committee.

Mr T.G. STEPHENS: I would be particularly interested if you actually quantify what it is that Rio is doing. I think the reason it looks significant is because it stands against a backdrop of no-one else doing anything else much from industry. For a very minimal investment they are getting a very good return.

Mr Morgan: For Rio it is a minimal investment. But when they can give a tractor to Decca, for instance, and you have probably seen that yourselves up there—they are giving tools. This is brilliant.

The CHAIRMAN: My view after we visited Roebourne was there is a very positive feeling around the place. It was a bit different to how we felt when we were at Casuarina. We had a very positive impression of Roebourne; what happens to the prisoners there and what happens when they get out. Our concern was that it was not systemic, that it was the people that are there at the moment who are driving it.

Ms M.M. QUIRK: It was very much driven by individuals.

Mr Morgan: There is certainly a lot of that. I was given an interesting insight from one of the women in a relatively senior position, who was acting superintendent when I was there, or about to become acting superintendent when Brian Wilson went on leave. She had been there some years earlier and I really value her judgement. She said, “This place has come on by leaps and bounds from what it was.” It hopefully is a relatively positive story. As you say, the question is: does the system support that? Does the system support Rio Tinto? We have talked about this previously but things like the PEP program tend to take so long to get approvals through that Rio Tinto are wondering, “Why can’t we get people?” Why is it taking three months or more to get people who, to them in the business world, seem to be ready?

The CHAIRMAN: We will certainly be very interested to have a look at your starting point.

Mr Morgan: I might be a little uncomfortable with that finding its way into a final report by the committee because it is not a final document. It will give you the work in progress.

The CHAIRMAN: Thanks for your evidence before the committee this morning. A transcript of the hearing will be forwarded to you for correction of minor errors. Could you please make these corrections and return the transcript within 10 working days of the date of the covering letter. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be introduced via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on a particular point, could you please include a supplementary submission for the committee’s consideration when you return your corrected transcript of evidence. Thanks very much.

Hearing concluded 11.21 am