

INTRODUCTION

- 1 The Standing Committee on Environment and Public Affairs is pleased to report its findings and recommendations arising out of its inquiry into the Transportation of Detained Persons.
- 2 The Committee self referred the inquiry following its review of a petition tabled in the Legislative Council.
- 3 The inquiry focused on the implementation of the recommendations made by the State Coroner in relation to the death of Mr Ward.
- 4 Mr Ward, a respected Aboriginal Elder, suffered a tragic and unnecessary death while in custody on 27 January 2008. The Committee extends its condolences to Mr Ward's family and his community.
- 5 The tragic death of Mr Ward has been a catalyst for a number of fundamental and long overdue systemic changes in the criminal justice system. In particular, the Department of Corrective Services' custodial transport fleet has been replaced and the new fleet must comply with specified standards. The Coroner's recommendations were wide-ranging and traversed a number of important systemic issues for Government action. Action taken to implement the Coroner's recommendation and the Committee's findings and recommendations in relation to the implementation of each Coroner recommendation are noted in Chapters 2 and 3 of this report.
- 6 The *Coroners Act 1996* does not require the Government to respond to recommendations made by the Coroner. Whether the *Coroners Act 1996* should be amended to legislate a response is canvassed in Chapter 4 of this report.
- 7 Aboriginal people are grossly overrepresented in the criminal justice system and are therefore more likely to be detained in custody. The Committee took the opportunity presented by this inquiry to broadly consider strategies and views on action required to address the gross overrepresentation of Aboriginal people in the criminal justice system. These issues are canvassed in Chapter 5 of this report.
- 8 The Committee extends its appreciation to the departments, organisations, groups and individuals who assisted the Committee during the course of this inquiry.

FINDINGS AND RECOMMENDATIONS

- 9 Findings and Recommendations are grouped as they appear in the text at the page number indicated:

Finding 1: The Committee found that the Government chose not to implement Coroner Recommendation 2 in the manner proposed by the Coroner. The Attorney General advised the Committee that the most practical way to implement this recommendation is to legislate to enhance the Inspector of Custodial Services' role through proposed amendments to the *Inspector of Custodial Services Act 2003* that will provide the Inspector with the power to issue a show cause notice and audit powers.

Recommendation 1: The Committee recommends that the Attorney General as a matter of urgency tables the bill to amend the *Inspector of Custodial Services Act 2003* to provide the Inspector of Custodial Services with the power to issue a show cause notice and audit powers.

Recommendation 2: The Committee recommends that the *Inspector of Custodial Services Act 2003* be amended to provide that show cause notices and audit reports shall be tabled in both Houses of Parliament and referred to a Parliamentary Committee for its consideration.

Finding 2: The Committee is of the view that Western Australia Police have not adequately addressed the Coroner's concerns about police officers having an adequate understanding of the *Bail Act 1982*.

Recommendation 3: The Committee recommends that the Minister for Police conducts a review into Western Australia Police's implementation of Coroner Recommendation 3 and tables the review in both Houses of Parliament.

Finding 3: The Committee finds that the Department of the Attorney General and Western Australia Police have implemented processes and practices to ensure that police officers with the powers of a deputy registrar have an understanding of the powers and responsibilities of a deputy registrar. However, a Department of the Attorney General review revealed that there is still room for improvement, particularly when a police officer takes leave on short notice and another deputy registrar needs to be appointed.

Recommendation 4: The Committee recommends that the Department of the Attorney General and Western Australia Police ensure that issues identified in the Department of the Attorney General's review of police officers undertaking the role of a deputy registrar are addressed. Also, that they continue to implement procedures and practices that ensure that all police officers appointed as a deputy registrar have an ongoing understanding of the powers and responsibilities of a deputy registrar.

Finding 4: The Committee finds that while training for justices of the peace has been developed, it is not satisfied that all justices of the peace with judicial functions have received training on their duties and responsibilities, have successfully completed assignments after training and/or are monitored regularly to ensure that they are performing their duties appropriately as recommended in Coroner Recommendations 5 and 6.

Finding 5: The Attorney General is considering whether a two-tier justice of the peace model, separating judicial functions and administrative functions, should be implemented in Western Australia. A range of stakeholders have expressed the view that justices of the peace should not undertake any judicial functions, including court duties and presiding at bail applications.

Recommendation 5: If the Attorney General determines that justices of the peace shall retain judicial functions (including court duties), the Committee recommends that the Attorney General implements a two-tier justice of the peace model, separating judicial functions and administrative functions, and ensures that justices of the peace with judicial duties receive adequate training as outlined in the Coroner Recommendations 5 and 6.

Recommendation 6: If the Attorney General determines that justices of the peace shall retain judicial functions (including court duties), the Committee recommends that all justices of the peace undergo an annual audit process that assesses their skill levels and understanding of their duties and responsibilities.

Finding 6: The Committee finds that there have been significant improvements to the transport vehicle fleet to ensure the safe and humane transportation of detained persons, including the replacement of the custodial transportation fleet.

Finding 7: The Department of Corrective Services considers that the recurrent funds allocated to replace vehicles are sufficient to ensure that in the future vehicles are replaced on a regular basis and there are no old or unsafe vehicles in use as recommended in Coroner Recommendation 10.

Recommendation 7: The Committee recommends that the Department of Corrective Services continues to engage an independent consultant to review the CSCS contractor's training on an annual basis.

Recommendation 8: The Committee recommends that the responsible Minister directs that the Contract for the Provision of Court Security and Custodial Services annual report tabled in Parliament each year include details of CSCS training, which should include detail of the training provided to contractor employees, the auditing and monitoring of employees' demonstrated competence, their compliance with contract training provisions and the independent consultant's review of the contractor's training.

Finding 8: The Committee finds that there has been action to implement the Coroner's Recommendations but further action to fully implement a few recommendations is required.

Recommendation 9: The Committee recommends that Government departments and agencies establish processes to appropriately inform family, stakeholders and the public of the progress of Government action taken to implement coronial recommendations on a regular basis.

Finding 9: The Committee finds that there is strong support for continuing to use air transportation to transport persons in custody.

Recommendation 10: The Committee recommends that the Minister for Corrective Services continues to provide adequate funding to enable persons in custody to be transported by air.

Finding 10: The Committee finds that video link has been successfully implemented in various courts and is frequently used for Court appearances of persons in custody.

Finding 11: The Committee finds that court video link facilities must be matched by equivalent facilities in the custodial institutions to increase the use of video link for court appearances of persons in custody.

Recommendation 11: The Committee recommends that the responsible Minister/s commit funds and resources to upgrade audio visual conferencing facilities in custodial institutions, as well as police stations and courts, as required to enable the increased use of video link for court appearances.

Recommendation 12: The Committee recommends that the Minister for Corrective Services commits funds and resources to expand and implement the use of Skype and other similar technologies in custodial institutions throughout Western Australia to enable persons in custody to communicate with family, friends and legal counsel.

Recommendation 13: The Committee recommends that the Department of the Attorney General continues to explore options to use Skype and other similar technologies to enable persons in custody to appear in Court, particularly in regional and remote Western Australia.

Finding 12: The Committee encourages the use of audio link (telephone) to conduct court appearances, particularly bail hearings where the accused is located in remote locations, where appropriate and where video link is not an option.

Recommendation 14: The Committee recommends that the Department of the Attorney General establishes infrastructure and arrangements in courts to enable legal counsel to conduct confidential conversations with persons in custody.

Recommendation 15: The Committee recommends that the Attorney General commits funding and resources to establish an extended bail service available to all persons in custody throughout Western Australia, which will enable bail to be considered by Magistrates outside standard business hours.

Recommendation 16: The Committee recommends that the *Coroners Act 1996* be amended to require the Government to respond to coronial recommendations within three months. The Committee recommends that the amending legislation provides that the Government response shall be tabled in both Houses of Parliament.

Recommendation 17: The Committee recommends that the Premier and his department coordinate the whole of Government approach to address the underlying causes of the gross overrepresentation of Aboriginal people in the criminal justice system. The Committee recommends the setting of objectives and targets that are monitored, measured against and reported to Parliament.

Finding 13: While the Committee was made aware of a number of intervention programs implemented to address issues relating to the gross overrepresentation of Aboriginal people in the criminal justice system, the Committee finds that there is no comprehensive list of all intervention programs available in Western Australia which indicates a lack of a whole of government approach.

Recommendation 18: The Committee recommends that the Department of Corrective Services develops and implements a suite of intervention programs for juveniles and young adults in custody as a matter of high priority.

Finding 14: The Committee finds that the Regional Youth Justice Service in Geraldton and Kalgoorlie has been widely praised by stakeholders.

Recommendation 19: The Committee recommends that the Government undertakes an audit to identify the programs and services that are effective in reducing Aboriginal offending and recidivism, and takes action to ensure that effective programs are developed and delivered.

Recommendation 20: The Committee supports the principles of justice reinvestment and recommends that the Government focus their efforts on early intervention and diversionary programs and that further research be conducted to investigate the justice reinvestment approach in Western Australia.