



The Hon Terry Redman MLA
Minister for Agriculture and Food; Forestry; Corrective Services

Our Ref: 39-13842

Mr Michael Baker
Clerk Assistant (Committees)
Parliament House
PERTH WA 6000

Dear Mr Baker

Thank you for your correspondence dated 10 August 2011 regarding the Standing Committee on Environment and Public Affairs (the Committee) Report 23 – Inquiry into the Transportation of Detained Persons.

I thank you for the opportunity to contribute to this important Inquiry.

Please find attached the Government response to the Committees Inquiry into the transportation of detained persons.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Terry Redman'.

TERRY REDMAN MLA
MINISTER FOR CORRECTIVE SERVICES
Att

19.MAR 2012

**'Inquiry into the Transportation of Detained Persons:
The Implementation of the Coroner's
Recommendations in Relation to the Death of Mr Ward
and Related Matters'.**

Response to Report

December 2011

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Introduction

On 18 July 2011, the Standing Committee on Environment and Public Affairs of the Western Australia Parliament tabled its report on the *Inquiry into the Transportation of Detained Persons*.

The Western Australian Government welcomes this report and acknowledges the tragic death of Mr Ward, which was the catalyst for the Inquiry.

This response addresses each recommendation from the report published by the Committee. Each recommendation has been carefully considered by the government agency or agencies to which it relates. Most of the recommendations made by the Coroner have already been addressed and appropriate measures have been implemented to prevent any further deaths from occurring in custodial transportation.

One such measure implemented by the Department of Corrective Services involved replacement of the Custodial Transport fleet. All of these vehicles are now air-conditioned, contain temperature monitoring systems and are fitted with refrigeration for food and cold water. The Department has also developed a new set of stringent minimum standards, which all secure escort vehicles must meet.

The Department of Corrective Services has introduced a clause into the new Court Security and Custodial Services contract, which requires all contract workers to be trained to a minimum standard of Certificate III in Custodial Practice, with a minimum level of Certificate IV being required for supervisors.

The use of alternatives to court appearances for persons in custody including video and audio links, are supported. Funds are currently being sought to upgrade and maintain video link facilities in court houses, prisons and police stations throughout the state. Skype is being trialled in some prisons to allow for contact with family, friends and service providers; however, as Skype runs on an unsecure public network, the recommendation for it to be used for court appearances is not supported.

The Government supports the use of air transport as an alternative to long distance road travel. The requirement to consider air transport is now included in the Court Security and Custodial Services contract.

The Government has implemented practices to ensure that police officers acting as deputy registrars have an adequate understanding of their responsibilities, as well as providing additional training for Justices of the Peace undertaking judicial functions.

Recommendations regarding the implementation of programs and interventions for juveniles and Aboriginal offenders are also noted by the Government and further information on current programs, such as those offered in Rangeview Remand Centre and Banksia Hill Detention Centre, is provided in this response.

Government Response to Report Recommendations

Recommendation 1 (Page 10 of the report)

The Committee recommends that the Attorney General as a matter of urgency table 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.

The Government supports the recommendation.

The *Inspector of Custodial Services Amendment Act 2011* was assented to on 11 November 2011. The amendments are the result of ongoing and extensive consultation with the Office of the Inspector of Custodial Services and include both the powers to issue show cause notices and to undertake audits.

Recommendation 2 (Page 10)

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.

The Government notes the recommendation.

While in principle the tabling and referral of show cause notices and audit reports are supported, this should be at the discretion of the Inspector of Custodial Services. The reasons for this are:

1. Audits could contain highly confidential information that may identify the individuals included in the audit samples. In such cases, it would not necessarily be in the best interests of those prisoners, juvenile detainees or staff to be publicly identified. Discretion to not publish full reports publicly would facilitate the capacity to maintain privacy for individuals when appropriate.
2. If the Department of Corrective Services responds appropriately to a show cause notice it may not be in the public interest to make the details of the notice public.
3. It would also be unfair if details of such a notice became public before the Department of Corrective Services had an opportunity to respond.
4. If the Inspector of Custodial Services intends to make a statement in a report which is critical of another party, the affected person must be given the opportunity to make submissions (s. 37). Reports of the Inspectorate are also subject to a statutory embargo period of at least 30 days after being delivered to Parliament before being made public (s. 35). This may hinder rather than assist show cause processes.

5. The Office of the Inspector of Custodial Services already has a reporting relationship with an existing Parliamentary Committee. There is nothing to prevent that Committee from requesting the Inspector's attendance to discuss all activities, including audits and show cause notices. The opportunity for such engagement is welcomed and it would allow the Inspector appropriate discretion to manage the information contained in audits and show cause notices.
6. Should the Inspector determine it is in the public interest to do so, he may already make public the details of any report or notice, at his discretion.

On balance a process where the Inspector of Custodial Services can refer matters to a Committee at his or her discretion (whether through audits, show cause or general inspection reports) would be manageable and supported.

Recommendation 3 (Page 14)

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.

The Government notes the recommendation.

WA Police implemented a review of training procedures in June 2009. The agency has processes and practices in place to ensure that police officers with the powers of a deputy registrar have an understanding of those powers and responsibilities.

The WA Police Academy Foundation Training Unit continues to maintain a high standard of instruction to Recruits and Police Auxiliary Officers in the area of bail. To ensure fundamentals are maintained, the In Service Training Unit delivers contemporary units regarding the *Bail Act 1982* and bail considerations.

WA Police does not intend to conduct a further review of its training procedures in regard to bail.

Recommendation 4 (Page 17)

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 register [sic] 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.

The Government supports the recommendation.

The WA Police and Department of the Attorney General (DotAG) have worked together to implement changes to governance processes surrounding the appointment of police officers as deputy registrars. These changes have been designed to ensure that police officers appointed as deputy registrars have a clear understanding of their powers and responsibilities.

The following actions have been implemented:

- o the guidelines for police officers appointed as deputy registrars have been updated to clarify the powers and responsibilities of a deputy registrar;
- o there is now a requirement for an experienced registrar from the DotAG court located nearest to the appointed police officer to provide advice on the role and responsibilities of a deputy registrar. The Magistrates Court of Western Australia maintains a register of appointed police officers which includes a record of training and advice provided;
- o all police officers appointed are required to complete an acknowledgement form of their appointment to confirm they are aware of the powers and responsibilities of a deputy registrar; and
- o all current appointments have been revoked and new appointments made to stipulate the location for which the appointment is valid (previously appointments were made state-wide).

To ensure continuity of the deputy registrar function and knowledge by the officer designated to this role, WA Police have acknowledged this responsibility by including it in the "Handing Over Statement". These documents are audited during the Business Area Management Review process.

The changes to the governance processes and newly adopted procedures surrounding the appointment of police officers as deputy registrars and their training continues to be monitored by the DotAG.

Recommendation 5 (Page 23)
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.

The Government supports the recommendation.

A two tier justice of the peace model is currently under consideration by the Government. In the interim, 386 justices of the peace who preside in courts state-wide have been identified and registered in the court's case management system. Justices of the peace who carry out court duties have received additional training and will be monitored to ensure that their skills are maintained.

Recommendation 6 (Page 23)

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.

The Government supports the recommendation.

The self assessment program for the Magistrate's Court was updated in March 2010 to ensure that all non-DotAG courts convened by justices of the peace (JPs) are complying with the Magistrates 'instrument of delegation'.

The Department of the Attorney General has implemented the following improvements to the operation of JPs:

- o Cultural Awareness Training – cultural awareness sessions and training for JPs have been developed along with an Aboriginal Cultural Awareness DVD kit. This will be delivered at JP training seminars state-wide by local Aboriginal cultural awareness services providers;
- o electronic and hardcopy justice system training modules and training calendar has been developed;
- o 386 JPs who preside in court state-wide have been identified and registered in the court's case management system. These JPs will be monitored to ensure that their skills are maintained;
- o standardised templates designed to facilitate accurate reporting and capture of training data have been developed and made available to courts state-wide;
- o a review of the JPs handbook has been undertaken and the revised handbook has been available to JPs on-line since early December 2010. In addition, 450 JPs handbooks were printed and distributed to all court locations, police courts and signing centres in mid-December 2010. All JPs were sent a disc copy of the JPs handbook in December 2010;
- o a further update of the JPs handbook is due to be released in early 2012, following the receipt of feedback on the 2010 version. Review of the handbook is an ongoing process of continuous improvement to ensure it remains current; and
- o a JPs logbook has been produced and made available to JPs to record documents witnessed and to serve as a portable ready reference to witnessing procedures and other sources of information. The logbook complements the JPs handbook.

Recommendation 7 (Page 37)

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.

The Government supports the recommendation.

An independent review of the CSCS Contractor's staff training is scheduled to be undertaken annually in accordance with sub clause 16.5.1, Periodic Reviews, in the CSCS contract which requires that:

"The Principal¹ may conduct a review of the operation of the Contract at reasonable intervals during the Term. If the Principal wishes to do so, it must notify the Contractor of its intention to conduct the review, the scope of the review the identity of the person who will conduct the review (who may be independent of the Parties to this Agreement) and the expected timeframe of the review."

Within the new CSCS contract there is a requirement that all contract workers are trained to a minimum level of Certificate III in Custodial Practice and that all supervisors are trained to a minimum level of Certificate IV.

Recommendation 8 (Page 38)

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.

The Government supports the recommendation.

Commencing in the 2010-11 financial year, the Contract for the Provision of Court Security and Custodial Services annual report will contain details of all training provided under the contract.

Recommendation 9 (Page 44)

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.

The Government notes the recommendation.

The Law Reform Commission of Western Australia's inquiry into coronial practice will review and report on the jurisdiction and practices of the coronial system in Western Australia, including the operation of the *Coroners Act 1996*.

¹ The Principal is the Commissioner of Corrective Services.

The report will contain recommendations on areas where the Act can be improved as well as improvements to be made in the provision of support for the families, friends and others associated with a deceased person who is the subject of a coronial inquiry.

Once available, the report will be considered by Government.

Recommendation 10 (Page 49)

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

The Government supports the recommendation.

The Department of Corrective Services has included in the new CS&CS Contract the requirement for the Contractor to provide for air transportation. The Contractor must consider air travel under the following circumstances:

1. where the total road travel required in a single day is greater than eight hours;
2. where the road travel required on any one leg would result in a person in custody being in a vehicle for greater than four hours;
3. where air travel is the only means of conducting the escort due to climatic conditions;
4. where air travel is a more cost effective option than road travel; or
5. where urgency prevents the use of road travel.

Recommendation 11 (Page 55)

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.

The Government supports the recommendation, subject to funding.

The Government is committed to enhancing the availability and use of video conferencing throughout Western Australia. All 31 DotAG operated sites have video conferencing facilities, that are used wherever possible to avoid transporting persons held in custody. DotAG has a video-conferencing upgrade schedule which is reviewed annually. The approved schedule of works for 2011/2012 is outlined below:

Works	Dates
Supreme Court AV upgrade (and potential for web streaming)	17 Oct 2011 – 27 Jan 2012
Commence work on transition to IP based video conferencing	Throughout 2011-2012
Midland Court 2 upgrade	22 Oct 2011 – 6 Nov 2011
Albany Courts 1, 2 & 3 upgrades	Jan/Feb 2012
Northam Court upgrade	Mar/Apr 2012

Funding is required to upgrade audio visual conferencing facilities and to cover the costs of the ongoing maintenance of these facilities in adult prisons, courts and police stations.

Recommendation 12 (Page 56)

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.

The Government supports the recommendation in principle.

The Department of Corrective Services is undertaking a trial of the use of Skype at Hakea Prison to provide an opportunity for face to face contact on a computer screen between prisoners and their families, friends and some external service providers. It is intended that a review will be undertaken of the trial.

At Acacia private prison and Banksia Hill Detention Centre, Skype is also being used for communication between prisoners and their families and legal representatives.

Funding is required to expand this option.

Recommendation 13 (Page 57)

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.

The Government does not support the recommendation.

Skype is an audio-visual technology. The audio-visual technology equipment currently installed in courts state-wide, and being rolled out, is of a much higher capacity and standard than Skype. Skype runs on a public network and is not

secure. Remote and regional bandwidth is not sufficient to run Skype effectively and in very remote areas that rely on satellite. There is also a lag between voice and image that makes it ineffective as a means of communication for court hearings.

Recommendation 14 (Page 58)

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.

The Government supports the recommendation.

The Department of the Attorney General intends to install the following facilities as courthouses are upgraded or replaced:

1. non contact interview rooms where legal counsel can conduct confidential conversations with persons in custody; and
2. a phone booth within the courtroom so that legal counsel can conduct confidential conversations during a trial with persons in custody and who are remote from the courtroom.

DotAG has included these facilities in the planned development of Broome, Carnarvon, Kalgoorlie, Karratha and Kununurra Courthouses and they will be included in future court developments for other Western Australian courts.

Recommendation 15 (Page 61)

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.

The Government supports the recommendation in principle.

The Department of the Attorney General has implemented an ongoing program to roll out audio visual facilities in courts across the state. Wherever possible, matters in remote areas are attended by judicial officers through the use of audio-visual facilities.

Recommendation 16 (Page 67)

The Committee recommends that the *Coroner's 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.

The Government notes the recommendation.

The Law Reform Commission of Western Australia's inquiry into coronial practice will review and report on the jurisdiction and practices of the coronial system in Western Australia, including the operation of the *Coroners Act 1996*.

The report will contain recommendations on areas where the Act can be improved as well as improvements to be made in the provision of support for the families, friends and others associated with a deceased person who is the subject of a coronial inquiry.

Once available, the report will be considered by Government.

Recommendation 17 (Page 79)

The Committee recommends that the Premier and his department coordinate the whole of Government approach to address the underlying causes of the gross misrepresentation 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.

The Government notes the recommendation.

Government coordination occurs through the Community Services Leadership Group and the Aboriginal Affairs Coordinating Committee (AACC). The AACC will further examine the proposal to set, measure, monitor and report specific objectives and targets.

Recommendation 18 (Page 81)

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 priority.

The Government notes the recommendation.

The Department of Corrective Services currently directly provides or funds non-government agencies to deliver a range of programs for young people at Rangeview Remand Centre and Banksia Hill Detention Centre. These include alcohol and drug education programs, sexual health, harm minimisation, work placements, pre-employment programs and programs specifically for females.

In addition, the Department is currently working on redeveloping the Rangeview Remand Centre into a young adults facility, which will provide training, education, employment and life skills for sentenced young men aged 18-24 years.

Intervention programs at the new facility will include drug and alcohol counselling and education, family and domestic violence education, financial management, impulse control and positive parenting. The young adults facility is expected to be operational by mid 2012.

The Department matches offenders to programs in accordance with assessed risk, need and responsivity. Consideration of cultural learning style, gender and the age of offenders are also taken into account in terms of development, facilitation and participation in programs.

All adult offender programs are considered suitable for delivery to young adult offenders, with the exception of the *Medium Intensity Violence* program and the *Choice, Change and Consequence* program, which are only suitable for adults over the age of 20 years.

Evidence of the need for a suite of intervention programs for young adults on the basis of their age alone has not been demonstrated.

Recommendation 19 (Page 84)

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 actions to ensure that effective programs are developed and delivered.

The Government notes the recommendation.

The provision of programs and services to reduce Aboriginal offending and recidivism requires a cross Government approach to address the causes of offending, which are embedded in issues of social disadvantage in Aboriginal communities.

The Department of Corrective Service's Clinical Governance Unit is responsible for clinical practices and interventions delivered to prisoners and community based offenders. This includes the sourcing, development and maintenance of programs.

The Department of Corrective Services continually researches and sources new programs; however, there are very few programs designed for Aboriginal offenders that have been identified as effective in reducing recidivism. Nevertheless, the Department has implemented the following strategies in an effort to reduce recidivism in Aboriginal offenders:

- o An Aboriginal drug and alcohol service has been engaged to develop an Aboriginal addendum to a well validated drug and alcohol program;
- o A general criminogenic program is being developed for regional specific Aboriginal men; and

- A program is being developed for traditional Aboriginal men who have committed sex offences.

All medium and high intensity programs are evaluated for efficacy in terms of short and long term gains (including recidivism data).

The Department of the Attorney General collates and contributes to collections of data and information regarding programs that are effective in reducing Aboriginal offending and recidivism. Programs are developed, evaluated and modified in the general course of the Department's business.

The Department of the Attorney General has a number of programs to address the causes of crime. For example, the Aboriginal Justice Program (AJP) within DotAG has identified four key focus areas to address:

- driver's licensing;
- fines enforcement;
- family and domestic violence; and
- youth offending.

The AJP is rolling out a series of community open days, bringing together government and non-government agencies into communities in regional and remote areas, to enable people in those communities to engage with a number of agencies at a time, for transactions such as:

- obtaining identification documents such as birth certificates;
- making time-to-pay arrangements for fines and infringements to reinstate a suspended driver's licence;
- obtaining a learner's permit or taking a driving test; and
- registering with an employment network service provider.

Recommendation 20 (Page 89)

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.

The Government notes the recommendation.

Justice reinvestment is a strategy in which a state government invests money that it would otherwise use to imprison people, in local initiatives promoting better social conditions (health, housing, employment, education) to address the underlying causes of crime. The savings are not only spent to improve services for offenders, but are used to benefit the whole community. It gives local rather than central government the power to decide how money should best be spent

to produce safer local communities. Prisons are used as a measure of 'last resort' and reserved for dangerous and serious offenders.

Justice reinvestment is founded on the premise that there is appropriate infrastructure for the current requirements (i.e. sufficient design capacity) prior to consideration of reinvestment of future funds to alternatives to imprisonment. The Department of Corrective Services is a considerable way from this point.

While the Department of Corrective Services does provide early intervention and rehabilitation programs to address re-offending, justice reinvestment cannot be achieved by the Department alone; it would require a Government wide approach. The Department acknowledges the benefits that can be gained from identifying hot spots and providing local funding to those areas to tackle the social disadvantages that contribute to offending behaviour, however, past attempts to address social disadvantage and social exclusion have had mixed outcomes and it is not clear how the justice re-investment approach will lead to better outcomes. If such an approach is to work, it is one that would require generational change and a sustained across government approach with clearly defined strategies.

Australian and international research indicates that any justice reinvestment strategy requires a well co-ordinated and closely monitored inter-agency approach. The Department of Corrective Service's research has identified that the following areas are key elements for success:

- Housing: Stable housing and access to support in the community have been identified as important factors for newly released offenders.
- Mental Health: Efforts to divert offenders with mental illness away from the criminal justice system can have a positive impact. There are some effective US police diversion models which could be explored.
- Alcohol and other drug use: There are a range of studies exploring the relationship between drug and alcohol use and crime. Programs could be developed to cater for offenders with more entrenched drug use and a more serious level of offending.
- Parenting support, social supports: There has been a significant amount of international research into the area of social supports such as early childhood interventions and mentoring - and the role these may play in preventing contact with the justice system.