



Government of **Western Australia**  
Department of **Corrective Services**

## **ANNUAL REPORT 2011/2012**

### **CBD Courts Project Contract**

This Report covers the operation of the CBD Courts Project Contract as it pertains to Court Security and Custodial Services.

30 September 2012



Government of **Western Australia**  
Department of **Corrective Services**

## **CBD Courts Project Contract**

Annual Report 2011/2012

Hon Murray Cowper MLA  
Minister for Corrective Services

In accordance with section 45 of the *Court Security and Custodial Services Act 1999* (the Act), I hereby submit for your information and presentation to Parliament the 2011/12 Annual Report of the CBD Courts Project Contract. This report pertains to the provision of court security and custodial services under the CBD Courts Project Contract Public Private Partnership with Western Liberty Group Pty Ltd (Western Liberty Group).

Under section 45 of the Act, the Chief Executive Officer of the agency principally assisting the Minister for Corrective Services, is required to submit to you by 30 September each year a report on each contractor who provided services under a contract in the preceding 12 months.

This report presents an overview of services provided under the CBD Courts Project Contract by Western Liberty Group through their contractor G4S Custodial Services Pty Ltd (G4S). While G4S perform the services, the State's contract is with Western Liberty Group. This is reflected in the Annual Report through reference to Western Liberty Group in the main, with such references to be read as including G4S.

Compliance information and statistical information in the report are presented for the period 1 July 2011 to 30 June 2012

Ian Johnson  
COMMISSIONER  
DEPARTMENT OF CORRECTIVE SERVICES

September 2012

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## **1. FOREWORD AND COMMISSIONER'S MESSAGE**

The court security and custodial services provided under the CBD Courts Project Contract include services provided at both the District Court Building and the Central Law Courts. These two sites represent the bulk of court security and court custodial workload in the Perth metropolitan area. These services are part of a broader range of services provided by Western Liberty Group to the Department of the Attorney General as part of the CBD Courts Project Contract Public Private Partnership. I have delegated all the functions under the *Court Security and Custodial Services Act 1999* (the Act) in relation to the relevant sections of the CBD Courts Project Contract Services Agreement to the Executive Director Court and Tribunal Services of the Department of the Attorney General.

The CBD Courts Project Contract represents a unique model for the procurement and provision of court security and custodial services for the State of Western Australia through the amalgamation of service provision with the design, construction, maintenance and operation of the facilities in which the services are provided. To date, the project has resulted in the provision of high quality court custody and security services in the District Court Building and Central Law Courts Building.

The provision of services under the Public Private Partnership has now been in operation for more than four years. During the first year of operation a number of services delivery problems were encountered. Many of these initial difficulties resulted from the initial learning and transition to the new facilities. I am pleased to report that there has been a continuation in improvement with the level of service provided in the 2011/12 reporting period. This has been achieved through a positive working relationship and the application of detailed performance linked indicators that provide comprehensive coverage of the standard of services to be provided by the contractor.

The improvement in service delivery to date and the ongoing relationship building between the State and Western Liberty Group stand the partnership in good stead for continued success into the future.

Ian Johnson  
COMMISSIONER  
DEPARTMENT OF CORRECTIVE SERVICES

## **2. EXECUTIVE SUMMARY**

The provision of services under the CBD Courts Project Contract commenced on 3 June 2008. The 2011/12 year was the fourth year of full operation under the Services Agreement with Western Liberty Group for the provision of court security and custodial services at the District Court Building and the Central Law Courts. This year saw continued improvements in service delivery compared with the previous reporting periods.

The Principal of the Services Agreement under the contract is the Commissioner of the Department of Corrective Services. Pursuant to Section 20(1) of the Act, the Commissioner delegated contract management responsibilities to the Executive Director Court and Tribunal Services of the Department of the Attorney General.

In managing the Services Agreement, the Department of the Attorney General actively monitored, managed and reported on Western Liberty Group's performance during 2011/12. Representatives from the Department of the Attorney General met, or were in contact with, Western Liberty Group on a daily basis to deal with contractual and operational issues as they arose. Executive and strategic oversight was provided by the CBD Courts Project Management Board in accordance with the established governance arrangements for the contract.

Western Liberty Group's performance in 2011/12 was an improvement from 2010/11. During the 2011/12 reporting period Western Liberty Group incurred financial abatements of \$158,692. This is compared with \$809,275 in financial abatements in 2008/09, \$332,048 in 2009/10 and \$261,986 in 2010/11. While this demonstrates a marked improvement, there were still some performance issues in 2011/12. These related mostly to problems in responding to the activation of duress alarms in the District Court Building and Central Law Courts in a timely manner and compliance with Custodial Services Operating Plan and Service Specifications, and Policy and Procedures manual and Operating Manuals.

In assessing service delivery failures and the application of abatements during 2011/12, the Department of the Attorney General gave consideration to the impact on court operations, the level of operational risk involved and the need to provide a commercial incentive for Western Liberty Group to improve performance. This meant that abatements were not applied to a considerable number of non-critical service failures in recognition of the need to balance financial penalties with the materiality of individual service failure incidents.

A total of 59,240 court custody hours were serviced under the contract, which was below the contractual lower band estimate of 63,523. This was primarily the result of improvement in the processing of persons in custody as reflected by the average court custody duration of 5.14 hours per person, compared with the 2004 model average of 5.4 hours per person.

The gross service cost of this service was \$6,851,790 (ex GST), which was approximately \$150,000 over the Department of the Attorney General's budget allocation. This was substantially due to the payment of \$120,000 for the 24 Hours Gallery Guard notice dispute. This was not accounted for in the 2011/12 budget.

A major challenge going into 2011/12 was the Benchmarking of the Services provided under the contract which were scheduled to be benchmarked (or repriced) from June 2012 onwards. The Department of the Attorney General undertook the benchmarking exercise in accordance with its project governance framework to ensure that due diligence was applied when considering the benchmarked services offer from Western Liberty Group and that the State obtained value for money.

### 3. BACKGROUND

In June 2005, the State entered into a 27 year Public Private Partnership with Western Liberty Group for the provision of facilities and services associated with the operation of courts in the Perth Central Business District (CBD). This initiative is referred to as the CBD Courts Project. The contract with Western Liberty Group is comprised of two major and separate components, namely the Facilities Agreement and the Services Agreement.

The Facilities Agreement requires Western Liberty Group to design, construct and maintain the following:

- District Court Building and pedestrian tunnel under Hay Street to the Central Law Courts (Stage 1);
- Custodial areas of the Central Law Courts (Stage 2); and
- Security systems in the Central Law Courts (Stage 3).

Construction of the District Court Building and the Central Law Courts custodial area was completed during 2008. Construction of the Central Law Courts security systems was completed in April 2010.

The Services Agreement requires Western Liberty Group to provide the following services:

- Custody services within the District Court and Central Law Courts;
- User management and court security services within the District Court and Central Law Courts;
- Court recording and transcription services and court booking services within the District Court Building only;
- Hard and soft facility management services for the District Court Building and Central Law Courts custodial area and security systems; and
- Court room booking services.

Services provision under the Services Agreement began on 3 June 2008 following completion of the District Court Building. Performance of the court security and custodial services is subject to the requirements of the *Court Security and Custodial Services Act 1999* (the Act) and is subcontracted to G4S Custodial Services Pty Ltd (G4S). While G4S perform the services, the State's contract is with Western Liberty Group Pty Ltd. This is reflected in this report through reference to Western Liberty Group in the main, with such references to be read as including G4S.

This report is submitted in accordance with Section 45 of the Act for the period 1 July 2011 to 30 June 2012.

## 4. ACHIEVEMENTS AND ACTIVITIES

### A. Contract Governance

The governance arrangements for the Services Agreement consist of a committee structure as contemplated by the Services Agreement, management delegations from the Principal of the Services Agreement and documented roles and responsibilities for individual executive and management positions within the Department of the Attorney General.

The committee structure is outlined below.

<b>Title</b>	<b>Chairperson</b>	<b>Focus</b>
Management Board	Director General (DotAG)	Contract strategic direction, governance and performance (meets quarterly)
Management User Group	Chief Judge (District Court)	Operational service delivery requirements and standards (meets monthly)
Working Committee	CBD Courts Project Contract Administrator (DotAG)	Contract management and service provision (meets every two months)

The Principal of the Services Agreement is the Commissioner of the Department of Corrective Services. The Commissioner has delegated contract management responsibilities to the Department of the Attorney General Executive Director, Court and Tribunal Services, pursuant to Section 20(1) of the Act.

### B. Contract Management

Contract management associated with the Services Agreement is undertaken by the Court and Tribunal Services division of the Department of the Attorney General. The contract management team actively monitors, manages and reports Western Liberty Group's performance at the contractual level while also endeavouring to foster a long term cooperative relationship to ensure the partnership is a success for both the State and Western Liberty Group. Members of this team meet, or are in contact with, Western Liberty Group on a daily basis to deal with contractual and operational issues as they arise and develop strategies for improvement.

The contract management team has developed a comprehensive contract management plan. The core processes addressed by the contract management plan and associated working documents relate to:

- performance reporting and monitoring;
- relationship management, dispute resolution and issue management;
- governance, probity and compliance;
- knowledge and information management;
- change management;
- contingency planning; and
- ongoing review.

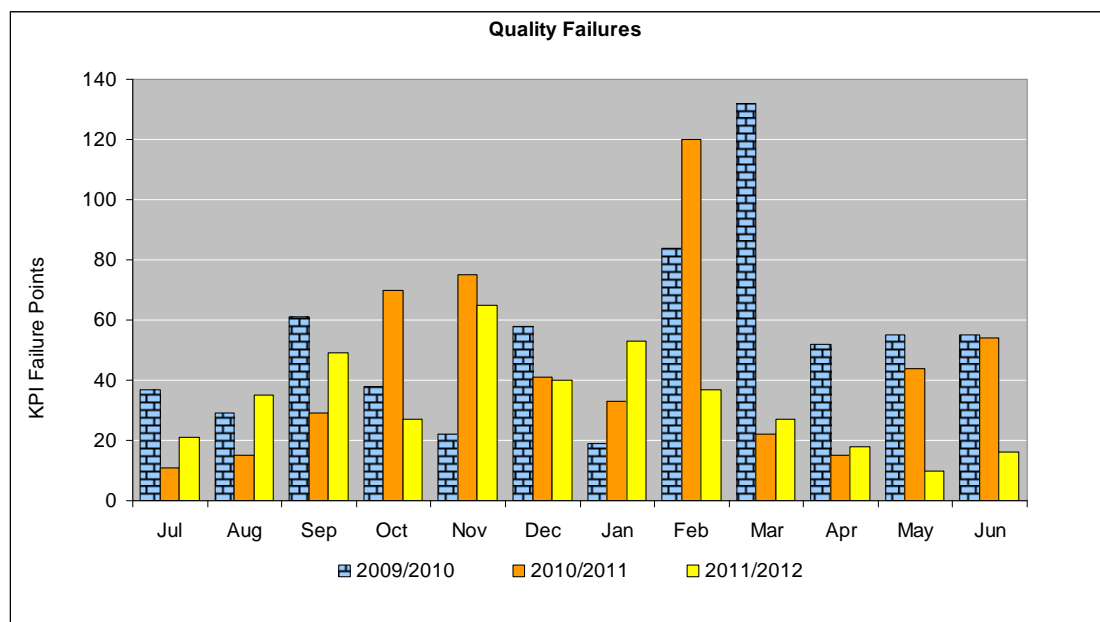
In undertaking specific monitoring of the services provided under the Act, the contract management team uses information from a range of sources. These include:

- data on custody hours, movements and incidents from the Custodial Services Support System;
- self reported information on incidents and operations from Western Liberty Group and G4S; and
- direct observations made by contract management staff.

This information forms the basis for regular discussions on service delivery issues with Western Liberty Group. This information is also used by the contract management team in the assessment and application of contractual abatements.

### C. Contractor Performance

Performance against the Key Performance Indicators (KPI) improved on an overall basis from the previous year. This is demonstrated by the reduction in the total number of contractual KPI failure points incurred by Western Liberty Group in delivering all its services under the contract (which includes court security and custodial services). A comparison of performance in the 2009/10 and 2010/11 reporting period against 2011/12 is provided in the following graph.



It is particularly pleasing to note Western Liberty Group significantly improved performance in delivering persons in custody to court. Only a relatively small number of court proceedings were delayed in the 2011/12 reporting period.

While significant improvement in service delivery was achieved in 2011/12, some performance issues remain.

During 2011/12 Western Liberty Group continued to encounter problems in responding to duress alarm activations in a timely manner in the District Court Building and the Central Law Courts. These alarms are fixed at key points throughout the facilities for use by staff or court users in a duress situation. While the majority of



the alarms were false, the demonstrated lack of capacity to mobilise a timely response to these alarms is a continuing performance issue. Western Liberty Group and the contract management team continued to discuss potential solutions to improve performance in this area. Western Liberty Group advised the Contract Manager that G4S improved its alert systems in Master Control when duress alarms were triggered enabling quicker deployment and improved response times. This improvement was reflected by a drop in abatements applied for not responding to duress alarms in the latter half of the reporting year.

## **D. Reviews**

### **(i) Office of the Inspector of Custodial Services (OICS) Custody Centre Review**

No reviews were undertaken by the Inspector of Custodial Services in 2011/12. However, monitoring officers from Courts Security and Custodial Services Branch of the Department of Corrective Services regularly attend the District Court and Central Law Courts Buildings to monitor court custodial services performed by G4S. Any adverse findings and issues sighted are reported to the Court Security Directorate of the Court and Tribunal Services Division of the Department of the Attorney General. No major issues were reported during 2011/12 year.

## **E. Contract Variations**

In accordance with the Services Agreement, the contract's benchmarks are subject to regular reviews, with the first benchmark period being seven years after the facilities commencement date (i.e. 20 June 2012). Accordingly, the State entered into its first benchmarking period during the reporting year, initiated by WLG on 20 June 2011 with a Benchmarked Services submission.

The benchmarking process was managed by Department of the Attorney General through the Project Steering Committee (PSC) established for this purpose.

The PSC was chaired by the Director General, Department of the Attorney General, and was comprised of senior representatives from the Department of the Attorney General, Department of Corrective Services, Department of Treasury and the State Solicitor's Office. The PSC was responsible for decision making and approving recommendations made by the Project Control Group (PCG). Accounting firm Price Waterhouse Coopers (PWC) provided financial advice in relation to state and national price comparisons to ensure the State obtained value for money.

The prices negotiated for Benchmarked Services are considered to be fair and reasonable and reflect the current market. The benchmarking process resulted in an approximate overall increase of \$3.25 million in 2011 terms.

## **F. Contractual Disputes and Payment Issues**

The Contract Management Team and Western Liberty Group worked cooperatively to resolve all payment issues without referring them to arbitration. There were no major contractual disputes regarding payment for court security and custodial services in 2011/12. However, Western Liberty Group questioned the State in relation to the application of abatements for the absence of dedicated gallery guards in the District Court since services commencement, when in its view 24 hour notice was not given for this service. Both parties had differing legal views. The issue was resolved through a negotiated commercial settlement payment of \$120,000 to

Western Liberty Group. This was a positive outcome given the initial sum sought by Western Liberty Group was \$444,685.

## 5. CONTRACT COMPLIANCE

### A. Key Performance Indicators and Abatements

The contractor is required to meet certain Key Performance Indicators (KPI) in the provision of services and is required to monitor and report its performance on a daily and monthly basis. The contract management team also conducts targeted monitoring to verify the contractors self reporting in this regard.

Failure to meet KPI standards can result in payment abatements being imposed against Western Liberty Group with the value of the abatements determined through the application of specified formulae contained in the Services Agreement. In determining the extent to which abatements would be enforced, consideration was given to the impact on court operations, the level of operational risk involved and the need to provide a commercial incentive for Western Liberty Group to improve performance. This meant that abatements were not applied to a considerable number of non-critical service failures in recognition of the need to balance punitive actions with relationship building.

The following table provides a summary of KPI failures and associated abatements applied in 2011/12.

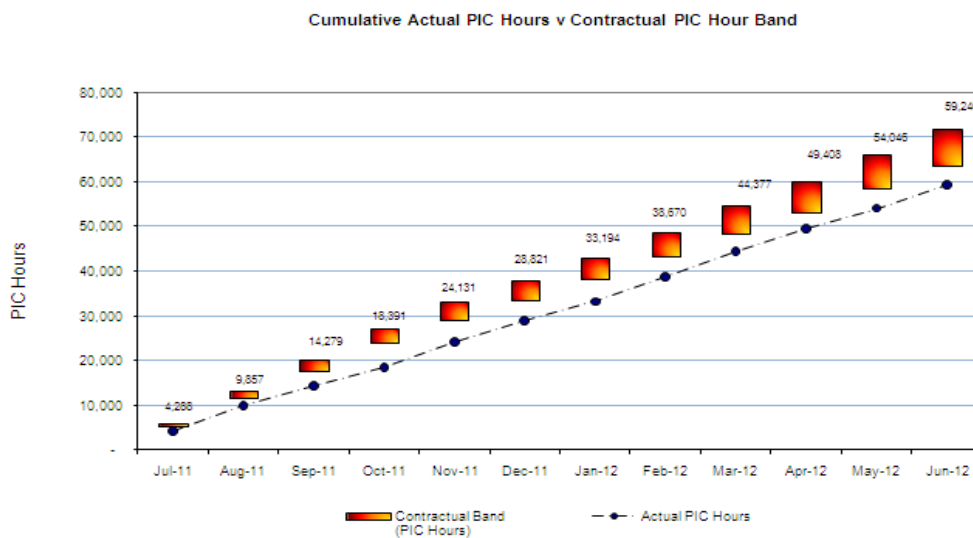
#### Service Failures against Court Security and Custodial Service KPI

	Key Performance Indicator	Failure Incidents	Abatement \$
Court Security Services	34 Responding to duress alarms	10	70,492
	35 Attending to safety and security incidents	0	0
	36 No unauthorised access	1	0
	37 No unauthorised articles	0	0
	38 Report safety and security incidents	1	1425
	40 Comply with User Management and Court Security Operating Plan and the Service Specifications	28	19,958
	65 Comply with Policy and Procedures Manual and Operating Manuals	0	0
Custodial Services	41 Death in custody	0	0
	42 Serious injury to Person in Custody	0	0
	43 Completed escapes from custody	0	0
	44 Unlawful release from custody	0	0
	45 Assault upon a court user by a Person in Custody	0	0
	46 Persons in Custody are delivered to court on schedule	4	7116
	47 Report custodial incidents	1	1469
	48 Comply with Custodial Services Operating Plan and Service Specifications	35	24,807
	65 Comply with Policy and Procedures Manual and Operating Manuals	24	33,425
<b>Total</b>		<b>104</b>	<b>\$158,692</b>

## B. Service Provision

Service demand and payment for the custodial services component of the contract is based on a fixed annual price for an anticipated band of court custody hours, with allowance for adjustment on an hourly rate basis should the actual custody hours fall outside of the set band. The band was established based on court custody data analysis and modelling performed in 2004 as part of the planning for the CBD Courts Project.

The actual custody hours of 59,240 were below the lower band limit of 63,528 for the reporting period. This was primarily the result of improvement in the processing of persons in custody (PIC) through the courts as reflected by the average court custody duration of 5.14 hours per person, compared to the 2004 model average of 5.4 hours per person. The prior reporting period averaged 5.07 hours per PIC.



Payment for the court security component of the contract is based on a fixed annual price for base building security and user management services plus a volume based adjustment for variable demand services such as gallery guards and court orderlies. Approximately 85% of the court security and custodial services received under the contract are subject to a fixed annual payment irrespective of the resources engaged by Western Liberty Group to provide the services. Apart from the variable, volume based costs for gallery guards and court orderlies the Department does not actively monitor or verify the resource hours utilised by Western Liberty Group. However, Western Liberty Group does provide this data on a monthly basis and it is presented below for general information purposes in the broader context of court security and custodial services provided to the State elsewhere under separate contract. In the absence of verification and demonstrated operational efficiencies, the resource data provided can not be relied upon as an indicator of service demand.

### Service Delivery Resource Hours Reported by Western Liberty Group

Activity	Resource Hours*
User Management and Court Security Services	119,679.61.
Custodial Services	112,797.28
<b>Total</b>	<b>232,476.89</b>

\* Figures not verified and not to be taken as an indicator of service demand or cost. Figures are for the period 1 July 2011 to 30 June 2012.

### C. Cost of Service

<b>Total Contract Cost (1 July 2011 – 30 June 2012)</b>	
User Management, Court Security and Custodial Services	\$685,1790
Less Abatements	-\$158,692
<b>Subtotal (exclusive of GST)</b>	<b>\$6,693,098</b>
GST	\$669,309
<b>Total (inclusive of GST)</b>	<b>\$7,362,408</b>

The gross service cost of \$6,693,098 (ex GST).

## **6. MAJOR CHALLENGES FOR 2012/13**

### **A. Benchmarking Process – Western Liberty Group Margin**

As part of the benchmarking process, Western Liberty Group submitted a claim for a margin on the additional cost of the services. Negotiations concerning this claim are near completion.