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OFFICE OF THE INSPECTOR OF CUSTODIAL SERVICES

THEMATIC REVIEW OF COURT SECURITY AND
CUSTODIAL SERVICES IN WESTERN AUSTRALIA



Thematic Review of Court Security and Custodial Services in Western Australia

Office of the Inspector of Custodial Services
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The Inspector's Overview

FROM TRAGEDY TO CHANGE

INTRODUCTION

Few publicly funded services have attracted as much attention as those involved in the custodial transport of Aboriginal elder Mr Ward on 27 January 2008. Mr Ward died a 'terrible death'ⁱ from heatstroke at Kalgoorlie District Hospital following a journey from Laverton to Kalgoorlie. The service in question was provided under the Court Security and Custodial Services Contract ('CSCS Contract'). This Contract commenced in July 2000 for an initial period of five years and is in its second three-year extension. G4S Custodial Services Pty Ltd (G4S) is the current contractor, having taken over from AIMS on 1 August 2007. The current Contract is due to expire at the end of July 2011.

Mr Ward was being transported from a police station to a prison. However, this Report extends into a much wider range of services conducted under the *Court Security and Custodial Services Act 1999* (CSCS Act). These include services provided by the public sector as well as privately-provided services. In the past, we have published separate reviews of services to regional courts, metropolitan courts and of custodial transport but, given that contractual arrangements are a constant theme across all the privately provided services, it made sense to address them in a single thematic report. Services at the District Court and Central Law Courts, which are delivered under a separate contract, are the subject of a separate report.ⁱⁱ

TIMEFRAMES AND POST-FIELDWORK DEVELOPMENTS

The fieldwork for this Report was undertaken between January and May 2009 and much of the Report is a record of our findings from that time. Given the scope and complexity of the task, as well as the need to engage with all relevant partiesⁱⁱⁱ and to give them the opportunity to respond to the draft report, it has taken around 12 months to complete this Report. However, all parties were given a detailed verbal and written briefing on our key findings and the likely tenor of our recommendations in July 2009. There was a generally positive response to these briefings and I am pleased to report that there have been a number of improvements in the ensuing period.

Finalising the Report has also been a challenge because the last 12 months have been a time of considerable change. We have endeavoured to record these changes, as well as the responses of the various parties to the draft report, in this final Report.

The Coroner's inquest into the death of Mr Ward was being conducted during the period of the fieldwork and was published on 12 June 2009. He highlighted numerous failings which had culminated in a death that 'was wholly unnecessary and avoidable'.^{iv}

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- i Hope AN, *Record of an Investigation into Death, Ref 9/09*, Inquest into the death of Mr Ward, Coroner's Court of WA (12 June 2009) 5.
 - ii OICS, *Report of an Inspection of Court Security and Custodial Services Under the District Court Building Services Contract*, Report No. 64 (May 2010).
 - iii They included the Department of Corrective Services, the Department of the Attorney General, the Western Australia Police, the Chief Justice and G4S Custodial Services Pty Ltd.
 - iv Hope AN, *Record of an Investigation into Death, Ref 9/09*, Inquest into the death of Mr Ward, Coroner's Court of WA (12 June 2009) 5.

He found that:

[M]any of the problems ... had already been identified by the previous Inspector of Custodial Services who in unambiguous language had stressed the need for urgent action ... [I]t is clear that the recommendations and observations of the Inspector were not acted upon in a timely manner and this failure to act resulted in the circumstances that contributed to the death.^v

Mr Ward's tragic and avoidable death proved to be both a jolt and a watershed. Immediately after he died, and well before any coronial inquest, the then Government directed the Department of Corrective Services (DCS) to prepare a *Prisoner Transport Review*. That Review was tabled in Parliament in February 2008 and outlined a series of actions that were to be undertaken in the coming months. Most of these were accepted and the Government committed to partial fleet replacement. DCS then arranged an Australasian Custodial Transport Forum in Perth in August 2008 at which it promoted enhanced national standards for custodial vehicles and custodial transport operations. Later in 2008, the incoming administration committed to complete the fleet replacement program by the end of 2010.

Some of the key developments since the Coroner's Report are as follows:

- **July 2009:** The CSCS Board, chaired by the Commissioner for DCS, opted to change the way long-haul escorts were conducted by trialling commercial coaches on prisoner transfer routes between Perth and Broome, Kalgoorlie and Albany and air charters on the lockup clearance/court escort run between East and West Kimberley.^{vi}
- **29 September 2009:** *The Government Response to the Recommendations made by the State Coroner Following the Investigation into the Death of Mr Ward* was published.^{vii} It accepted all the Coroner's recommendations and made a series of commitments to legislative and practical improvement.
- **October 2009:** DCS took delivery of a prototype coach capable of conveying 20 prisoners on medium length escorts. A policy was also adopted for the use of air charters more generally for long distance transports within remote regions, for example between Warburton and Kalgoorlie.
- **February 2010:** the Commissioner for DCS and the CSCS Board decided to stop using the disgraceful Carnarvon Police Lockup as an overnight stopover for prisoners being transferred north or south. To implement this decision, air transport was the most sensible alternative. G4S initially assisted by engaging Skipper's Aviation until the Government was able to develop its own tender.

v Hope, *ibid*, 131.

vi Media Release, Department of Corrective Services (6 July 2009).

vii *Response to the Recommendations Made by the State Coroner Following the Investigation into the Death of Mr Ward*: [http://www.mediastatements.wa.gov.au/Lists/Statements/Attachments/132542/Government%20Response%20\(Final\).pdf](http://www.mediastatements.wa.gov.au/Lists/Statements/Attachments/132542/Government%20Response%20(Final).pdf)

- From the second half of 2009 onwards, the efforts of the new team of contract managers deployed after Mr Ward's death began to bear fruit, with many more new vehicles finally entering service, generally in riskier regional locations. The Contractor implemented agreed procedural changes to strengthen safety for persons in custody and eventually upgraded in-service training following a scathing report commissioned by contract managers.
- Contract managers have been hard at work, with assistance from stakeholder departments and other governmental and private experts, in working up a new CSCS Contract for commencement after 31 July 2011. The project's Statement of Intent directly reflects the Ward tragedy and sets the goal of 'providing safe, secure and decent court security, custody and custodial transport services.' I have no doubt as to the commitment of all persons involved to that goal.

All these developments, and especially the introduction of coach and air transport and the decision to stop using the Carnarvon Lockup, are in line with recommendations made some years ago by this Office.^{viii} Such recommendations initially fell on stony ground, apparently seen as impractical or too expensive. The belated introduction of coach and air transport is very welcome and I pay tribute to the efforts of the State Government, the Commissioner of DCS and his contract management team in finally seeing such changes through.

The 2010–2011 State Budget, announced as this overview was being finalised, also included several positive announcements.^{ix} These include:

- Confirmation that the whole DCS fleet is on schedule for replacement by the end of 2010;
- Additional resources (\$2.1million over five years to strengthen its prisoner transport monitoring capacity;
- Resources (\$2.5million over two years) for WA Police to develop a 'security vehicle replacement program for regional transport vehicles' over the next two years;
- Funding totalling around \$140million for a new Police and Justice Complex in Carnarvon, a new Kalgoorlie Courthouse, improvements to the Kununurra Courthouse and planning for the redevelopment of the Broome Courthouse; and
- Additional funding to my Office (\$2.5million over four years) to undertake audits of the passage of people through the custodial system.

Although our fieldwork for this Report was completed some 12 months ago, and there have been many positive developments in the interim, it is important to provide a full public record of our findings as the state develops new contractual arrangements and implements the Coroner's recommendations. As required of us by the state's accountability framework, future reports will be able to draw on these findings and provide an independent public record of progress 'on the ground'.

viii OICS, *Report of a Thematic Review of Custodial Transport Services in Western Australia*, Report No. 43 (May 2007) 2 and Recommendations 14 and 39.

ix See the WA Budget Statements at <<http://www.ourstatebudget.wa.gov.au>> and the associated media releases by the Hon Christian Porter MLA, Attorney General and Minister for Corrective Services.

REPORT FINDINGS

Court security and custody

For the most part, members of the judiciary and court staff were quite satisfied with the levels of service provided by the Contractor. The main exception to this was regional courts where, due to the strength of the employment market, the Contractor had been unable to maintain local staffing. This meant that staff had to be flown in and this had affected consistency in services.

While significant resources have gone into the new District Court Building and into refurbishing the Central Law Courts, little has been spent on upgrades to regional courts. At sites such as Broome, Kununurra and Kalgoorlie, the conditions offer little amenity for staff, little dignity for persons in custody, and potential risks to the community due to inadequate physical security infrastructure. The recently announced injection of funds into these sites is therefore most welcome. Perth Children's Court was another site that we considered in need of attention.

We highlight a number of issues with cell design. We found cold bare metal seats being installed in cells remarkably uncomfortable in an air-conditioned environment, where people may have to sit for many hours. Water fountains in cells often form part of a single stainless steel unit which includes the toilet. Many persons in custody expressed disgust at this arrangement which, I am told, is contrary to the Department of the Attorney General's Standard Design Brief but is subject to available resources. And despite there being toilets, there are generally no hand washing facilities. We also found screens and barriers being installed to protect CSCS staff from view by persons in custody. This is a retrograde step, contrary to the principles of dynamic security through positive human interaction with detainees. Quality of food was another issue, not only at court custody centres but also at police lockups and on custodial transport journeys originating from lockups.

Prisoner transport

Given that in February 2008, the then Government had committed to partial fleet replacement, we expected that much would have changed on the ground by the first half of 2009. This was not the case. Only a handful of new vehicles were on the road and there had already been difficulties with some of the technologies. Transport providers and their passengers were having to make do with the same decrepit fleet, notwithstanding certain modifications to vehicles and procedures that had been made following the death of Mr Ward.^x Long distance prisoner transport journeys were being conducted in the same unpleasant cellular trucks with potty toilets, and prisoners were still having to stay overnight in squalid conditions at police lockups in places like Halls Creek and Carnarvon.

x These included installation of cell temperature monitors with audible alarms, clearly marked and audible duress alarms in each cell, two-way cell communications, use of log-books by staff, and physical welfare checks of prisoners every two hours.

As noted earlier, there have been some improvements to the fleet and especially to arrangements for long distance transport. However, many custodial vehicles – operated by the public sector as well as the private sector – have not been updated or replaced. It was most concerning to hear that on 12 March 2010 a diabetic prisoner passed out in the rear of an escort van travelling back to Casuarina Prison from a local funeral on a hot day. The vehicle in question was old and immediately after the incident Casuarina was provided with another modern vehicle. It therefore appears that there is still some way to go before all vehicles are compliant with necessary standards, though it is reassuring that the whole fleet is still on schedule for replacement by the end of 2010.

We were particularly concerned to understand the contract management failures, which allowed the set of circumstances to arise in which the death of Mr Ward could occur. We found evidence of deficiencies in management of the CSCS Contract arising in part from what we term a dispersal of responsibility, authority and risk between the two departments primarily involved.^{xi} There have been some improvements during 2009 and early 2010 and this is an area in which greater clarity will come from their participation in the project to develop new contractual arrangements to apply from August 2011.

Medical escorts

We were concerned at the number of medical escort cancellations. It is difficult to get precise figures^{xii} and it may be that medical cancellations have reduced since the Secure Facility in the basement of the Royal Perth Hospital Outpatients Clinic opened in September 2008. However, I am informed that a shortage of vehicles has even lately caused cancellations. I am also concerned that my inspectors found pregnant women being transported to and from medical appointments in inappropriate vehicles, often by circuitous routes without ready access to a toilet.

I am strongly of the opinion that whatever contractual arrangements are in place to provide services under the *Court Security and Custodial Services Act 1999*, there should be a dedicated group of staff with purpose-designed vehicles to provide medical escorts and bed-sits for persons in custody, including pregnant women and disabled and mentally ill people.^{xiii}

Contractor

We identified significant concerns with the Contractor's ability to recruit, train and manage its staff, its internal communication systems, its risk-averse custodial management practices, and its limited capacity to innovate or deploy new technologies. In part, the Contractor's problems reflected the history and nature of the present Contract and the decrepit vehicle fleet. But we also identified many areas for improvement by the Contractor itself as well as some lessons to be learned in developing

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- xi The Department of Corrective Services and the Department of the Attorney General were created out of the former Department of Justice in February 2006.
- xii In responding to our draft report, the Department of Corrective Services disputed the figures which it had provided to us but provided no new data.
- xiii The Review includes a discussion about transport of persons on Hospital Orders, a matter which I believe deserves close attention.

new contractual arrangements. G4S responded positively to our July 2009 briefings, and in responding to the draft report, provided a credible account of its efforts to address our main concerns.

Police lockups

Police are key beneficiaries of the CSCS Contract and are involved at both management and operational levels. When the *Court Security and Custodial Services Act 1999* was enacted, it was envisaged that contractors would staff the main regional lockups. However, this was not progressed due to a failure to invest in bringing these lockups to a decent standard. Ten years on, prisoners, juvenile detainees and other police detainees are still being held in substandard conditions in places like Carnarvon, Halls Creek and Kununurra. The issues at these sites included an inability / failure to separate children from adults, and victims of family violence from perpetrators, in the yards. As noted earlier, the 2010–2011 State Budget heralds future improvements at Carnarvon. Questions relating to health assessments of persons in custody before transportation, and the quantity and quality of food provided on transports also remained unresolved.

Juvenile transport

We also address the question of the transportation of young people in custody to detention facilities in Perth by police. As the Police Commissioner has said, there are issues with respect to the appropriateness of the police vehicles and the fact that undertaking such transfers takes police officers away from ‘frontline’ duties. It is very likely that this role will be transferred to Juvenile Custodial Services in DCS and I fully support such a move. I also welcome the positive responses by police to our inspection and our recommendations.

Juvenile Custodial Services in DCS already provides some services, which come under the purview of the *Court Security and Custodial Services Act 1999*, namely the transport of juvenile detainees within Perth and the staffing of the holding rooms at Perth Children’s Court. We found that they are running a good service for a difficult client group but that the holding room facilities at the Court need improvement. During the course of the inspection, the vehicle fleet improved with the introduction of two new vehicles.

The Report also touches on the involvement of other parts of the DCS. Metropolitan minimum security facilities undertake their own medical appointments and funeral escorts. The Emergency Support Group undertakes high security escorts (and acquired an improved new vehicle in 2009). Other prisons have always carried out some emergency medical escorts, but they have also had to step in and undertake general medical appointments, bed-sits,^{xiv} funeral escorts, and sometimes court escorts when the Contractor was unable to provide the service.

xiv This has become an accepted term in CSCS contract management and means the supervision of prisoners while in hospital.

Conclusion

In conducting an inspection of such complexity and preparing a detailed and potentially controversial Report, we have involved a very large number of people. They include the CEOs, managers and staff of DCS and the Department of the Attorney General; police at all levels; contractor staff; persons in custody; heads of jurisdiction and other members of the judiciary; and last, but not least, people in custody. I sincerely thank all who assisted us.

I started with a reference to the tragedy of Mr Ward's death on 27 January 2008. Nothing can undo, repair or bring 'closure' to such an event. However, it is important to record that the response to that death, and the fact that the underlying issues have been open to so much public debate, is testimony to the fact that Western Australia has stronger systems of public accountability and independent scrutiny of custodial services than other jurisdictions. The CSCS Contract is a public document, with a special Annual Report published yearly by the administering department. The Inspectorate is a genuinely independent review agency, which has been examining CSCS services since the Contract began and which is equally concerned with service provision by the public sector.

While there is some way to go in resolving all the issues identified in this Report, we have certainly arrived at a much more positive place in the performance and management cycle of custodial transport than was evident a year ago – and the state's accountability processes have played their proper role in that. The 2010-2011 Budget announcement of additional powers for the Inspectorate to audit the passage of people through the custodial system also provides another valuable mechanism for significantly reducing the risk of events such as the death of Mr Ward.

Neil Morgan
Inspector of Custodial Services
21 May 2010

Chapter 1

INTRODUCTION

SCOPE OF THE REVIEW

- 1.1 This is a Review of services generally conducted under the *Court Security and Custodial Services Act 1999*, inclusive of those provided both by the public and private sectors. In the past, the Office of the Inspector of Custodial Services ('the Inspectorate') has had separate reviews of services to regional courts, metropolitan courts and of custodial transport. However, those services which are privately provided are all covered under a single contract (currently with G4S Custodial Services Pty Ltd, a subsidiary of G4S Australia Ltd), so it made sense to address them in a single report. The present Review is successor to the following previous reviews:
- OICS, *Report of an Announced Inspection of Metropolitan Court Security and Custodial Services*, Report No. 31 (February 2006)
 - OICS, *Report of an Announced Inspection of Regional Court Security and Custodial Services (CSCS)*, Report No. 40 (February 2007)
 - OICS, *Report of a Thematic Review of Custodial Transport Services in Western Australia*, Report No. 43 (May 2007)
- 1.2 We did however, exclude from this Review services at the District Court and Central Law Courts, which since June 2008, have been delivered under a separate contract, the District Court Building Services Contract. It seemed best to publish a separate report in relation to these sites.
- 1.3 As with previous reviews, contract management activity of the responsible Department, presently the DCS, is an important consideration in the present Report. A number of issues arising from a dispersal in lines of authority in relation to administration of the Contract are closely examined in the present Review. The CSCS Contract commenced an initial five year term on 31 July 2000. It is currently in its second three year extension and will expire on 30 July 2011. Plans for developing a successor contract are also examined.
- 1.4 Following Report 43, custodial transport services by sections of DCS, some formerly undertaken by the Contractor, are included in the present Review. These include ad-hoc transport from metropolitan minimum security prisons, high security escorts and escorts of juvenile detainees with the metropolitan area. It also touches on interface issues with other agencies including the Department of the Attorney General (DotAG) and the judiciary, WA Police and the Department of Health.

METHODOLOGY

- 1.5 The present Review was announced in October 2008 with invitations to provide submissions and briefings in late January. Fieldwork commenced in late January and extended into mid-May. Almost every custodial facility and court custody centre serviced by the Contractor was visited from Albany to Kununurra. To augment our expertise in the area of court security, the Inspectorate coopted Mr Dean Fechner, Manager Security Services and Policy, of the Office of the Sheriff of NSW. His involvement was especially relevant to our inspection of the District Court Building Contract, reported separately.

INTRODUCTION

- 1.6 Fieldwork involved direct observation, discussions with Contractor staff, DotAG staff, police, corrections staff, lawyers, judicial members, representatives of other agencies and community members. Inspectors also spoke to numerous people in custody and completed 159 brief interview schedules. A questionnaire was also sent to all CSCS Contractor staff, which had 77 returns, a good result.
- 1.7 An exit debrief was provided to relevant Departments and G4S on 9 July 2009 to provide an early indication of our findings for their further attention before the report could be compiled. The draft report was distributed to these agencies and to judicial heads on 19 February 2010 requesting any comments and their action plans on recommendations that affected them by 5 April 2010.
- 1.8 Appreciation is expressed for the cooperation and assistance given this office in undertaking this Review, from all parties including Contract Management, Juvenile Custodial Services, Emergency Services Group, Health Services and many local facilities within DCS, WA Police both centrally and at the local level, the Court Security Directorate and various courts within DotAG, the Frankland Centre and management and staff of G4S both centrally at many sites. Submissions and briefings given by DCS Contract Management and DotAG Court Security were especially substantive. Input and involvement from persons in custody and representatives of other agencies and community members is also acknowledged and appreciated.

Chapter 2

COURT OPERATIONS

SERVICES PROVIDED

- 2.1 As current provider for the Court Security and Custodial Services (CSCS) Contract, G4S Custodial Services Pty Ltd (G4S) has responsibility for a range of services to most metropolitan and major regional courts throughout Western Australia.¹ This includes the management of persons in custody in the holding rooms, their production in court, security within the court room and security within the building generally and its perimeter. For lower courts, the Contractor is also required to provide court orderly services and for higher courts, a gallery guard.
- 2.2 There are a number of variations from this pattern, with some courts lacking a dedicated holding facility. For example, the holding rooms at the Geraldton Courthouse are managed by police as part of their adjacent lockup facility. Defendants in custody are handed over to G4S to be taken to a small cell adjacent to the court room and into the dock. At the Albany justice complex, people are also held in the police lockup whilst awaiting court, but that facility is managed on court days by the Contractor, as if it was a court holding room facility. At Kununurra, only newly serviced by the Contractor, the court lacks adequate holding facilities, so most people awaiting court have to be managed by police in the lockup before being handed over to G4S staff for their court appearance. At Perth Children's Court, G4S provides court security services, but not custodial services, which are provided by Juvenile Custodial Services (JCS) from the DCS. At Busselton, the Contractor provides orderly and security services, but no custodial services.
- 2.3 Upon commencement of the District Court Building (DCB) Services Contract in June 2008, court security and custodial services at the District Court and adjacent Central Law Courts were excluded by variation from the CSCS Contract. Services provided under the DCB Contract will be the subject of a separate report. Another general exclusion from the Contract is civil court sittings, although there may be a requirement to provide building security, or custodial services in the rare instance that a party or witness in a hearing is a prisoner. This exclusion is sometimes lamented when civil proceedings get heated, not unknown in violence restraining orders hearings and other family matters. It would be timely for the decision to exclude civil courts from the Contract to be revisited, and the security requirements of civil courts should be reviewed and addressed as part of the re-tender process for the Court Security and Custodial Services Contract.

CONTRACTOR PERFORMANCE

- 2.4 Contractor performance in courts is dependent on a number of factors including the quality of local supervision, the number of staff available, the competence of available staff, local expectations of the service and the level of demand for services. As the resource boom deepened in Western Australia, both regional and metropolitan operations had to continually manage with reduced staffing numbers. Nevertheless, judicial expectations meant that services to the court, including court escorts, got first priority compared to other CSCS service

¹ Service requirements have been adjusted over time.

COURT OPERATIONS

requirements.² This meant, for example, that vans delivering prisoners to a court like Joondalup were often tasked to stay so the crew could make up the numbers at the custody centre, instead of being made available to undertake a medical or funeral escort.

- 2.5 This situation had improved considerably by early 2009 as G4S had made significant progress in restoring staffing numbers as the boom weakened in the context of the global financial crisis. However, recruitment of locals in many regional areas bore little fruit, so most regional teams had to be supplemented by fly-in fly-out workers from Perth. This was rarely entirely successful, so most regional operations were chronically short to some degree. This meant that such courts often operated without a continual perimeter guard for security, and faced delays in prisoner movements caused by inadequate staff on custodial duties.
- 2.6 For the most part, we found that members of the judiciary and court staff were satisfied with the levels of service provided by G4S at their court. They also felt that any issues were readily resolved by discussion with the local Supervisor. Regional courts, however, were somewhat less satisfied with G4S services insofar as the turnover of fly-in/fly-out workers meant that staff had less knowledge of local needs and court requirements and aspects of the operation were often understaffed. Supervisors at regional courts also have to balance the needs of their base court with transport requirements to other courts (especially when the Magistrate is on circuit) and the needs of the regional prison (which may require medical and funeral escorts). The pressures are exacerbated when multiple courts are sitting, such as a District Court which requires dock guards and gallery guards.
- 2.7 Magistrates highly valued the G4S court orderlies who understood their particular requirements for managing their court. A number expressed a desire for their court orderly to accompany them on circuit. As we observed at both Newman and Jigalong, court lists can be long and complex, so having an orderly that understands how best to assist the court would be a valuable resource. A multi-functional police facility on a community such as Jigalong may have only two officers in attendance, so it becomes extremely difficult to dedicate either or both officers to assist with the court, at the same time managing large groups of people waiting out front, caring for people in custody before or after their court appearance and any other community needs that might arise. In mid-2009, the CSCS Contract Manager proposed that the Department of Attorney General (DotAG) fund a trial for the East Kimberley Circuit.
- 2.8 It should also be noted that DotAG provided the following opinion on the CSCS Contract in its briefing to the Inspectorate in January 2009:

In the eight full years of operation, under a range of contractors and agency management regimes, the contract has successfully delivered services to court and tribunal services. Despite the state of the Contractor's staff complement and the elevated security risks that exist throughout the contracted courts, the contract has proven to be an effective vehicle to deliver services to courts in the metropolitan and regional centres.

2 In response, DCS rejects the view that priority is given to services to courts and states that it has reiterated to G4S that the expectation is that all services are of equal priority. However, it does appear in practice that court services take priority where there are competing demands. This is certainly the view of people in the field.

Recommendation 1

That the security needs of civil courts and magisterial circuit courts be reviewed and addressed as part of the Court Security and Custodial Services Contract re-tender process.

COURT SECURITY

- 2.9 Court security has a number of dimensions. Many court facilities have responsibility for external spaces such as gardens, grounds and carparks. These provide opportunities for conflict among those awaiting court, and for damage to property. All court houses have internal spaces such as foyers, waiting rooms, service counters, toilets and courtrooms. Again, conflict among people is a potential risk, especially when a serious crime has been perpetrated, or when violence restraining orders and family matters are at stake. The Court Security Directorate of DotAG informed that the three major sources of risk are rival outlaw motorcycle gangs, feuding family groupings and anger towards those accused of sex crimes against children.
- 2.10 The Contractor is required to provide ongoing security prior to and during sessions of the court and as otherwise required. Security patrols typically commence about half an hour before the court with a check of the perimeter and roving throughout the internal and external spaces of the court house. In a sitting of the Magistrate Court, the Contractor is required to provide a court orderly who is responsible for managing the court list and for court room security. For sittings of higher courts, the Contractor must provide a gallery guard to provide court room security.
- 2.11 Airport-style security screening at court entrances has long been in place at the Central Law Courts. It was more recently implemented at the Supreme Court, where it was accepted as a necessary evil. At Perth Children's Court, it was well accepted but at the new District Court Building it was seen by certain key building users as intrusive and unnecessary. Such security is increasingly sought at certain other metropolitan courts, such as Fremantle, where a trial screen and random bag searches have often detected knives and other weapons. Such facilities require three staff to operate and the proximity of a supervisor, involving considerable extra resources. It is a matter of judgement for DotAG whether such levels of security are routinely needed to safeguard staff and the public.
- 2.12 The Contractor is also expected to respond to any incidents or emergencies that may transpire at courts, such as an attempted escape from the dock, a fight breaking out in the foyer, a heart attack in the waiting area, a registry window being smashed, the triggering of a fire alarm or the receipt of a bomb threat. Germane to such a response is early incident detection and effective communication among security staff. However we found that there is little consistency in duress alarm systems in courts, nor proper integration with other alarm systems. Many systems are monitored in the first instance by a security company off-site, including for the judiciary sitting in court, and for civilian staff working in the building. Few sites have all duress alarms sounding in the custody control area with display on the control panel of alarm location for effective local coordination of a response.

COURT OPERATIONS

- 2.13 There were also complaints by staff at some centres of insufficient radios or radio chargers, notwithstanding assurances given about this issue in response to a previous inspection recommendation.³ Many facilities had inadequate surveillance of secure corridors, public areas and external areas. Such cameras as existed fed variously to the custody control panel, the registry office, the adjacent police station or even the desk of the court orderly in the court room. A number of surveillance cameras were not working or gave poor vision. Placement of fire alarm panels was equally diverse.
- 2.14 Preparedness is another essential component of a response to incident management. A bomb threat at the Supreme Court in March 2009 exposed significant weaknesses in preparedness at that site, resulting in a situation in which staff were informed and evacuated from only one end of the building. G4S and court managers subsequently met to develop a more robust response plan. Inspectors were unable to review preparedness at most courts, but it was concerning to hear, for example, that a planned evacuation exercise at one regional court did not proceed because the clerk of courts would not agree to G4S involving third parties such as FESA. And G4S staff at one metropolitan site were unable to find their site manual, which presumably included incident and emergency response plans.
- 2.15 An important aspect of incident prevention is intelligence and analysis about potential threats to security. Police, prisons, DotAG and G4S all hold or receive information about defendants that can signify security risks surrounding their security in court. This may include public attention given their case, prior histories of escape, violence against public officers, gang associations, known enemies, involvement in family feuding and any specific intelligence about that court appearance.
- 2.16 The Court Security Directorate has established an effective system to collate such information and scan ahead over the coming period for potential security threats at courts throughout the state. We found that local court and security staff were appraised of identified risks and took responsible remedial action. At such times, G4S may deploy more staff to a particular site or local police may be asked to assist. The Directorate also developed an Operational Order to manage security surrounding especially high risk matters, including high profile murder trials at the Supreme Court. Our visiting expert found that in general ‘the Intelligence system utilised by the Court Security Directorate is of above average standard and is of a standard above that which is currently in use throughout NSW.’
- 2.17 The Court Security Directorate also conducts ongoing operational risk reviews of all DotAG courts in the state. This identifies areas of concern relating to court security or other operational risks, whether arising from faulty or substandard equipment, from staff procedures, building issues, client behaviours, emerging issues and so on. It is beyond the scope of this Report to document such deficiencies on a site-by-site basis, although there are references in the following text to particular issues that came to attention of inspectors.

3 OICS, *Report of an Announced Inspection of Metropolitan Court Security and Custodial Services*, Report No. 31 (February 2006), Recommendation 5 (c) (reproduced in Appendix 2).

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- 2.18 The following table indicates there was a significant escalation of contractor hours in WA Courts in the most recent contract year. These numbers escalated partly due to increased levels of security services to courts, notably airport-style security screening at the Supreme Court and Perth Children's Court. It also reflected escalating number of arrested persons, remandees and prisoners held in court custody centres during that year.

Court Security and Court Custody Hours by Contract Year

2000-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008
293,720	271,513	299,031	307,835	333,687	320,124	313,877	379,757

Source: *Annual Report 2007-2008 – Court Security and Custodial Services*

- 2.19 Over three months of the present inspection period (Feb-Apr 2009), an analysis of TOMS records showed that prisoners from metropolitan facilities spent an average of 7.95 hours away from their facility on a court escort. This is significantly longer than the figure of 7.2 hours from the last quarter of 2005.⁴ This could reflect increased throughputs in the courts and court custody centres, process changes at the new District Court and Central Law Courts, or adverse changes in transport scheduling. In the end, however, more time is being spent in cells in court custody centres and it is important to understand what this means for the persons in custody.
- 2.20 Most people in prisons are required to participate in a daily routine involving structured activities such as work, education, programs or recreation, with a capacity to move around as required and obtain their own morning and afternoon tea or have a smoke as desired and receive a reasonably full lunch. At some point they may be able to use the telephone to talk to a friend or relative or attend the canteen. Some may have a period when they are restricted to their cell where they can at least lie down, watch TV, listen to music, read and use a toilet with a degree of privacy.
- 2.21 Attending court by contrast, generally involves a rather unpleasant journey in a cramped prisoner transport, having been strip searched before leaving the prison, followed by confinement in a bare cell with a group of equally anxious and possibly aggressive strangers, for an extended period of time. The cell has nothing more than hard metal or concrete benches for seats, a less-than-private toilet, a water fountain mounted behind the toilet, a surveillance camera in the upper corner, no access to tea or coffee, a less than adequate lunch meal and nothing to do or read, except perhaps watch day-time television on a TV mounted above the door.

4 OICS, *Thematic Review of Custodial Transport Services*, Report No. 43, (May 2007) 37.



A rather filthy toilet installation in the holding cells at the South Hedland Courthouse. Persons in custody strongly object to having to use water fountains in such installations.

- 2.22 Regardless of their favourable behavioural record in the prison or security rating, the prisoner is never sufficiently trusted to leave their cell to visit a toilet in private, make themselves a tea or coffee or have a smoke in a yard. When moved into court, they will be escorted by two officers, possibly in restraints. The court appearance may last as little as 10 minutes. The only contact with a possibly distressed partner, parent or friend may be eye contact across the court room. If the transport is late, the prisoner returns to prison long after the evening meal and counts themselves lucky if a meal has been set aside in the unit and is able to be reheated.
- 2.23 Of course many prisoners, arrestees and juveniles are habituated to these conditions and were uncomplaining to inspectors. A number also reported more favourable experiences. For example, some are fortunately transported back to their prison or detention facility on an early transport. A number do have more extended court appearances including their trial or sentencing. Some report that the officers are kind, or that tea or coffee is offered, or they are given extra food for lunch. Some report being given a blanket. Not all water fountains

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are mounted as part of the toilet fittings and not all seats are cold and hard. Juveniles at Perth Children's Court appreciated being given cards and other games to play in their cells and some enjoyed a chat with officers in the cell.

- 2.24 Nevertheless, the above picture provides a faithful summary of the conditions of confinement of most persons in court custody centres who were interviewed or observed as part of this inspection.
- 2.25 A number of court custody centre users also told us how filthy were the benches, toilets, walls, water fountains or blankets they had to use. Most facilities we observed were reasonably clean and some were spotless and well maintained. However, a few really were filthy. The holding cells in South Hedland, for example, had visible grime on walls, rampant graffiti on walls and ceilings (including from lighter burns) and air vents which were hopelessly clogged and rendered the air-conditioning ineffective. The corridors and staff area were little better. The kind of staffing issues that impact on G4S services in the regional also affect other local services, including cleaning services, and some G4S staff have been willing to step in on occasions. However, it is incumbent on DotAG to ensure that cleaning of custodial areas is fully covered.
- 2.26 Prisoners and detainees surveyed by the Inspectorate were asked to rate a number of aspects of CSCS operations including at courts. The item that got the lowest rating in any area of these operations was food in court custody centres (scoring 1.86 out of 5). The CSCS Contract requires that:
- The Contractor must provide every person in custody, at the usual hour, with food of nutritional value adequate for overall well being. Special dietary food must be provided wherever required. Fresh drinking water must be available to every person in custody at all times. (CSCS Contract, 5.3.5)
- 2.27 However, most centres provide only pies, pasties or sausage rolls, although some stock the same butterless frozen sandwiches from Hakea that are supplied to police lockups. One centre had stopped providing pies as too many were thrown against cell walls. The food provided is never fresh and of questionable nutritional value. Fruit, salad and cooked vegetables are lacking, as are any vegetarian options, except possibly the pasties. No certified halal or kosher food is provided. Some people complained they only received a single pie or sausage roll for the whole day. There was also a complaint that one centre had failed to provide any lunch on a particular day, not having obtained sufficient stock.
- 2.28 Food is rarely provided at the end of the day if the person is still at the centre. Only a few centres routinely provide a hot drink to persons in court custody cells, something which is greatly appreciated on a long day in the cells at court; a biscuit or piece of fruit might also be appreciated. Lower risk prisoners could surely be allowed out of their cells to access morning or afternoon tea, and perhaps to assist in serving lunches or morning or afternoon tea to other people. These issues deserve serious attention.

Recommendation 2

That a range of nutritious meal options, including fruit, salad and other fresh food in reasonable quantities (including a vegetarian option) be made available at all court custody centres for lunch. Morning and afternoon tea should also be provided, and food offered to any person likely to be held after 6.00 pm.

- 2.29 As with other aspects of CSCS operations, risk (aversity) is the overriding feature of custodial management practices in court custody centres. In previous years, all new arrestees brought by police, new remandees from court and people on bail surrendering before court were interviewed at a desk or window. Best practice would be to interview such people in a private interview room, and we saw this occurring at the Supreme Court with persons surrendering on bail. However, we even observed staff at certain facilities attempting to interview such people through the cell door. This is an undignified practice which seriously compromises privacy and should be banned.
- 2.30 While the safety concerns of custodial staff must be acknowledged, there needs to be more understanding of how such methods demean the people they care for and reduce their trust and motivation to cooperate with their custodians. Many Contractor staff aspire to become police or prison officers, and should be encouraged to engage more positively with people in custody. And while Contractor procedures, approved over the years by the Department require that all movements of persons in custody only be undertaken with two officers, this is unnecessary for a good many persons in their care.
- 2.31 An interesting innovation observed in the sallyport of the District Court Building was a brief interview with each disembarking prisoner as to whether they had any injuries, medicine sent with them, whether paperwork for court had been sent and the name of their lawyer. We saw something similar at the Supreme Court, but the practice has not spread to other courts. This appeared a sensible reform signalling an interest in the needs of the prisoner on arrival at the custody centre, thereby securing their cooperation. It also helped detect issues which may be readily remedied. In the light of the above discussion on food, a question about dietary requirements should be included.
- 2.32 It was interesting as part of our fieldwork to observe operations at two courts run by police and another where they were required to provide security and custodial services. Almost all movements of persons in custody were conducted by a single officer, including for example, a male arrestee who walked across the road from the temporary police station at Karratha, into the court room with no more security than a pair of handcuffs, removed in court, and a hand to his belt. G4S supervisors at courts have access to at-risk information relating to prisoners on the TOMS system, additional information from their own Watchdog system, information on arrestees provided by police and any specific intelligence provided by the Court Security Directorate. Experienced custodial officers can also ascertain the mood of persons in their care and make appropriate judgements about the level of risk they may pose.

- 2.33 Most escorts undertaken by contractors are within the secure section of the court building between holding rooms and the dock in the court room. The situation at Broome Court, where persons in custody have to be escorted across the grounds between the custody centre and main courthouse, is the notable exception to this. There should be no need for multiple staff to escort individuals within a custodial environment unless they pose an elevated level of risk.
- 2.34 The imperative for multiple escorts is likely to have been a significant driver for the cost escalation in the Contract. Court operations typically now require between six and 12 CSCS officers, including four to six in the custody centre, far more than ever deployed to the same courts by police prior to the Contract.⁵ Appropriate flexibility in the deployment of staff according to sound custodial management practice employing basic risk management principles would in many cases restore levels of court room and perimeter security to satisfactory levels.
- 2.35 G4S in consultation with contract managers, should review procedures and processes to develop a more interactive and efficient style of custodial management among staff providing court custody services based on sound risk-management and dynamic security principles.

Recommendation 3

That DCS in consultation with its Contractor revise custodial management procedures, staffing ratios and processes in the CSCS Contract to conform with sound risk-management and dynamic security principles.

- 2.36 Further expressions of a risk-averse culture among Contractor staff were efforts at a number of sites to further enclose control rooms and hide themselves from the gaze of any persons in custody. One example was in the Midland facility where it found that a person in a certain cell could observe the arrival of a transport vehicle by seeing its reflection on the glass of door of the computer cabinet in the control room. This is hardly a security risk but it was surmised that such a person might also be able read private information on the control room desk courtesy of the same glass door.
- 2.37 This was fanciful but enough to convince DotAG to accede to a request to apply frosting across the entire bottom section of the glass enclosing the control room. This frosting prevented any direct views by staff in control of the custodial corridor and cells, other than by a tall person standing up. Operators were thereby reliant on CCTV vision to see prisoners in their glass fronted cells. This was a rather bizarre reduction of vision with real potential to reduce detection of any issues that may arise in the custody area and one which adds to the dehumanisation of the custodial environment for staff and persons in custody alike.

⁵ In response, DCS states that court operations typically only require 6-7 G4S officers – custody centres have no more than 4 staff being 1 control, 2 escorting and 1 supervisor. Inspectors found the larger numbers deployed at certain metropolitan courts and regional centres where multiple courts were sitting and regional sites generally where the staff team had mixed court and transport duties, with occasions where all were deployed at the court.

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- 2.38 It is likely that the real impulse for such screening was not security, but staff feeling uncomfortable with being seen by prisoners going about their activities. As one said in the staff survey; ‘officers should not have to walk past cells of PICs to go to the bathroom or lunchroom.’ This impulse is understandable, but in a dynamic security environment where positive interaction between those in custody and their custodians is an important security asset, is best resisted.
- 2.39 Interviews by custodial staff with persons in custody should be across a desk or open counter, not through a cell door, window-slot or speak-through, unless of course a prisoner is uncooperative or actively posing a threat to staff.
- 2.40 A number of facilities lacked adequate interview facilities for lawyers, corrections staff, JPs and others, either in the custody area, in waiting areas or both. However, interview rooms provided for official visitors to meet people in custody are increasingly a non-contact style of facility. While such a facility is a useful option for persons in custody who may pose a risk to an official visitor, many official visitors would prefer to conduct their interview in a more normalised environment. Many regional lawyers in particular say they would rather see a client in a cell than attempt to communicate through the toughened glass and speaking grill in a non-contact room.

Recommendation 4

That the standard design brief for court custody centres be amended to:

- a) Ensure an appropriate balance is struck both to safeguard staff and to support positive interaction between staff and persons in custody. Natural lines of sight and openness in interview areas should not be unduly compromised.*
- b) Preclude cell designs incorporating water fountains as part of the toilet assembly, and bare metal or concrete seating.*
- c) Include adequate facilities for lawyers and other official interviews both adjacent to public waiting areas and within the secure area (the latter should include both standard and non-contact interview rooms).*

MANAGING HIGH SECURITY DEFENDANTS

- 2.41 Following the Supreme Court escapes in 2004, the Contractor (then AIMS Corporation) was funded by the Department to augment its security capacity including the formation of a Special Security Group (SSG) primarily to assist manage high security prisoners at court custodial centres. It was recommended in Report 43 that joint training be undertaken between the Department’s Emergency Service Group and the SSG. However, in 2007–2008, the Contractor was unable to staff its SSG, and DCS decided to withdraw funding.
- 2.42 Nevertheless, contract managers intended that an enhanced level of training would be maintained among a select group of Contractor staff at metropolitan courts, including at the District Court Building and Central Law Courts. To date, no such enhanced training has been provided, nor has necessary equipment for incident management relating to high security

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escorts been deployed in each facility. It is concerning that a class of prisoners can be assessed as (posing either directly or through external associates) such a high risk to security that they require a special escort from the prison, only to be handed over to contract staff at a court without any enhancement to their security arrangements.

Recommendation 5

That unless and until a special security capacity is restored on the part of the Contractor, Emergency Services Group personnel bringing a high security escort to a court should remain at the court to maintain a high level of security in the management of that person whilst at the court.

INFRASTRUCTURE ISSUES

- 2.43 We have already touched on aspects of court security infrastructure, court custody cell design and maintenance issues at certain sites. While infrastructure at a number of sites has been significantly upgraded, others are shabby and dilapidated. This impacts on persons in custody, security for the courts and the amenity of persons staffing the courts. Court security and custody staff at many centres say that their own amenities are poor or non-existent, possibly worse than what is provided to prisoners. Few have dedicated spaces where staff can sit down, take a break, have lunch or meet together as a team.
- 2.44 We found little progress in relation to court custody and security infrastructure or infrastructure for staff amenities since the previous inspection. New offices for Contractor staff and an improved sallyport and interview rooms at Broome were a significant exception, as was the provision of a former police house at Carnarvon for Contractor office and overnight accommodation for transport staff.
- 2.45 It is not the role of this Report to systematically detail court infrastructure issues, but in general the Inspector concurs with the comments of the Chief Justice in his 2009 Law Week Opening Address in which he stated:

It would be difficult to contest the proposition that one of the primary responsibilities of Executive Government in a society governed by the rule of law is to provide the resources needed by the courts of the state to justly, safely and efficiently enforce the laws of the state. Regrettably, in the case of the Supreme Court and a number of regional courthouses, successive governments of this state of both political persuasions have conspicuously failed to fulfil that responsibility.⁶

6 Martin, W, *The State of Justice 2009*, Opening Address, Law Week – September 2009, The Hon Wayne Martin, Chief Justice of Western Australia, Supreme Court of Western Australia, (18 September 2009) 3.

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- 2.46 A comment is offered on three of these regional courts from the present inspection:
- 2.47 **Kununurra:** the court house has a single holding room, so staff are reliant on police to bring and remove persons in custody in a timely way. The camera in this holding room feeds only to a monitor on the desk of the rather busy court orderly in the court room. There are no proper interview facilities for lawyers, and no satisfactory arrangements for vulnerable witnesses. With magistrates courts displaced by sittings of higher courts, security and custody arrangements at the alternative site are less than satisfactory. The small demountable office cannot accommodate Contractor staff for a briefing.
- 2.48 **Broome:** despite the afore-mentioned improvements, with only two custodial cells, the custodial facility is still wholly inadequate when having to manage persons in custody requiring separation. There is still no secure connection through to the main court room in the historic former cable station where most magisterial and higher court sittings are held. People have to be escorted by two officers across open ground onto the veranda of the court, a rather undignified process.
- 2.49 **Kalgoorlie:** custody cells and the custody area itself are small and cramped. When visited during the inspection, cell walls were found to be grubby and graffiti-ridden and generally undignified. Staff accommodation is wholly inadequate. Stairs to courts are steep, lacking rails and quite dangerous. The interview room used by lawyers is most unsuitable. In courts, witnesses have to walk close to the accused and persons in the gallery found themselves sitting very close to the accused.
- 2.50 Deficiencies in standards of custodial care, security and amenity are well known to DotAG, and various proposals have been made to upgrade or replace many of these facilities. Significant government investment is indicated for this important aspect of the justice system, alongside police and corrections facilities.⁷

PERTH CHILDREN'S COURT

- 2.51 While G4S continues to provide security services at Perth Children's Court (PCC), JCS, part of the Department of Corrective Services, has operated the court custody centre there since 2005.
- 2.52 The youth-oriented approach of Juvenile Custodial Officers at PCC was immediately apparent with officers providing board games and cards to young people waiting in the holding cells and often sitting with them in cells, playing games with them or talking to them. This helped humanise an otherwise cramped and bleak environment. The freshly made lunches with fruit supplied by Rangeview Remand Centre are superior to those provided in most other court custody facilities.

⁷ In response to the draft text, the CEO DotAG stated that: 'According to the 10 Year Capital Investment Plan, and subject to the availability of funding and prioritization of capital works by Government, the Department's court facilities at Carnarvon, Kalgoorlie, Kununurra and Armadale will be redeveloped or rebuilt between 2012 and 2022, subject to funding approval. I am confident that the standards achieved in court facilities will continue to improve.'

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- 2.53 However, with just five relatively small holding cells, without any natural light or exercise yard, the holding facility is a less than ideal for holding children and young people for any length of time. During one of our site visits, there were 22 young people in the centre, 21 from the juvenile detention centres, including a number of arrestees, and one received directly from police.
- 2.54 Because some of the girls needed separation from others, three were placed in an interview room, which was not ideal, as it was very small indeed, lacked enough seats, was not within view of the control room, lacked a toilet or water fountain, and the roof was not properly reinforced. Staff commented that 'the only thing saving us is that we don't have any adults in today'.
- 2.55 It is not uncommon to receive between 20 and 30 detainees on a particular day at PCC holding rooms, especially after a weekend. While adults arrested on Friday night have the opportunity to apply for bail at a Magistrate's Court at East Perth Watch House on Saturday, youths and children in custody are held until the first scheduled court on a weekday. On a long-weekend, they can be held for four nights before appearing in a court.
- 2.56 It seems remarkable that staff often have to manage adults appearing in Perth Children's Court. In some cases, it is discovered that an adult has an outstanding Children's Court matter. In others, a prisoner is a party or a witness to a care and protection matter or a violence restraining order. At times two or more adults are present, for example if two parents in custody are required for a care and protection matter. There were 28 appearances by adults held at PCC holding rooms in the final quarter of 2008, including five occasions when two were held simultaneously.
- 2.57 While JCS Officers have been appropriately trained to manage adult prisoners, their presence in the centre compromises the management of juveniles through a reduction in available cells and the necessity to assign two staff to manage the adults. Juveniles have sometimes expressed feeling uncomfortable being seen by adults as they pass their cells in the corridors or even by reflection of the control window. Verbal contact is possible through shouting.
- 2.58 Adults are often not collected by G4S until late afternoon, as part of other court runs. Listings agreed where possible not to list adults after a weekend. Some of those appearing on old matters are remanded to other courts after their first appearance. Holding room staff were also able to request, at the court's discretion, a video-link appearance in a particular case.
- 2.59 To minimise issues associated with adults in custody at PCC, the President of the Children's Court issued a Practice Direction, effective 25 May 2009, that every appearance shall be by video link unless the appearance is for sentence, for trial, for a hearing on the facts, for final hearing in protection proceedings, or an appearance in person is ordered by a Judicial Officer. It remains to be seen how much this direction will reduce instances of adults being held at PCC. Other court venues may need to be considered for such matters.

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- 2.60 Some minor improvements to the facility were also completed by mid-2009, including conversion of an interview room into a small holding cell and refurbishment of other interview rooms. A more significant extension and refurbishment has also been scoped, but it is not known whether this has yet been funded. Unfortunately, there would seem to be little opportunity to create a recreation yard or a family visits area, to admit natural light or other features appropriate to a facility for children and youth. There are also issues with small size of the sallyport at the facility, limited staff facilities, the steep ramp, and security associated with the ramp and car park area.
- 2.61 In the meantime some congestion at the site has been relieved by increased use of video, not only for adults but also for a number of young people who would otherwise have been transported to PCC.

Recommendation 6

That the Department of the Attorney General undertake a major refurbishment of the Perth Children's Court Holding Facility.

Recommendation 7

That the Department of the Attorney General, the Department of Corrective Services and the President of the Children's Court collaborate on establishing a system to ensure that children and young people have access to a bail hearing within 24 hours of arrest.

Chapter 3

TRANSPORT OPERATIONS

CUSTODIAL TRANSPORT FLEET

The protracted saga of fleet renewal

- 3.1 Three years after our previous fieldwork, and 12 months after the death in custody of Mr Ward on 27 January 2008 we had anticipated significant improvements in the experience of people in custodial transports, but with 33 of the original fleet of 39 vehicles still in use at commencement of the present inspection, and only four prototype vehicles on the road, this was certainly not the case. Mr Ward was a respected Aboriginal elder who died from heat-related stress in the rear compartment of a prisoner transport vehicle owned by the government and operated by the CSCS Contractor on a journey from Laverton Police Station to the Eastern Goldfields Regional Prison in Kalgoorlie-Boulder.⁸
- 3.2 It was reported in Report 43 that a locally-built 11-seat Mercedes Sprinter prototype, which included moulded fibre-glass seats with reasonable room for passengers and seat belts for all passengers, had entered service. It was also reported that a prototype long-haul vehicle had been commissioned from Queensland with a much more appropriate level of amenity and comfort, including on-board toilets (p.1). The Sprinter, produced by local manufacturer Osborne Metal Industries (OMI) entered service in March 2007. The long-haul vehicle, commissioned from Special Vehicle Manufacturers (SVM) in Queensland, was expected by June 2007. These companies had been granted sole-supplier status following an earlier failed tender process.
- 3.3 Contract management had pursued a strategy of commissioning prototypes to prove new designs at the same time as seeking government funding to progress replacement of the fleet. These prototypes were the first of an initial order of ten vehicles that were planned to be delivered by January 2008. It was reported to the coroner that the Department, despite a cabinet decision in 2003 to acquire the custodial fleet from AIMS Corporation, did not request funding for fleet replacement 'until the 2006-2007 budget process when an amount of \$336,000 per annum was sought. In the 2007-2008 budget process additional funding of \$686,000 in 2007-2008 rising to \$1.419 million in 2010-2011 was sought for leasing costs for the replacement of the fleet'. As acknowledged by former Corrective Services Minister Margaret Quirk, the Labor Cabinet did not approve these funding requests.⁹
- 3.4 Osborne Metal Industries subsequently declined further involvement in the project and SVM, with prototype development delayed by design issues surrounding the nation's first installation of toilets in a prisoner transport and leading-edge electronic surveillance and control systems, was able to deliver its long-haul prototype only by November 2007.
- 3.5 In the field, these electronic systems were found to be over-complicated and insufficiently robust. On an inter-prison proving trip, at Broome prison, prisoners were stuck inside their cells for two hours due to a failure in electronic systems controlling the doors. The vehicle, at nine metres was also found to be too long or too tall to be accommodated through

⁸ The case received sustained media attention both at the time and during the conduct and completion of the coronial inquiry which commenced just over 12 months after the incident. See Hope, AN, *Record of an Investigation into Death, Ref 9/09*, Inquest into the death of Ian Ward, Coroner's Court of WA, 12 June 2009, 107.

⁹ Christina Jones, Amanda Banks & Staff Reporters 'Coroner calls for criminal charges in prisoner death' *The West Australian*, (12 June 2009).

sallyports and reception areas at Greenough Regional Prison, Carnarvon Police Lockup and Roebourne Regional Prison.¹⁰ Ashley Electrics were asked to simplify the vehicle's electronics. When finally returned to service some months later, the vehicle was mainly utilised for runs between Perth and Kalgoorlie and Perth and Albany.

- 3.6 Contract managers continued discussions with SVM on the development of further prototypes and terms for a partial fleet replacement build in preparation for a bid towards the 2008–2009 budget process. Two further prototypes were ordered, both based on an Isuzu cab-chassis: a short-haul version with a capacity of 12 and a four wheel-drive version with a capacity of eight. Ashley Electrics was to install electrical equipment locally. These were delivered in June and September 2008 respectively. Subject to funding, it was planned that 10 further vehicles would be delivered between November 2008 and June 2009.
- 3.7 However, delays in fleet replacement were brought to public attention by the death of Mr Ward in one of the original fleet vehicles. The failure of the air-conditioning to his cell was considered (and since confirmed) as a likely cause. The van was impounded for the police and coronial investigations. The Department was immediately directed to prepare a *Prisoner Transport Review* which was tabled in Parliament on 26 February 2008.¹¹ It contained a number of commitments in relation to the vehicle fleet, including:
- Collation of maintenance records for each vehicle. Unfortunately, this did not succeed as it was considered too expensive to attempt to recover archived materials from the Contractor prior to the transfer of the fleet to government in December 2004;
 - Each vehicle was to be checked for roadworthiness. A new checklist was developed for roadworthiness which was to be applied at the next service. All passed the annual DPI inspection in May/June 2008. The fact that the Mazdas all passed, despite being known to have inadequate air-conditioning, raises questions about the adequacy of the standards;
 - Installation of temperature monitoring systems and duress alarms in each cell with audible and visual signalling in the cabin. This was completed by June 2008.
 - Vehicle design standards were to be reviewed in consultation with stakeholders and by reviewing interstate vehicles. See below;
 - Exploration of options for expediting fleet replacement. See below;
 - Consideration was also to be given to transferring the vehicle fleet to the CSCS Contractor. A consultancy report was commissioned which indicated that significant savings and benefits were possible, but high risks were involved. Not proceeded with for the present;
 - Consideration to be given to alternative means of transport, such as coach or air transport. Discussed below.

10 A report was later commissioned from Sinclair Knight Mertz on sallyports at most of the state's custodial facilities; only Acacia prison could accommodate this vehicle through the gate and into a secure unloading area without building modifications. SKM, *Review of Sally Port and Prisoner Reception Areas at Various Western Australian Offender Management Facility*, (Sinclair Knight Mertz, 18 July 2008).

11 DCS, *Review of Prisoner Transport Services*, (February 2008).

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- 3.8 The 2009–2010 Budget Statements presented to Parliament on 14 May 2009 included the following line item and explanatory notation:

	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013
	Estimated Actual	Budget Estimate	Forward Estimate	Forward Estimate	Forward Estimate
	\$'000	\$'000	\$'000	\$'000	\$'000
Secure vehicle fleet	131	465	793	827	863

A tragic death in custody involving prisoner transport in January 2008 led to a comprehensive overhaul of duty of care operating procedures, vehicle safety standards, performance measurement and monitoring arrangements for the contracted services. Progressive replacement of the entire secure vehicle fleet designed in accordance with the new safety standards will be completed in 2010.¹²

- 3.9 As 2008 progressed, contract managers revised both design standards for secure vehicles and compositional requirements of the fleet and in November 2008 concluded negotiations with SVM to complete the fleet replacement by building 37 vehicles over a two year period, commencing in January 2009. This was approved by cabinet. In recognition of the need for intra-regional long-haul transports such as clearance runs from remotes courts and lockups, the mix of vehicles ordered was adjusted to include a number of smaller vehicles with toilets. It was also decided not to include any more four-wheel drive vehicles.
- 3.10 In planning the inspection some 12 months after the Ward death, we imagined that fleet renewal would be well advanced by the time our field work commenced in late January 2009. This was not to be. There were only four modern prototype vehicles in service. Delivery of the first of the two vehicles for the new fleet was imminent, but it took some weeks to complete electrical work and test the vehicle before it entered service. We understand that four others entered service by May when fieldwork was completed, but inspectors did not encounter any of these vehicles in their field work.
- 3.11 In February 2009, we found a Mazda van at Carnarvon still being used for 400 km trips down to Geraldton, something which concerned staff very much indeed, particularly in view of its poor breakdown record. By 30 April, seven weeks after the Ward inquest had commenced, we found that G4S staff at Kununurra had been told their Mazda could be used for the 100 km journey to and from Wyndham, but not the 360 km journey to Halls Creek. A formal direction was subsequently issued by DCS on 14 May 2009 that the Mazda vehicles should not be used for journeys over two hours.

¹² Government of Western Australia, *2009-10 Budget Statements, Budget Paper No. 2 Volume 1*, (14 May 2009) 759.



A Mazda van of the same type in Mr Ward passed away in January 2008, still in use at Kununurra in May 2009. This is one of the original fleet deployed in 2000

- 3.12 In the meantime, evidence was given at the coronial inquiry that in 2001 the Department of Justice had been given a report commissioned by AIMS Corporation from Car Air Wholesale Pty Ltd. This showed clearly that the Mazda van and its air-conditioning system, as configured for prisoner transportation, was never designed to be used in remote locations in conditions of extreme heat. The Inspectorate had never previously been made aware of the existence of such a report.¹³ Concluding his analysis about the shortcomings of the Mazda used to convey Mr Ward, the Coroner found that:

The actions of the Department in providing an unsafe vehicle and its failure to put in place procedures to reduce the hazards associated with use of that vehicle clearly contributed to the death.¹⁴

- 3.13 On 14 June 2009, two days after the release of the Coronial Report, the Department announced that it was removing seven Mazda vans from service in regional areas. The remaining vans were to be used only for short trips in the metropolitan area.

13 DCS responded to this text by stating *there is no legislative requirement by the Department to provide OICS with unsolicited information.*

14 Hope, AN, *Record of an Investigation into Death, Ref 9/09*, Inquest into the death of Ian Ward, Coroner's Court of WA (12 June 2009) 107.

Prisoner experiences of custodial vehicles

- 3.14 With 33 original vehicles and four prototypes on the road, the people we encountered during our field work restated all the same issues with vehicles we detailed in Report 43. Here are a few of their comments from our survey:

Filthy truck, spit everywhere, tobacco shoved in seat holes;
Padding ripped out on bench seat; hot in van even though aircon was on, hard to breathe.
Toilet [potty] was full and spilling, smelly;
Didn't want to use toilet because no privacy and camera, so didn't drink water for entire trip.
I sat twisted for hours, having physio to alleviate pain;
It was cramped and stuffy. If we had a prang I wouldn't feel safe;
Tiny cramped space, motion sickness. Scary, risk of crashing;
Not enough head or leg room;
Seating bad, very confined, no aircon, thought I was going to have a heart attack;
Why are there no seatbelts?;
Seats were wet and very offensive smell... can't see where you're going;
Driving didn't feel safe, braking suddenly.

- 3.15 G4S staff were also conflicted about having to convey people in such poor vehicles which put themselves and their passengers at risk:

Transport do their best to service and keep vehicles running well, all vehicles need to be scrap heaped...as soon as they come back from the garage they break down again;
It is embarrassing that these vehicles are being used, they are rusted, run-down and way past their use-by date, constantly breaking down which is safety risk to the drivers;
It was only a matter of time before we had a death in custody in these vehicles...;
The current vehicles are too old and very high mileages and safety is compromised every time we turn the key.

- 3.16 We met G4S staff members in regional areas who said that on occasions they had refused to conduct an escort when they considered a vehicle in an unsafe condition. However, they stated that they risked unfavourable treatment by Supervisors in their future allocations of work, something also reported by staff involved in the Ward case.¹⁵

15 Hope, AN (2009): *Record of an Investigation into Death, Ref 9/09*, Inquest into the death of Ian Ward, Coroner's Court of WA (12 June 2009) 163.

- 3.17 Prisoners who had experienced transport in one of the prototype vehicles were mostly very positive about these vehicles. We found one assigned to transport women from Bandyup each morning to courts and hospitals. We encountered another in Newman, in which prisoners from Roebourne had been conveyed. We also had feedback from prisoners who had experienced the long-haul prototype on the run between Kalgoorlie or Albany and Perth. These prisoners were especially appreciative of the availability of proper toilets, something sorely lacking in the vehicle used in the six-hour run to Newman. Most were also appreciative of the rather more comfortable moulded seats, increased personal space, availability of seat belts, better views and more reliable air-conditioning afforded in these new vehicles.¹⁶



A 'Lima' series prisoner transport leaving the Roebourne Regional Prison sallyport in May 2009. This is one of the safer, more comfortable newly built transports, although it lacked a toilet for the 600km journey to Newman for which it was sometimes used.

- 3.18 Not all prisoners used the available seatbelts and it is considered pointless to attempt to force them to do so; one would not want to give power to prisoners over when or whether an escort should leave or to disrupt the escort once started. It is not current practice for escort crew to give a briefing to their passengers at commencement of journeys, but it would seem that encouragement to use seatbelts should be given on every escort as part of such a briefing.
- 3.19 Staff noted that newer vehicles had unnecessary and unreliable technology, especially the inter-prison van as previously discussed. That even a new vehicle can breakdown was highlighted by one staff member who reported breaking down 70 km past Laverton. It was also claimed that the satellite phone on this occasion was useless.

16 Pregnant women, however, did not find the moulded seats at all comfortable. This will be revisited below.

- 3.20 This highlights the importance of not only of having newer reliable vehicles less prone to breakdown, but also of excellent maintenance systems, on-board spare parts, tools and emergency equipment, adequate supplies of potable water, a separate engine to drive air-conditioning systems, effective real-time tracking by the operational base and excellent incident management and recovery systems. Also, whilst conforming to most of our recommendations, the long-haul prototype included a separate engine only to drive fans, not air-conditioning systems for its passengers.

Custodial vehicle standards

- 3.21 Custodial vehicle standards, as with service standards, were a major theme in Report 43, the *Thematic Review of Custodial Transport Services in Western Australia*. The Report recommended a set of minimum standards for all custodial vehicles (Recommendation 27) and an additional set for those undertaking long-haul transports (Recommendation 28), which it defined as those likely to take more than two to two and a half hours (Recommendation 1). These standards were incorporated in the Inspectorate's first edition of its Code of Inspection Standards also published in 2007.
- 3.22 The Department claimed in its response to the Report to have incorporated these standards in its designs for the new custodial fleet. However, it appeared to misunderstand the importance of Recommendation 1, which it interpreted as only applying to inter-prison movements, not the kind of intra-regional lockup-clearance run in a remote area in which Mr Ward had later been transported.¹⁷ When it revisited these recommendations in its own *Prisoner Transport Review*, the Department persisted in its misunderstanding of Recommendation 1 and further asserted that the standards specified for the vehicle fleet were standards the Department had developed prior to Report 43.
- 3.23 Fortunately, there has subsequently been increased convergence between Inspectorate and Department views about what constitutes safe and non-afflictive means of transport for persons in custody. In the months following the Ward incident, after observing custodial transport operations in some other jurisdictions, the Department of Corrective Services (DCS) hosted the first national Custodial Transport Forum in August 2008, organised by the contract management team. The invitation only event had representation from every correctional and police authority in Australia and New Zealand, local involvement by the Inspectorate and the Aboriginal Legal Service of WA, and private sector representation from the UK and Australia.
- 3.24 The focus of the forum was firmly on standards for custodial vehicles and custodial transport operations with the host Department promoting the notion of new national standards. While police authorities made a positive contribution to the conference, especially in the area of systems to assess fitness to travel, it was generally asserted that their operations were materially different to those of corrections authorities and those contracted to provide transport services on their behalf.

17 OICS, *Thematic Review of Custodial Transport Services in Western Australia*, Report No. 43 (May 2007) 122, 142-3.

- 3.25 The Western Australian DCS subsequently drafted standards which were put to the Australasian Council of Corrective Services Ministers (ACCA) at their meeting in Perth in April 2009. After further consultation between the states, a revised version is due to be submitted for adoption as part of the ACCA Standards at their meeting in April 2010. If these standards remain reasonably high, then over time they will have a profound effect on how custodial transport is conducted across the country.
- 3.26 A related positive development is that Western Australian Police in mid-2009, undertook a revision of their operational manual on transport, in the course of which they consulted standards developed by the Inspectorate and DCS.

LONG-HAUL ESCORTS

Inter-prison transfers

- 3.27 There are numerous reasons for inter-prison transfers, including placement after initial assessment, subsequent changes in security rating or sentence status, prisoner requests, court appearances, planned participation in programs or other activities (already mentioned), prisoner care issues or management reasons. There were 8,222 transfers between adult facilities recorded in 2008–2009 compared to 7,863 in calendar year 2005, as recorded in *Report 43: Thematic Review of Custodial Transport Services*.¹⁸
- 3.28 Sixty-six per cent of transfers in financial year 2008–2009, involved a transfer between regional facilities or between a metropolitan or a regional facility. This is a significant increase from 57 per cent reported in Report 43 for calendar year 2005. Numerically, the numbers of inter-regional escorts increased between the two periods from 4489 in 2005 to 5422 in 2008–2009, a 21 per cent increase.
- 3.29 The lack of adequate accommodation and services for prisoners and detainees in their own region is one of the main reasons for inter-regional transfers. The increase in the proportion of inter-regional transfers indicated that under-provision of custodial accommodation and services in regional areas is inadequate, and that more people, overwhelmingly of Aboriginal background, have been subjected to long journeys far away from their families and cultural frames of reference in their home regions.¹⁹
- 3.30 With the exception of a direct transfer between a southern metropolitan facility and Bunbury Regional Prison, inter-regional transfers are necessarily long-haul transports. There was little material difference in the conduct of these escorts from those detailed in the 2007 *Thematic Review of Custodial Transport Services*, mainly due to the failure to replace the vehicles. The one exception, of course, was the prototype which was not utilised again on the coastal run between Perth and Broome after its failed proving run. When returned

18 The present discussion on long-haul escorts is focussed on adults in custody. At the time of the inspection, transport of juveniles from regions to detention facilities in Perth and back to regional courts was a police responsibility. Such juvenile escorts are discussed in the section below on police involvement in the Contract.

19 26.39% of prisoners were held outside of their home region (as defined by ABS statistical divisions) as at 31 March 2009 compared with 24.6% as at 31 March 2006. Source: DCS, *Prisons Monthly Performance Report* (April 2009) and DCS, *Prisons Monthly Performance Report* (April 2006).

to service it was trialled on the Perth to Albany route (where it was welcomed as the first time any kind of toilet had been made available on that route) but was mainly used on the Perth to Kalgoorlie route.

- 3.31 Otherwise prisoners continued to leave Albany facing a four and a half to seven hour journey to their respective prison in Perth, being cheerfully handed an empty bottle by reception staff to try and catch their urine on the journey. Nothing was offered to the few women taking the journey. No attempt has been made to restore rest stops at Narrogin Police Station, nor are prisoners allowed a toilet stop at Karnet, Casuarina or other prison en route to another facility. Neither have stops been restored at Merredin Police Station for those on the Perth to Kalgoorlie route. Indeed the only concession to the Inspectorate's recommendation that prisoners should be provided with comfort stops every two hours or so is the notion of 'welfare checks' undertaken by drivers on prisoners every two hours. While this involves stopping the vehicle, it provides no opportunity for prisoners to stretch their legs or refresh themselves in a toilet or washroom.
- 3.32 The only modifications to the old long-haul vehicles we encountered were the installation of extra temperature sensors and duress alarms in each cell. These vehicles already had temperature sensors, intercoms and monitors installed, although the new ones had audible as well as visual alarms if cell temperatures were elevated or the duress alarm was pushed. The Department had also installed a two-way intercom. However, nothing had been done to make the vehicles more pleasant to travel in; two of the four original inter-prison vans still had no padding on the metal bench seats. Padding in the other two vans was in need of maintenance; one was in particularly poor repair.
- 3.33 There had however, been changes in procedures resulting from the *Prisoner Transport Review* in 2008. Log books were now kept inclusive of prisoner observations, cell temperature readings and any stops, including for two hourly welfare checks. It was concerning to note that temperature records in one vehicle encountered at Roebourne showed that prisoners were enduring cell temperatures as low as 13 degrees centigrade, which made them rather uncomfortable. On a May day in Roebourne when the outside temperature reached 32 degrees, they were having to embark with extra layers of clothing and blankets! Drivers were apparently unable to adjust the temperature of the air-conditioning system. We were told that drivers generally made a point of running the air-conditioning before taking passengers on board each morning as cells would otherwise be too hot.

Lockup clearances

- 3.34 The CSCS Contract and Memorandum of Understanding between the former Ministry of Justice and the WA Police Service appears to make the Contractor responsible for all transport services for adults from police lockups and courts at every known police and court facility in country Western Australia.²⁰ This works effectively in most locations in the South-West of the state where contractors are generally able to pick up prisoners on the same or following day

20 Government of Western Australia, *Memorandum of Understanding between Ministry of Justice and Western Australia Police Service for the continued provision of court security and custodial services* (1999) Attachment 2 (105 country locations are listed). The Commissioner of Police wrote to the Corrective Services Commissioner on 24 September 2009 advising that police would be withdrawing from this MoU.

TRANSPORT OPERATIONS

after being notified. The Contractor was also engaged to assist police in transporting prisoners from the East Perth Watch House each morning to the Central Law Courts or back to outer metropolitan police stations or courts.

- 3.35 However, in remote locations in the Kimberley, Pilbara, Murchison, Gascoyne and Goldfields, the Contractor was only authorised to undertake a certain number of clearance runs per annum. Runs were generally timed to bring prisoners from regional prisons for the monthly magistrate's court sitting, and to take any prisoners back to the prison, with a limited ad-hoc capacity to pick up prisoners in between circuit courts. However, there has been a loosening of strict controls over lockup up service levels by contract managers over the last two years or so and contractors are normally able to meet requests from police to conduct such escorts.
- 3.36 Nevertheless, staffing shortages and services to courts and prisons often delay such ad-hoc pickups for a day or more, which can prove operationally costly for police as they have to deploy staff, often on overtime, to staff their lockup overnight. Police often therefore choose to escort the prisoner to a major police lockup facility or prison themselves, rather than wait for the Contractor.²¹
- 3.37 There have been some major changes in the way the Kimberley clearance run was conducted over the last two years. It was originally funded only for 34 clearances per annum which commonly left prisoners in lockups in Kununurra and Halls Creek for a week or two and sometimes more, especially when roads were flooded. Clearance runs subsequently became almost a weekly event. This became more manageable after a G4S base was established at Kununurra following appointment of a permanent Magistrate for East Kimberley based there.
- 3.38 As we confirmed in our field visit in April/May, it became practice that a vehicle stationed at Kununurra would pick up prisoners returning to Kununurra or being transferred to Wyndham Work Camp, and return prisoners from Kununurra or Wyndham to Halls Creek Lockup, where they would be picked up the next morning by a Broome-based crew and taken back to Broome Regional Prison on a weekly basis. This reduced the time prisoners spent waiting in East Kimberley Lockups, but the arrangement meant that prisoners still faced an almost 1,000 km road trip between Kununurra and Broome and a night in the sub-standard Halls Creek Lockup. Prisoners on remand are typically rated medium or maximum security level and many are sent down to Roebourne, sometimes as far South as Perth, only to be sent back some weeks later by road, four days to Broome and two more days back Kununurra, for a court appearance.
- 3.39 During the last two years, contract managers have increasingly authorised charter air transport in the Kimberley and other remote regions, not only for funeral escorts, but for returning prisoners to communities for court appearances on occasion for clearing prisoners from lockups, especially when the clearance vehicle had broken down or roads were cut.²²

21 In response to the draft text, WA Police commented: While the Office of the Inspector of Custodial Services makes no recommendation in relation to this issue, Western Australian Police support this assessment and will work with Corrective Services with the view of improving the availability of the Contractor to transport persons in custody and reduce the impact of police to focus on core Frontline Business.'

22 In late 2009, the Department established an air charter contract for transport of prisoners and their G4S guards between East Kimberley towns and Broome, operating up to three times per week. This is an important reform that adds considerably to the dignity and comfort of prisoners both in their transport arrangements.

What prisoners told us about long-haul escorts

3.40 Prisoners interviewed in a number of facilities around the state were asked to rate a number of aspects of a particular experience of a long haul-transport on a scale of one to five. A rating under three indicates a less than satisfactory experience, above three a more positive experience. These are the average scores of the 31 prisoners interviewed who experienced such a transport:

Food quality	2.2
Comfort on journey	2.1
Sense of safety on journey	2.7
Treatment by staff on escort	3.5
Whether happy to go on the escort	3.1
Overall feelings about the journey itself	2.4

3.41 The ratings indicate that prisoners were, on average, not unhappy about undertaking the journey. However, their treatment by contract staff was the only positive aspect of the matters rated. And they were quite dissatisfied with the quality of food provided, their level of comfort and their sense of safety on the journey. Their overall rating for the journey was also quite low.²³ The introduction of coach and then air transport during 2009 and 2010 will undoubtedly have improved such ratings. However, it is important to record what we found and what we were told.

3.42 In other items, six of the 31 prisoners claimed they did not know about the escort until the previous evening or the morning of the escort, too late to arrange a farewell visit with family or friends, or to appeal the transfer. This issue was raised in Report 43 and was the subject of a recommendation to the Department, which was ‘agreed in part’,²⁴ yet it was clear in the response that it did not accept that prisoners were being sent without adequate notice, saying they were all told as part of the AIPR assessment process. However, the fact that a prisoner has been through a process in which a transfer was mooted at some stage does not necessarily mean they know when a transfer is imminent. It appears that many are being transferred away from home regions as remandees without effective notice and without being told their final destination. Prisoners said for example:

I wanted to go see the family, my mother was too ill to visit. I was told [of the transfer] the day prior to escort;

I was woken up and placed on the escort, I didn't know it was going to happen;

I had no choice but to do program [at destination prison] to get out of jail;

Only one hour's notice - no time to pack!

23 In response to the draft text, DCS contended that this sample size is statistically invalid and that the information is out of date, given that since July 2009, inter-prison transport has been provided by coach, and latterly by air. The Inspectorate reiterates that for the most part, the present report is focused on what we found at the time of the inspection fieldwork, and that the while the numbers interviewed was relatively small, it fairly represents our findings from our extensive field work, complaints received and numerous other contacts with persons transported.

24 OICS, *Thematic Review of Custodial Transport Services*, Report No. 43 (May 2007) Recommendation 12, 131.

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- 3.43 Prisoners reported that they were transported with an average of 4.1 other persons in their cell. Five prisoners reported not having eaten before their long-haul escort, their reasons including:

I had to go to health centre, there was only time for a shower;

I was woken up and placed on the vehicle;

Fasting, but food was offered;

I don't eat breakfast;

No milk in Unit;

I did not want to use the toilet.



Food waiting on the seat of an inter-prison van at a prison for a long day's journey.

- 3.44 Seven passengers also claimed not to have eaten on the journey. Most of these declined to eat food supplied, because they found it inedible, had problems with nausea while travelling in such conditions or did not want to have to use the in-cell potty in the inter-prison transports, one claimed not have been supplied water in their cell:

Sandwiches are soggy, not nice;

We don't eat so we don't have to use the toilet, the smell upsets people;

Water was placed with property but not given during trip.

- 3.45 There were many more complaints about these potty toilets; especially concerning is the first one in which the prisoner risk serious dehydration due to their disdain of the toileting arrangement:

*I didn't want to use toilet because no privacy and camera, so didn't drink water for entire trip;
The toilet was full already at departure and leaking all over the floor, stunk the whole compartment out;
The toilet was leaking, chemicals getting into throat, in the end had to hold mouth to vent;
One bloke missed toilet and wet floor;
It was horrible to have monthlies on the van.*

- 3.46 There were further comments on the level of discomfort experienced on the escorts:

*I was happy to leave the other place but not the journey! Not very pleasant, one long trip in a square box of metal;
There was no consideration of physical comfort re back problems – it was bench seating and horrible;
Cramped conditions. Knees against the wall;
The seating was bad, very confined, no air-conditioner – I thought I was going to have a heart attack;
Sat twisted for hours, having physio to alleviate pain;
Didn't like it, sick all the way, nausea and motion sickness;
Smelt bad, body odour permeates the vehicle;
Aircon up high so it was cold in vehicle;
There are torn seat covers, and dirty conditions.*

- 3.47 Many prisoners were scared of travelling in the transports and a great many complained about the quality of driving:

*Going around corners you bounce off the walls, drivers are unconcerned;
Overwhelming feeling of fear in case the truck rolled;
If we had a prang I wouldn't feel safe;
People in the compartment were intimidating;
I was scared of going over water and bridge... it makes me car-sick;
Car sick, can't relax, brakes slammed on and everyone goes forward;
Pretty stressful. Driving habits were a concern;
Driving didn't feel safe, braking suddenly;
Why are there no seatbelts?;
Not being able to see out and driver was all over the road.*

- 3.48 The number of comments from prisoners about the quality of driving was most concerning. They are doubtless due in part due to their lack of forward views of the road and the lack of safety restraints. The latter at least will be remedied in new fleet vehicles. Nevertheless, the comments do suggest that staff may well need reminding of the particular driving qualities that are needed in conveying passengers.

Recommendation 8

That the Contractor develop a strategy to upgrade the awareness and skills of transport drivers in their role as drivers of passenger vehicles.

- 3.49 Despite the negative comments about driving, it should not be forgotten that prisoners were relatively happy with G4S staff for these escorts. There was a tendency however, to see metro-based crews more negatively, as they were considered less flexible than certain regionally-based crews. Inspectors observed an instance of this at a roadhouse, where the escort encountered the family of a minimum-security prisoner on board. The crew opened the outer security door to allow the prisoner to communicate with his family for a time before proceeding.



Inspectors with the G4S Supervisor at the Secure Facility at the Royal Perth Hospital Outpatients Clinic.

- 3.50 Such flexibility was also favourably exercised by crews on certain lockup clearance runs during which prisoners had been allowed off the escort to urinate by the side of the road, even though this was contrary to company policy. Rather more concerning, was that some crews allowed prisoners the opportunity to smoke during the journey. Certainly people do become stressed when unable to smoke for an extended period and the Inspectorate in its thematic review recommended making nicotine lozenges available for this reason, something firmly rejected by the Department.²⁵ However, provision of smokes by some staff simply makes others out to be less than helpful, as the following comments indicate:

*Staff were really kind, stopping for a smoke break for us;
Staff wouldn't open door for fresh air when stopped, nor allow smokes.*

Coach and air transport

- 3.51 Some weeks after the Coroner released his findings on the Ward death, the Commissioner of Corrective Services decided it was time try a new approach for inter-prison transfers. Coaches were wet-leased to service the routes between Perth and Broome, Kalgoorlie and Albany.²⁶ The first of these left Casuarina Prison on 7 July 2009 travelling north.
- 3.52 The buses have standard fittings including coach seats, video screens and toilets. The Department initially determined that six G4S officers be deployed an escort involving over ten prisoners, or four if there were fewer prisoners. Such escorts are therefore significantly more resource-intensive than those operated by a two person team in the front cabin. Prisoners are unrestrained in cellular vehicles. However, we found that during the early transports on coaches, they were all cuffed and leg-shackled using nylon ribbands and some had a chain joining both restraints. This caused a level of discomfort, especially when the lap-sash seat-belt was applied over the restraints. However, in its response to the draft report, DCS has advised that joining chains are now not normally used and that seat belts are not applied over restraints. Four officers are currently required to supervise nine or fewer prisoners and six officers for 10-15 prisoners.
- 3.53 The nature of coach transport means there is a higher risk of staff being overwhelmed by a concerted effort from prisoners or of negative interactions between prisoners. Also coaches cannot be accommodated in most sallyports in most custodial facilities and lockups or even make it through the front gate. This places an added burden on facility staff in transferring numbers of prisoners through their front gates in a secure manner.
- 3.54 Prisoners requiring separation, including males and females and those at risk from other prisoners can simply be separated in cellular vehicles, but all have to share the same air-space in the coach, with potential points of interaction in embarkation, disembarkation and when individuals use the toilet at the rear of the bus.

25 OICS, *Thematic Review of Custodial Transport Services*, Report no. 43 (May 2007) Recommendation 8, 128-9.

26 'Wet-leasing' refers to the practice of hiring a vehicle inclusive of operating expenses, including the driver and fuel costs.

- 3.55 Coach transport has required a higher level of scrutiny of risks to security and in prisoner interaction for each transport both on the part of movements officers in the prisons and by G4S coordinators. Persons posing a higher level of risk, or in greater need of protection may be conveyed separately either by road or air transport. Risks are ameliorated on board to a significant degree by the use of restraints, strict movement controls on the bus, direct observation by staff and positive interaction between staff and prisoners.²⁷ Such dynamic interaction arises through processes of embarkation and disembarkation, in supplying food and drink and removing waste (rather like a flight attendant) and facilitating visits to the toilet.
- 3.56 Despite the use of restraints, prisoners were very positive indeed about their experience relative to those in the old cellular-style transports. There have been no incidents of note in the first few months of operation and the only prisoner complaints to date have been around failure to relax restraints for use of the toilet. Both the Department and G4S are satisfied that risks associated with such transports have been properly treated. Nevertheless, one questions the necessity of restraints with minimum security prisoners, and whether leg restraints as well as handcuffs are necessary for medium security prisoners. After all, many minimum security prisoners are routinely trusted to leave prisons across the state for work and other activities in the community.

Recommendation 9

That the Department of Corrective Services in consultation with its Contractor, review use of restraints on prisoner coach transfers, commensurate with each prisoner's security rating and risk profile.

- 3.57 In October 2009 the Department took delivery of a prototype coach capable of conveying twenty prisoners, including six seats for staff, four of which were rear-facing seats at the front. Facilities included a toilet, a chest refrigerator, a video screen, a broadcast microphone, GPS tracking, video recording, communications equipment and a duress switch which disables the engine as an anti-hijack feature. Lap seat-belts are provided which will be more suitable for prisoners in restraints.
- 3.58 Minor issues with this vehicle were its rather too-limited capacity for luggage and the placement of clear screens between the rear-facing seats and the first row of prisoner seating in a way that provides inadequate leg room. The vehicle was said by the Department in an internal news story to have been built specifically to carry prisoners securely and humanely which is a fair claim. It was to be trialled in the metropolitan area and on runs to Bunbury before it is decided how it should best be utilised. A determination will need to be made whether further modified coaches should be acquired by the Department or whether a wet-lease arrangement will prove more suitable.

27 Such restraints have been restricted to the application of hand-cuffs and leg restraints. Section 21(5) of the *Court Security and Custodial Services Regulations 1999* forbids shackling or tying a person in custody to a vehicle while the vehicle is in motion.

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- 3.59 So far, coach transport has simply replaced existing inter-prison transfer services. While transports between Perth and Kalgoorlie and Perth and Albany take just one day each way, the route North to Broome and South back to Perth was taking four days by coach, including overnight stays at two prisons and the disgraceful Carnarvon Police Lockup.²⁸
- 3.60 A much more favourable option, as recommended in the 2007 thematic review, is air-transport, especially for the North-South route. The security and prisoner management challenges with air-transport are in some respects similar to those posed by coach transport although additional transfers are required to convey prisoners from prison vehicles on and off the planes. On the other hand, risks are reduced by much reduced journey times. The four day route could be accomplished in a single day, possibly even including the return route. The overall staffing requirement would be somewhat reduced and Carnarvon Lockup and prisons at Roebourne and Greenough would not have to accommodate prisoners in transit.²⁹
- 3.61 While it is understood that such a backbone air-transport service has had significant attention by contract managers and between Corrective Services and police, the Inspectorate is unaware of any specific funding submissions to date that would make this a reality.³⁰
- 3.62 Intra-regional air transport was also recommended in the thematic review. At the same time that coach transports commenced, a tender was put out for an air-charter service in the Kimberley, for clearances from lockups in the East Kimberley on an as needs basis, returns to lockups for court appearances and funeral escorts. This service commenced in October 2009 and is an excellent outcome that should significantly reduce levels of risk and discomfort experienced by prisoners being transport in this region. Regrettably, however, plans by contract managers to utilise air transport for clearances in other remote areas, where distances exceed 300 km, including discussions with police about utilisation of the police aircraft, have not yet come to fruition. This is especially critical in the East of the state where road journeys from cross-border communities are especially long and arduous.³¹

28 The state of this lockup was detailed in OICS, *Thematic Review of Custodial Transport Services*, Report No. 43 (May 2007) 65-68. Despite the addition of some modern cells to the facility and engagement of cleaners on a weekly basis, field visits have confirmed that the state of many existing cells, yards and other facilities, and the conditions in which persons in custody are managed at the facility remain well below accepted standards of decency. On 3 February 2010, the Commissioner for Corrective Services declared that Carnarvon Lockup was not suitable for housing persons for whom he had responsibility under the Prisons Act and directed it not longer be utilized for overnight stays on the North-South prisoner transport route.

29 DCS informs us that the *Aviation Transport Security Regulations 2005* impose extra challenges for prisoner management for air transport and that increased staffing ratios will be required. However the point is that these extra staffing arrangements apply for 2 days instead of 8 as previously required for the North-South route.

30 From 18 February 2010, prisoners were conveyed between Greenough and Broome by air charter arranged through G4S. An extended service between Perth and Broome commenced on 8 March 2010, and a Request for Tender issued for a 6-month air-charter contract. DCS advises that funding for air services was requested as part of the Mid-year review of government finances in March 2010. It was approved in principle.

31 DCS informs that from October 2009, guidelines were established that where the movement of the persons in custody is greater than eight hours in one day, or four hours on any one leg without a break, it should be done by air charter. DCS has also now issued a request for tender for air services in relation to the *Cross Border Justice Act*.

Recommendation 10

That air-transport be used for back-bone prisoner transfer routes, and for other regular clearance routes exceeding a distance of 300 km.

Property

- 3.63 Issues relating to prisoner property centred around two main issues, failure to send valuable property (including cash) to court with remand prisoners, and failure to send property with prisoners being transferred. The former is an issue because it means prisoners may be stranded if released from court without means to travel back to the prison or support themselves overnight. The latter can also cause considerable hardship, especially if a prisoner is ultimately released at the destination prison. Sometimes, unaccompanied property also went missing altogether.
- 3.64 Prisoner property was the subject of a recommendation in the thematic review. It was found in the present inspection that regional prisons are quite conscientious about prisoner property and routinely send at least valuable property with prisoners to court and typically send all property with the prisoner on transfer. Their efforts were sometimes hampered by Contractor staff failing to use the property trailer on inter-prison transports, despite direction from G4S management. A cell then has to be used for property reducing capacity both for property and prisoners.
- 3.65 Hakea continued to refuse to make arrangements to send valuable or other property to metropolitan courts. Difficulties this causes at the District and Central Law Courts in Perth are reduced by the presence of bail coordinators who will assist stranded prisoners, but it is disappointing that many released prisoners and (often their families) have to make their way out to Hakea for no good reason.
- 3.66 Casuarina Prison, despite having worked hard to provide good supports and programs for out-of-country Aboriginals often sent them back to their regional prison without their property. However, an Operations Notice 23.2009 issued on 8 July 2009 now requires that all personal property is sent with the prisoner on transfer or forwarded separately at the sending prison's expense. This is an important and overdue reform.

LOCAL COURT ESCORTS

Court escorts

- 3.67 This describes journeys from custodial facilities to a court within a two hour radius. Most of these are journeys from a metropolitan facility to a metropolitan court, although with two prisons at Wooroloo and another at Karnet considered to be metropolitan, and metropolitan courts as distant as Rockingham and Joondalup, the distances and journey times can be considerable, especially if picking up from two or more facilities and dropping off at two or more courts.
- 3.68 Most others involve a journey from a regional prison to the main regional court, which can take as little as five minutes in the case of Broome, or almost two hours in the case of Roebourne prisoners attending South Hedland Courthouse. A few involve journeys to minor courts not too far distant, for example, from a metropolitan prison to the court at Northam or from Albany to the court at Mount Barker. Escorts involving juveniles are addressed separately below.
- 3.69 As discussed elsewhere, the potential for judicial sanction has ensured that the service to the courts is the highest priority for the CSCS Contractor.³² They have been, on the whole, quite successful at ensuring prisoners attend court on time. Only a small number of late arrivals have been recorded each year as part of the performance linked fee measurement system. This is no mean feat, especially when there have been serious shortages of staff or working vehicles, and especially at certain regional sites. Courts have nevertheless shown tolerance and flexibility when escorts are affected by unavoidable contingencies, such as a late arrival due to a road blocked by an accident. Outstanding issues in relation to court escorts include:
- The degree of discomfort experienced in such journeys arising from the nature of the vehicles used;
 - The degree of discomfort experienced in such journeys arising from the sheer length of the journeys sometimes involved;
 - Late returns from courts;
 - Whether too many people are being sent on such journeys.

32 DCS, responded to this text by reiterating that 'Judicial expectation does not result in services to Courts having first priority – the Department has reiterated to G4S that the contract is the Court Security 'and' Custodial Services Contract and the expectation is that all services are of equal priority. Please note that the performance measures changes as of 1 April 2009 have improved the delivery of service across a number of transport areas.' However, DCS's own consultant, AOT Consulting had reported that: 'Several stakeholders expressed views that judicial officers have advised public sector staff and/or the Contractor that they may be held in contempt of court if a disruption to court proceedings occurs as a result of the service not being delivered'. It further stated: 'While the performance measure is stipulated in Schedule 1 of the contract (performance measures and performance linked fee), the additional penalty of being held in contempt of court – which is not a stated as part of the service level agreement – is bound to influence priorities and therefore performance. This creates a separate class of service of which everyone is aware but which is not addressed contractually. In effect, this renders other services, such as medical visits, to be treated as a different class of service that is a lower in priority than getting prisoners to court on time.' AOT Consulting (2008): *Court Security and Custodial Services: Review of appropriate governance framework for existing arrangements and for any future contractual arrangement that will facilitate transparency and accountability of a CS&CS Contract*, (AOT Consulting Pty Ltd, 4 December 2008) p.13.

3.70 Again, with the original vehicle fleet largely in use at the time of the inspection, even relatively short journeys were highly discomforting for prisoners. They felt confined, crowded, and unsafe. Some were placed in tiny cells facing a close metal wall. Others were in larger compartments shoulder to shoulder with strangers on side-ways bench seats. They lacked safety restraints and external views when seated and often felt vulnerable in case of accident.

3.71 While most journeys were fairly direct, some, especially those originating from or returning to Acacia, Wooroloo or Karnet could be very long indeed. There was also evidence of women from Bandyup experiencing particularly long journeys to and from outer courts.

This was especially the case where the escort was having to drop off or pick up at the District Court Building sallyport in the journey. For example, on Friday 10 March 2009, a truck from the courts arrived back at Bandyup at 8.20 pm with 13 women on board. Some had left Fremantle Court at about 6.00 pm and had to wait in the back of the truck at DCB for about an hour on the way. They were not allowed to alight to toilet or to stretch their legs, nor were they given any food or drink.

3.72 Late returns from courts had become increasingly frequent at the time of the inspection.³³ The following table, based on gate movement records of prisons indicates that during the inspection period, almost 20 per cent of all prisoners, arriving at a prison from a court, did so after 6.00 pm at night. Indeed just under half of these did so after 7.00 pm. Day shifts in prison typically finish at 7.00 pm, with only a handful of officers typically rostered for security overnight. Considerable extra staff are required to safely manage the receipt of prisoners after that time and their placement in units.

3.73 Certain prisons fare much worse than the average, mainly the larger receiving and holding metropolitan area prisons. Acacia has to receive over two thirds of its court returns after 6.00 pm and over half of those after 7.00 pm. However, like those returning to Casuarina, these prisoners are already serving a sentence and only have to be received and returned to their cell. A large proportion of prisoners arriving at Hakea, Bandyup and regional prisons like Roebourne are new admissions. This means they have to be properly assessed and processed before being assigned to and settled into a berth in an accommodation unit. For example, the transport that arrived at Bandyup at 8.20 pm on Friday 10 March included six new prisoners. For a receiving prison, Bandyup is not well resourced for evening admissions. One of these six new prisoners required an interpreter during admission. It took until midnight for all the women to reach their cells.

33 In its response, DCS said: 'There is no anticipated time of arrival and therefore returns to prison cannot be 'late'. However, the notion of 'late arrivals' is widely used and understood in the field.

Prisoners Arriving Late from Court: Feb to Apr 2009

Facility	After 6.00 pm			After 7.00 pm		
	No.	Percent	Ave/Day	No.	Percent	Ave/Day
Acacia	132	68.0%	2.2	76	39.2%	1.3
Bandyup	109	37.2%	1.8	49	16.7%	0.8
Casuarina	58	24.7%	1.0	28	11.9%	0.5
Hakea	318	20.6%	5.3	143	9.3%	2.4
Roebourne	39	31.7%	0.7	15	12.2%	0.3
Statewide	752	19.8%	12.5	347	9.1%	5.8

Source: Custom data extraction, TOMS system. The percentage is the proportion of all prisoners returning from a court on the day. Average per day is average number returned after that time per working day.

- 3.74 Hakea bore the brunt of late admissions with over five on average per week night, which of course meant many more than this on occasions. While Hakea had to establish a reception roster to 10.00 pm each night a few years ago, this proved inadequate for the large numbers arriving late from courts on many occasions. There were also occasions when nursing staff rostered to assist with new admissions, failed to attend and could not be backfilled, adding to pressure on custodial staff in managing the risk associated with assessment of new admissions.
- 3.75 The main factors in late returns in Perth were changed arrangements at Central Law Court since the commissioning of the District Court Building and scheduling deficiencies on the part of G4S transport operations. Issues relating to the District Court are complex and are addressed in separate report. Judicial and legal practices also had a hand. And there will always be a small number of prisoners awaiting juries, long after all other court business is closed for the day. Warrants can sometimes be issued some time after a court matter is concluded, or be delayed in conveyance to those in charge of the court custody facility. Yet on 10 March when the truck arrived at Bandyup at 8.20 pm, Bandyup staff had confirmed that warrants for the women were all in hand by 3.00 pm. The Fremantle women also reported being kept some hours after their court matters were concluded.
- 3.76 On that occasion a scheduling failure was at fault. Without a fuller audit, one cannot ascertain to what extent this failure was due to inadequate staff or vehicles, an impossible array of demands (court escorts, transfers, inter-prison visits, funeral escorts, medical escorts, bed sits and so on), or inefficient scheduling of available resources. While the Watchdog system developed by AIMS Corporation is a good tool for tasking escorts, it provides little assistance in determining optimal loads and journeys, as would more advanced dispatch systems. Neither the Contractor nor the Department has software to model demand and performance based on realistic service demands, or to properly define service limitations under different resource configurations and conditions.

Recommendation 11

That best-of-class software for modelling service demand and scheduling solutions, efficient tasking of escort journeys and real-time satellite tracking and recording of escorts be a requirement for any future service provider under a new CSCS Contract.

3.77 Contract data indicates that demand for court escorts escalated dramatically early in the decade, stabilised, dipped in 2005–2006 and resumed a slow climb after that. This increase has continued despite increased investment in video-link technology both in courts and prisons, changes to practices under the *Criminal Procedure Act 2004*, effected in 2008, that mandated its use in a range of proceedings and changes in judicial practices driven by the Chief Justice. These changes have seen a sharp rise in the numbers of court appearances conducted by video-link as shown in the following table. Over 40 per cent of all court appearances from prison are now conducted by videolink but it is widely accepted that there is still scope for expansion.

Prisoner Video-link Court Appearances: 06/07 to 08/09

	Jul 06 – Jun 07	Jul 07 – Jun 08	Jul 08 – Jun 09
Appearances	5410	7277	9158

Source: Contracted Services, Department of Corrective Services

- 3.78 Unfortunately, the increased use of video-link for court appearances has only managed to reduce the rate of increase in physical court escorts to date. Furthermore, a recent visit to the Hakea prison video-link facility found that it would be difficult to facilitate more video-links at that facility. There were over 40 prisoners crammed in the holding cells waiting their turn. Significant further investment and reform is needed if the costs and risks associated with court escorts are to be significantly reduced through video-link technology. There has yet to be any significant uptake, for example, in the use of video technologies by the legal profession in taking instructions from clients in prisons.
- 3.79 These issues continue to be addressed through a taskforce chaired by Chief Justice involving representatives of the courts, DotAG, DCS, the Aboriginal Legal Service and Legal Aid Commission. A business case for further investment in infrastructure and support services has not yet found support at government level.

Recommendation 12

That the Government support investment in infrastructure, support services and related reforms to increase use of video-link technology to significantly reduce risks associated with unnecessary court escorts.

High security escorts

3.80 The Emergency Support Group (ESG) based at Canning Vale continues to provide a high security escort service as previously described, including for court appearances both in Perth, and also, occasionally, at other locations.³⁴ In 2009 the ESG acquired a Volkswagen Crafter which is much more compliant with standards of safety and comfort as previously recommended by the Inspectorate. In particular, the vehicle has rear-facing moulded seats with adequate room, lap seat-belts fitted, good CCTV monitoring for staff, cell temperature display and audible alarm, duress alarm and intercom and a full range of communication and security systems. The vehicle can also transport up to five officers with tactical and security gear as required. However, the ESG retains an Isuzu vehicle which is certainly not compliant with modern standards of safety and comfort, which we were told is utilised only if the Crafter was unavailable.³⁵ The CSCS Contractor no longer has a capacity to provide high security escorts.³⁶

Juvenile court escorts

3.81 Transport of juveniles within metropolitan Perth is the responsibility of Juvenile Custodial Services (JCS), part of the DCS, once police have brought newly arrested juveniles to Rangeview Remand Centre.³⁷ The transport service is managed from at the court holding rooms at the Perth Children's Court (PCC), although vehicles are typically deployed to the two juvenile centres each morning to bring arrestees and remandees to PCC and other metropolitan courts.

3.82 At the time of the inspection, JCS had the same three vehicles in operation as before, namely two Mazda vans and a 16-seat Mercedes Sprinter. The Sprinter was commonly used for escorts to PCC with Mazdas used for outer court escorts and ad-hoc escorts such as medical and funerals. The seating in the Sprinter was in especially poor condition with fabric torn and padding missing. Despite efforts to increase airflow, daily cleaning and liberal use of a spray deodorant, the smell in these cells was overpowering. Cells in both vehicles were cramped and passengers lacked safety restraints and external views whilst seated. The rear pod of the Mazdas had sideways seating and lacked effective air-conditioning. However, some minor modifications had been made to the vehicles to increase their safety as with the adult custodial fleet, following the Department's *Prisoner Transport Review*.

3.83 However, the Department had ordered two Volkswagen Crafters customised by Ashley Electrics, to replace the Mazda's. Delivery of the first of these was taken in April. Unfortunately, passenger capacity had to be reduced to nine from the expected 11, which would put pressure on the transport service on days when over 18 juveniles are required to attend at

34 OICS, *Thematic Review of Custodial Transport Services*, Report No. 43 (May 2007) 32.

35 See *ibid*, for further details about this vehicle. DCS in responding to the draft text stated that the Isuzu, not the Crafter, is the primary vehicle used to transport high security prisoners.

36 DCS in responding to the draft text stated that high security escorts have 'always been excluded from the contract'. This was not the Department's position after the Supreme Court escapes in June 2004, when a Special Services Group in AIMS Corporation was established in part to conduct Level 3 High Security Escorts. This capacity was never utilised.

37 Juvenile escorts between Perth and regional WA, including returns for appearances in country courts, are a police responsibility and discussed below as part of the section on police.

PCC. That aside, the Crafter appeared as fine a cellular-style vehicle for short-haul transports as one might find. All seats are moulded and forward or rear facing and fitted with seatbelts with adequate body space and leg room. There are good views through cell doors and dark tinted windows outside. Good air-flow is available, including when the vehicle is stopped, although air-conditioning is only available when the engine was running.



The first of two new custodial transports provided to JCS customised from a Volkswagen Crafter van.

- 3.84 There were four cameras in the larger rear pod and two in each of the others. Each seat had its own LCD light and speaker in the roof. There was also an intercom and duress button within reach of each seat. The front cabin for staff was well laid out with monitoring, recording and communications equipment, including displays and audible alarms for cell temperatures. The vehicle was GPS capable, with potential for real-time tracking or monthly traces of vehicle movements (including location, speed and other data) available from the supplier.
- 3.85 JCS withdrew its Mazdas from service in September 2009, but has been forced to retain its Sprinter as its third vehicle for the time being. This will need a significant refurbishment if its use is extended for any period, including replacement of seat fittings and installation of seat belts. It is entirely unsuitable for medium or long-range journeys and should not be utilised for funeral escorts or other escorts outside the Perth metropolitan area. Since mid-2009, numbers requiring transport to the PCC have significantly diminished, with many more appearances being managed by video link.
- 3.86 Juvenile transport staff do an excellent job for the most part with a client group among whom there are extremely difficult individuals to manage. Nevertheless, there have been a number of incidents in 2009 involving abuse and assault among detainees on the transports, and of young women and girls being verbally harassed by young men and boys on the same transport. Many of the detainees being transported to court are arrestees, meaning they were only newly admitted, often during the night. This means there has been little opportunity for Rangeview staff to assess the risk to others posed by each individual. It would seem timely for JCS to revise its procedures for tasking and assigning young people in such transports to minimise such risks, including, for example, application to the court for certain individuals to appear by video-link.

- 3.87 Morning embarkation operations were observed at Rangeview. Inadequate staffing levels, procedural deficiencies and wholly inadequate facilities were evident. Concerns included ineffective separation between groups of detainees changing into civilian clothing and searched for court and those yet to change and between young males and females. The officer meant to be observing the first officer conducting the change of clothing in the change room could not give full attention as he or she was also in charge of a number of other youths in the corridor.
- 3.88 Only one centre-based officer, typically the Shift Manager, was present in the sallyport to conduct embarkation and disembarkation activities, together with transport staff or police. Nor were detainees identified by photograph before embarking on transports.

Recommendation 13

That Juvenile Custodial Services review and implement:

- a) Revised procedures for tasking and assigning young people in court transports and video-links to minimise risks posed by juveniles to each other during court escorts.*
- b) Revised procedures and staffing levels at Rangeview reception to ensure adequate supervision of young people being prepared for or returned from external escorts, including conduct of unclothed searches and of embarkation and disembarkation.*

MEDICALS AND OTHER AD-HOC ESCORTS

Medical escorts

- 3.89 Report 43 documented major concerns about the cancellation of medical escorts for prisoners through contractor incapacity. Efforts to manage demand for external medicals through implementation of a triage system had borne early fruit, assisted by transfer in 2004–2005 of responsibility for non-court escorts (including medicals) for metropolitan minimum-security prisons from the Contractor back to those facilities. Juvenile escorts in the metropolitan area were likewise transferred back to JCS. However, while medical escort cancellations by the Contractor subsided for a time during our fieldwork in early 2006, in the months before publication in May 2007, cancellations had returned to high levels (p. 15).
- 3.90 These cancellations included many escorts rated ‘Urgent’ (Category B) and ‘Critical’ (Category A) by medical officers under the triage system. The Inspectorate recommended that such escorts be always undertaken, and if unable to be completed by the Contractor, the responsible Superintendent should make an alternative arrangement; also that Contract arrangements be amended to penalise the Contractor for failures in this aspect of service delivery (Recommendations 18–20). In responding, AIMS Corporation said it was ‘cognizant’ of the need to complete Category A medical escorts and the Department only undertook to call an ambulance if the situation was life-threatening. The Department also dissembled on the question of adjusting contractual arrangements as recommended (134–6).

3.91 The following table provides numbers of medicals for the most recent three financial years. Interestingly, successful medicals by the Contractor in the first and last years are the same. However, successful medicals reduced in the second year, which (from 1 August) was the first year in which GSL (now G4S) operated the Contract. Escorts cancelled due to contractor failure also peaked in the second, essentially by the same amount that successful escorts reduced. This is likely due to increased difficulties with the aging vehicle fleet provided for its use and staffing issues at the height of the state’s mining boom.

Adult Prisoner Medical Escort Completions by Financial Year

	06/07	07/08	08/09
Unsuccessful Medicals – Cancelled by Transport Agency			
DCS Failure	24	79	51
Contractor Failure	682	922	280
Unsuccessful Medicals – Cancelled Other Reasons			
Prisoner Refusal	359	390	353
Facility Cancelled	915	923	742
Successful Medicals			
By DCS*	2072	2167	2982
By Contractor	3777	3356	3777

* DCS here refers to local facilities and the ESG.

Source: *DCS Contracts Management 38*

3.92 Contractor performance according to these figures improved markedly in the third year, with the Contractor cancellation rate reducing from 17.3% in 07/08 to 6.1% in 08/09.

While this may be attributable in part to improved Contractor staffing levels and improved vehicle availability, the figures indicate it has much more to do with increased involvement by the Department in the provision of medical escorts, which increased by over 800 escorts in 08/09. While this included escorts by minimum security prisons, it included a good many by other facilities whose superintendents understand that they have a duty of care to ensure their prisoners access necessary medical care.

3.93 Inspectors found for example, that at Greenough Regional Prison, on a day when the local G4S Supervisor had given prior notice they were unable to service a medical due to other commitments, the prison arranged for the escort to be conducted using the secure vehicle. A senior officer was assigned to use the escort as a training experience for staff. Later that morning, medical staff told administration that a woman needed an urgent examination at hospital. A second escort was arranged using a sedan.

38 In response to the draft text, DCS asserted that these figures are not correct, and do not match the Department’s. However, the figures in this report were supplied directly to us by the DCS team member nominated to provide such information (email held). No new figures were given to us and none have yet been published, to our knowledge, including in the Security and Custodial Services Contract Annual Report for 2008/09. This report was due to be provided to the Minister by 30 September 2008 and tabled in Parliament. However, we were unable to locate it on the Parliament website or on either the DCS or DotAG websites.

- 3.94 The commencement of operations in September 2008 of the Secure Facility in the basement of the Royal Perth Hospital Outpatients Clinic (see below) would also be reflected in the figures for 08/09. Health Services also implemented an external medical appointments system, initially for those at Royal Perth, but eventually covering all specialist appointments. This includes referral of relevant medical files by an encrypted email system to the relevant specialist.
- 3.95 Health Services strongly questioned the veracity of TOMS medical escort data in that it records an escort as successful if a person simply left and returned. In some cases, prisoners are taken to medical appointments too late for the clinic to accommodate their treatment. On other occasions, prisoners are taken to the Secure Facility, but the appointment does not proceed, whether due to cancellation by the clinic, prisoner refusal or facility management issues. Requests for modification of TOMS to better record the actual outcomes of medical escorts are pending.
- 3.96 While the figures for 2008–2009 do suggest a lift in completion of medical escorts, they do not give us confidence and there is still considerable scope for improvement. As prison managers face increased cost pressures due to overcrowding, they are unlikely to be able to sustain unfunded services for which they are not primarily responsible, increasing the risk that medical escort completions will again decline.³⁹
- 3.97 In the end it is unacceptable that medical transports are managed as an adjunct to other escort requirements as they will invariably assume a lower priority. The same standard should apply to medical escorts as to court escorts, namely, 100 per cent timely completion. This can only be achieved by a specialist medical transport escort service, whether undertaken by the same or different Contractor as other escorts, or by custodial facilities themselves. The performance management framework for the service should be robustly constructed to maximise successful completions of medical escorts. This should be a feature of new contractual arrangements post-July 2011. Indeed there is no reason why such a change could not be expedited.

Recommendation 14

That a separate medical transport escort service, with a select team of trained staff and a dedicated fleet of appropriate vehicles, should be established to ensure practical coverage of metropolitan prison medical escort requirements.

- 3.98 Health Services outlined reforms which have the potential to further reduce medical escorts from custodial facilities, including increased use of telemedicine, development of an acute assessment capacity at Hakea and Casuarina, installation of digital x-ray equipment at those sites and training for those making off-site referrals.

³⁹ DCS in response to the draft text stated that the provision of medicals became a performance measure on 1 April 2009 and has seen a significant drop in medical cancellations, though no substantiating data were provided. Court movements and medical appointments receive the same weighting under the new measures. It was also stated that prisons which are funded for ad-hoc services cancel these services at a greater rate than G4S.

Women's experience of medical escorts

- 3.99 While most facilities chose to assist with the most serious medical appointments not undertaken by the Contractor, the major exception was Bandyup Women's Prison. Indeed, during an inspection in April 2008 it came to light that women had not been taken for mammograms for extended periods due to repeated appointments missed by the Contractor and the lack of contingency plans by the centre. The reason given by the prison for not stepping in was the lack of a secure vehicle, despite long-established procedures being in place for conduct of an escort in non-secure vehicles. However, in response to an inspection recommendation, Bandyup sought Departmental funding for its own secure vehicle, which was delivered in August 2009.
- 3.100 Health Services arranged that obstetric patients from Bandyup should be seen at King Edward Memorial Hospital late morning and that they would be conveyed directly to their appointment by the Contractor using a Commodore wagon fitted with security screens provided by Bandyup. While this arrangement was sometimes followed, most women attending appointments at King Edward Memorial Hospital (including pregnant women) were sent in the same van as others attending court. Sometimes they had to go via two or three courts before reaching the hospital and at least in one instance leaving as early as 6.30am for a late morning appointment.
- 3.101 The main vehicle used for women was the Mercedes Sprinter prototype. Generally speaking, this vehicle is more comfortable with moulded seats, more seating space and seatbelts. However, many pregnant women told us they did not find this style of seating at all comfortable, especially when journeys each way via courts took up to two hours. Nor were they given an opportunity to visit a toilet during these journeys and reported extreme difficulties with bladder control. Others reported nausea or vomiting after an extended period in the pod-style vehicle.
- 3.102 The secure vehicle acquired by Bandyup includes a baby-seat and bench seating with seatbelts for two women and ample space for any requirements for the woman or a child. Upon delivery, management had yet to determine how it should be utilised, but one would hope it was used for all medical appointments for pregnant women and new mothers, if not more generally for medical escorts. Indeed it may well be appropriate for medicals, funerals and other special escorts to be undertaken in future by the facility. Certainly, medical escorts for women should never be routed via courts.

Recommendation 15

That pregnant women be conveyed directly to and from the relevant medical facility in a vehicle appropriate to their needs without undue restraints.

Secure Facility at Royal Perth Hospital

- 3.103 The Secure Facility at Royal Perth Hospital (RPH) Outpatients was intended to increase the efficiency and security of medical escorts by concentrating medical services at a single location. Prisoners are brought there through a secure sallyport for either the morning or afternoon session. Two consulting rooms were created in the facility, but for the most part, consultants have declined to attend. Most prisoner appointments are therefore undertaken in clinics upstairs, or in the main hospital accessible through a tunnel from the outpatients building.
- 3.104 Contract management, Health Services and Contractor staff have worked hard on liaison with hospital administration, security and medical staff and for the most part, the Secure Facility is well accepted. Clinics were flexible with appointment times and most appreciated it was in their interests to have prisoners seen promptly rather than waiting for extended periods in public waiting areas. While some clinics drop patients from lists due to missed appointments, prisoners have been exempted, as it is understood it may not have been their fault.
- 3.105 Health Services established a new medical bookings officer at head office, initially to coordinate bookings for the Secure Facility, but now for all referrals to metropolitan specialists. The system aimed to centralise referrals into clinics at Royal Perth, ensure the best utilisation of the Secure Clinic and provide a channel for the secure transfer of referral information to the clinics using an encrypted email system. Access to specialist care is controlled by the clinics themselves based on the Clinical Priority Access Nurse (CPAN) system, which requires that all patient demographic, clinical content and test results are available before the case can be prioritised. This triage process effectively supersedes that previously developed within Health Services as they applied to medical escorts.
- 3.106 TOMS figures suggest that in the period Feb–Apr 2009, some 61 per cent of medicals from metropolitan non–minimum prisons were concentrated at the Secure Facility at RPH, reducing the numbers of journeys required to other hospitals and clinics. The facility thereby reduced demand for medical transports to some degree, but with its own staff complement of eight, it is too early to say whether it could be considered to have increased efficiency or to have reduced costs.⁴⁰
- 3.107 In reality, a number of issues have significantly reduced the potential of the Secure Facility. The Department commissioned the ESG to test the facility prior to opening. The ESG highlighted some minor security compromises in the design of the centre and recommended strict limits on the absolute number and mix of prisoners allowed to attend. After an initial period, only six prisoners were allowed to attend for each of the morning and afternoon sessions. This number has to be reduced if more than one maximum–security prisoner is in attendance. The facility is similar in construction and security features to a medium–sized court holding room facility costing millions of dollars and safely able to accommodate 15–20 prisoners. The restrictions on numbers appear quite unnecessary.

40 DCS in response to the draft text stated that a ‘value for money’ report on the Secure Facility was done in March 2009 and that it has implemented the recommendations of that report to provide money to the state. It is understood that this included closure of the facility on Fridays and a lifting of numbers able to be accommodated at the facility.

TRANSPORT OPERATIONS

- 3.108 The centralised booking system established by Health Services was not accepted by all facilities and some appointments were being made directly with Royal Perth Clinics. This made it almost impossible to ensure that the six allocated appointments for a session could proceed, especially if an unexpected appointment for a maximum security prisoner forced not one but two other appointments to be cancelled. Too many appointments were also being made at other medical facilities. In many cases, these were follow-up appointments from emergency medicals, which Health Department policy restricted to the same facility to which they were first taken.
- 3.109 The Secure Facility was also at the mercy of the G4S transport services, with too many untimely movements. Many transports arrived only after attending at courts. The clearance transport due at noon often did not attend until much later. The same was true of those due at the end of the afternoon session. A vehicle was briefly allocated for exclusive transport to and from the facility, but this could not be sustained.
- 3.110 Aspects of the treatment of prisoners at the secure facility were very good, including provision of a good quality hospital-issue lunch box, although there is no reason why people waiting for extended periods in such a facility should not also be enabled to access coffee or tea and biscuits for morning and afternoon tea.
- 3.111 Prisoners' main complaints were about the level of restraints used and staff attitudes in the facility. All prisoners there are treated virtually as high security escorts, being cuffed, shackled and chained to a wheel-chair whilst attending their appointments. They feel acutely embarrassed in such a condition when being pushed through crowded public waiting areas. It can also be extremely difficult to get a person in a wheelchair into small consulting rooms, often packed with equipment. Even minimum security prisoners are required to be seated in a wheel-chair, albeit without being shackled and chained to the chair.
- 3.112 While such an arrangement may provide comfort to medical and other staff at the hospital, it appears an unwarranted indignity that should be reconsidered, at least for minimum and medium security prisoners. Also, while cell configurations are of a high standard, patients should not have to sit on cold metal benches uncovered by an insulating material for hours on end. Nor should persons in custody have to obtain water from water fountains mounted as part of a single fitting with a toilet. Cell Three lacked any vents, which meant that air-conditioning was ineffective.

Recommendation 16

That in relation to the Secure Facility at Royal Perth Hospital:

- a) Artificial limitations on numbers able to be accepted should be lifted;*
- b) Restraint arrangements should be reviewed to reduce unnecessary and undignified use of wheelchairs for some classes of prisoners;*
- c) The metal benches in the holding rooms should be covered by an insulating material; and*
- d) Prisoners should be able to access coffee or tea and biscuit for morning and afternoon tea.*

Hospital Orders

- 3.113 Western Australia has a single forensic mental health facility, the Frankland Centre at Graylands. This is a secure facility managed by the Health Department. This small facility is chronically full of prisoners with major psychiatric illnesses requiring treatment. It also has to accept people referred by Courts for psychiatric examination under section 5 of the *Criminal Law (Mentally Impaired Accused) Act 1996*. Such a referral is known as a Hospital Order which is ‘an order that the defendant is to be taken to and detained in an authorized hospital and examined by a psychiatrist’ and produced back in court on a set date within seven days. If, after examination, the psychiatrist determines that the person’s mental illness is such that they are made an involuntary patient, then that person will remain in the authorized hospital (in practice, meaning the Frankland Centre⁴¹) until the court appearance. If however, the person is cleared by the psychiatrist, they are to be transferred to a prison or juvenile detention centre until the court appearance.
- 3.114 Under section 5 of the Act, the Hospital Order should be used only when the judicial officer suspects on reasonable grounds that the defendant has a mental illness requiring treatment; that the treatment is needed to protect health or safety of the defendant or any other person, or to prevent serious damage to property; and that the defendant has refused or is unable to consent to such treatment. It is open to a judicial officer alternatively, to simply request a psychiatric report through prison or juvenile custodial authorities in the course of a normal remand or adjournment.
- 3.115 The Frankland Centre and their managers in the Forensic Mental Health Service of WA have long been concerned that in some instances, Hospital Orders are made unnecessarily. To reduce such instances, a Court Liaison Service was established to provide advice to all Western Australian courts. While a matter before a court is adjourned, a mental health nurse can undertake an initial assessment of the accused person, either in person in a Perth court, or remotely via video-link in a regional centre. The nurse can thereby offer the court an early indication whether the making of a Hospital Order or other courses of action may be needed to further assess the defendant.
- 3.116 The difficulties are illustrated by a case we observed in a remote court. A young woman returning to court on remand was placed on a Hospital Order and sent to the Frankland Centre on the observation by the Magistrate that she had previously been found to be a mentally impaired accused person. Neither the prosecutor nor counsel had put to the court that her mental state presently required hospitalisation and indeed her lawyer considered she was able to give him clear instruction on the matter to hand. Nor was the Court Liaison Service consulted in this instance. The young woman had already spent some days in the custody of police, prison and custodial transport authorities. Although we are not questioning the appropriateness of this Magistrate’s decision, such transports involve great expense and in conditions which may in some cases be afflictive to the accused person.

41 DCS in response to the draft text noted that certain other hospitals are gazetted under the legislation as ‘authorised hospitals’ and stated that it is the court that *chooses* to send people to the Frankland Centre. However, in practice there appear to be few if any other choices: the Frankland Centre is the only forensic mental health facility (‘forensic’ meaning, here, a facility equipped to hold persons in secure custody in relation to criminal matters).

- 3.117 In metropolitan Perth, transportation to Frankland is undertaken by the Contractor, generally on transports serving courts as part of a run back to prisons, often sharing cells with other prisoners. From major regional centres, it generally falls to the Contractor to undertake hospital order escorts. In Report 43, concern was expressed that contractors were often forced to remove patients by road at the conclusion of the court hearing as such defendants could not be held in a police lockup or prison. The Department responded by stating that they had State Solicitor's advice confirming that they could not be accommodated in a police lockup or prison whilst being transported on a Hospital Order.⁴²
- 3.118 Since then a practice has arisen whereby the Magistrate is requested to issue a simultaneous remand warrant so that the defendant can be held in a police lockup or prison on their journey to Frankland. Such an instrument would seem both morally and legally dubious, with defendants who were so ill that a Hospital Order was needed sometimes now arriving at the Frankland Centre after days of travel in pod-style vehicles, and having stayed in prisons, police lockups or both. Centre staff report that some have arrived dehydrated, saying the air conditioning wasn't working or having wet themselves for lack of a toilet. They were often placed in cells with others, unlikely to be good for either person. Psychiatric staff told us they considered that the conveyance of a mentally ill person on long journeys in a pod-style transport is both inhumane and very likely to worsen their condition.
- 3.119 Occasionally, under direction from the DCS, special arrangements for a Hospital Order escort have been made, for example by commercial airliner. In one instance in late 2008, a person considered unfit to travel either by commercial airline, or on the standard road escort, was transported in a hire vehicle by road from Broome all the way to Perth. By way of contrast, police at remote courts, routinely utilise the RFDS for Hospital Orders, as they would for other involuntary medical transports. In the case discussed above, the young lady spent the night in the police lockup awaiting attendance of the RFDS. The use of the RFDS in such an instance would seem appropriate given that under section 5(4) of the *Criminal Law (Mentally Impaired Accused) Act 1996*, the person is regarded as a patient under section 30 of the *Mental Health Act 1996*.

42 OICS, *Thematic Review of Custodial Transport Services*, Report No. 43 (May 2007) 46. See also Recommendation 5 and the DCS response in Appendix 1.

- 3.120 The Chief Psychiatrist has confirmed that such persons are indeed patients and entitled to be transported by RFDS without either a Form 1 or Form 3 issued under the *Mental Health Act 1996*.⁴³ Frankland asserts that all hospital orders from regional areas should therefore be transported by RFDS. Protocols require that such patient be fully sedated and accompanied by a police officer. Of course a CSCS officer could deputise for police in such an escort. If accommodation is required for such a patient whilst awaiting transport, it should be in a hospital, not a police lockup or prison.
- 3.121 On the other hand, not all persons for whom a court requires a psychiatric assessment under the *Criminal Law (Mentally Impaired Accused) Act 1996* are necessarily presenting with a florid mental illness. In some cases, the mental condition that allegedly impaired the person's judgement at the time of the offence is no longer evident at the time of the court appearance. In other cases, the alleged impairment is due to mental incapacity, not mental illness. Special transport in an air ambulance may not be required in such cases. Indeed one may question whether the Hospital Order in its current form is the most appropriate way of ensuring that courts can obtain timely professional advice on questions of fitness to stand trial.
- 3.122 Inappropriate referrals (if they occur) can also cause the Frankland Centre to return a mentally ill prisoner prematurely back to prison so as to accommodate the defendant from court who was the subject of the Hospital Order. For a brief period in 2008, defendants on Hospital Orders were examined in the transport van on arrival at the Frankland Centre before being sent to a remand facility, if found not to require hospitalisation. While perfectly legal, this was strongly criticised by corrections authorities and discontinued, but it highlighted the contradictory and indeed impossible demands being placed on this small forensic mental health facility.
- 3.123 Strangely, while the CSCS Contractor can be required to escort a person on a Hospital Order to the Frankland Centre and either directly back to court on their remand date, or if cleared, on to a prison or detention facility, Frankland cannot request Contractor assistance in conducting a medical escort to another medical facility whilst the person is on a Hospital Order. Such escorts therefore have to be undertaken by mental health nurses who arguably lack relevant security expertise. Yet G4S can be tasked to undertake a medical escort of a mentally ill prisoner or detainee who is resident at Frankland. This is clearly a serious anomaly that should be remedied.

43 Letter from Dr Rowan Davidson, Chief Psychiatrist, to Dr Stephen Langford, Medical Director, RFDS, 28 November 2006. In response to the draft text, DCS suggests that OICS is confused about orders made under the *Criminal Law (Mentally Impaired Accused) Act 1996* and orders made under the *Mental Health Act 1996*. It contends that in the case of an order made under the former, the person is not considered a patient until dealt with by the Chief Psychiatrist at the Frankland Centre and cannot therefore be flown by RFDS or medicated. It states that this is based on the advice of the State Solicitor following recommendation 5 of our Report 43. It also states that the State Solicitor has recommended the system of the concurrent remand warrant to facilitate the holding of the person in a lock-up or prison. This is an area in which further clarification is needed to meet best practices and reduce potential risk.

Recommendation 17

That the Government review the escort arrangements of persons subject to a Hospital Order under the Criminal Law (Mentally Impaired Accused) Act 1996 to ensure that such persons are transported safely and humanely as patients and not inappropriately detained in police lockups or prisons in the course of such journeys.

Recommendation 18

That the custodial medical escort service for the metropolitan area be available for all Frankland Centre inmates, whether held on a hospital order, remand warrant or other legal instrument. If the conduct of such escorts is returned to individual prisons, then an arrangement should be established to cover such escorts from the Frankland Centre.

Hospital bed-sits

3.124 A person in custody who is admitted to hospital has to be restrained and guarded on a 24-hour basis, except in rare cases where a superintendent has directed, in the case of a minimum security prisoner, that restraints or guards are not required. Guarding of a person in hospital is known as a hospital bed-sit, (also referred to as a ‘static escort’). We were advised that the Contractor was obliged to cover up to five hospital bed-sits per day in the metropolitan area if required, and any arising from regional prisons. Thus, the Department retains the risk associated with an elevated number of prisoners in hospital and always has to maintain a capacity to undertake such guarding duties when required. An emergency medical escort often has to be undertaken by prison officers from DCS or Serco, the operators of Acacia Prison. G4S are required to relieve these officers within a certain period of time.⁴⁴

3.125 Over the previous 18 months or so, prisons had to step in and undertake very many hospital bed sits, most of which the Contractor had an obligation to provide. Some involved a failure to relieve prison staff within four hours. This resulted from staffing shortages, both generally, and at particular sites. However, as shown in the following graph, towards the end of the inspection period, Contractor performance improved to the extent that prison coverage of bed-sits became rare.

Numbers of hospital bed-sits covered by prisons in absence of Contractor: Jul 08 – Jul 09

Jul-08	Aug-08	Sep-08	Oct-08	Nov-08	Dec-08	Jan-09	Feb-09	Mar-09	Apr-09	May-09	Jun-09	Jul-09
24	31	26	11	25	5	13	83	43	0	0	1	0

Source: Commissioner and Director General Weekly CSCS Update, DCS Contracted Services, various.

3.126 This improvement resulted not only from successful recruiting, but through the creation, by G4S of a dedicated team for hospital bed-sits, which guaranteed a base level of service.

⁴⁴ DCS in response to the draft text stated that there was no prior obligation to cover four bed-sits per day, but from 1 April 2009, was required to cover five or more bed-sits per day within three hours of admittance. It is further stated that the elevated risk from numbers to be covered by the Department is manageable, as 50-60 per cent of hospital admissions are planned.

Compassionate escorts

3.127 Both adults and juveniles in custody can apply to attend a funeral of a near relative, to visit a near relative who is gravely ill or for another compassionate purpose. Custodial authorities are generally most compassionate in facilitating a visit of a person in custody to a gravely ill near relative or in similar circumstances, although at times, security considerations or logistics make this impossible. A great number of funeral escorts are also approved and facilitated to the comfort of prisoners or detainees and their families alike. Once a funeral is approved by the Department, the Contractor has generally worked hard to ensure it proceeds, sometimes involving great distances and at considerable cost to the Department.

3.128 Nevertheless, funeral escorts have long been and remain the source of significant concern not only to people in custody, but their families and communities and the custodial authorities. Report 43 documented a number of these issues, including:

- The cost, security risks and logistics for the Department and its Contractor in such escorts;
- Concerns among Aboriginal prisoners, their families and communities about prisoners not being sent to funerals and the use of restraints at funerals;
- Whether policies that acknowledge cultural understandings of Aboriginal families are properly understood and applied;
- Whether there is Aboriginal involvement at a senior level in decisions about Aboriginal funeral applications;
- Whether numerical limits on numbers able to attend each funeral are applied in a way that causes unfairness in decisions on applications supposedly based on the quality and importance of each applicant's relationship with the deceased.

3.129 These issues were addressed in Recommendation 24 of the Inspectorate's Report 31 (reproduced in Appendix 2). Notwithstanding variations between facilities in how funeral applications are processed, there has been no real change in how funeral applications are processed or escorts undertaken.

Adult custodial facility escorts

3.130 As noted above, custodial facilities throughout WA increasingly had to step in to provide medical escorts and bed-sits unable to be undertaken by the Contractor. The same was true for funeral escorts and special escorts. Since May 2005, the metropolitan minimum security prisons, namely Woorloo, Karnet and Boronia have had responsibility for their own ad-hoc escorts. The Contractor remains responsible for transfers and court escorts to and from these facilities.

- 3.131 Such escorts have been unproblematic, especially as staff have received renewed training in escort procedures. However, vehicles used by DCS facilities are typically less sophisticated than those being developed for use by the Contractor. Few of the secure vehicles have seat-belts, seated external views, proper surveillance equipment, temperature sensors, duress alarms or communications equipment and many have side-ways bench seating, which is generally uncomfortable during acceleration and braking and potentially dangerous in an accident. Newer vehicles are more compliant, if sometimes compromised by dual-use requirements.
- 3.132 As most ad-hoc escorts involve only one or two prisoners, consideration should be given to provision of a modified domestic style vehicle, such as sedans or small vans of each custodial facility. With a robust screen between the prisoner and driver, there is a reduced requirement for sophisticated monitoring equipment or separate air-conditioning systems and allows appropriate interaction between staff and prisoners on such escorts.

High security escorts

- 3.133 The ESG provides medical, funeral and other ad-hoc escorts for people on the High Security Escort list. These are rare and professionally managed. Most are undertaken in a new Volkswagen Crafter van configured to hold up to three prisoners in rear-facing moulded seats and up to five officers with all their gear; this vehicle is far more compliant with accepted custodial vehicle standards in the level of comfort and safety afforded all passengers.

Juvenile ad-hoc escorts

- 3.134 As with metropolitan court escorts, medical, funerals and other ad-hoc escorts for juveniles are provided by JCS using the same staff and vehicles. Scheduling is essentially unproblematic insofar as a close relationship between health services and those arranging transport means that they are usually able to agree on suitable times for medicals, alongside court escorts and funerals.
- 3.135 One issue is the suitability of vehicles used for the purpose. Many of these escorts are undertaken with a single detainee, occasionally two or three. The use of one of the new Crafter vehicles would be inefficient and prevent satisfactory interaction between the staff and detainees on such a journey.⁴⁵
- 3.136 Funeral escorts can also be some hours distance and may even require commercial or charter air services to accomplish. It would be far better to modify a domestic-style vehicle, such as a sedan or small van for secure transport for air-transfers, or medical or funeral escorts undertaken by road. Such vehicles would also be suitable for use by minimum-security metropolitan and regional prisons.

45 DCS, in response to the draft report, stated that 'use of the Crafter for a single escort is extremely rare'

3.137 Finally, JCS has done nothing further to address overuse of restraints on ad-hoc escorts. Juvenile detainees only acquire a minimum security rating if assessed for a day release program when their release is imminent, something which is extremely rare. Juvenile detainees often find themselves at funerals which are also attended by adult prisoners with fewer restraints. This makes the juveniles feel ashamed and is inconsistent with general principles regarding the treatment of juveniles compared with adults.⁴⁶

Recommendation 19

The Department of Corrective Services acquire modified domestic-style vehicles, such as a sedan or small van for use by detention centres and minimum-security metropolitan and regional prisons or a contractor conducting ad-hoc escorts such as medicals and funerals.

⁴⁶ The DCS response to the draft report stated that: ‘the use of restraints [is] in line with the procedures and practices developed for young people subject to their security rating.’ However, the report is not raising any question about compliance with DCS procedures: the issue is whether there is any desire to address the issues raised in the text.

Chapter 4

CONTRACT MANAGEMENT

MID-TERM CHALLENGES FOR THE CSCS CONTRACT

- 4.1 The Department of Corrective Services (DCS) and the Department of the Attorney General (DotAG) replaced the Department of Justice in February 2006. DotAG became the agency responsible for assisting the Minister with the Contract, but CSCS contract managers were placed in DCS (more on this below). The CSCS Contract had commenced on 31 July 2000 for an initial five year term, and been renewed for a three year term in July 2005. The departmental transition at first appeared seamless and the Inspectorate was able to report in early 2007 that the relationship between contract management and the Contractor, since the Supreme Court escapes of 2004, was ‘much more robust and productive than hitherto.’⁴⁷
- 4.2 However, there were many aspects of contract management that were questioned, including aspects of monitoring arrangements, demand management, performance management, value for money and Contractor staffing arrangements. Our 2007 report was also highly critical of aspects of the performance of the Contract, in particular unsafe arrangements for long-haul prisoner escorts and the high rate of Contractor cancellations of medical escorts, issues for which the administering department had clear responsibility.
- 4.3 Many of these issues were unresolved in the short to medium term and in 2007 contract managers faced a range of challenges, including:
- A need to give more attention to stakeholder relationships under new departmental arrangements;
 - A division of monitoring resources between DCS and DotAG;
 - Efforts to develop a secure facility at Royal Perth Hospital (RPH) to better manage medical escorts;
 - A proposal by police to use Contractor staff at the East Perth Watch House;
 - The proposed acquisition of the AIMS Corporation by GSL (Australia) Ltd and a consequent request that the WA Government novate the CSCS Contract to GSL;
 - The imperative of replacing a vehicle fleet already long past its use-by date.
- 4.4 All of these are explored throughout this report. The latter issue, fleet replacement, was of perhaps of greatest importance, but also the source of greatest frustration to contract managers, especially when cabinet failed to fund the proposed program of fleet replacement. In retrospect, fleet replacement deserved the attention of a dedicated project team, instead of being one of many issues of which the contract manager had carriage.

LOST OPPORTUNITIES FOR CONTRACT REFORM

*A further question arises as to how a government department, in this case the Department of Corrective Services, could have ever allowed such a situation to arise...?*⁴⁸

47 OICS, *Thematic Review of Custodial Transport Services*, Report No. 43 (May 2007) 3.

48 Hope AN, *Record of an Investigation into Death, Ref 9/09*, Inquest into the death of Ian Ward, Coroner's Court of WA (12 June 2009) 123.

- 4.5 The coronial inquiry into the death of Mr Ward in a custodial transport vehicle at Kalgoorlie on 27 January 2008 took place during the early months of the present inspection. The Coroner noted that the case had highlighted ‘some of the some of the dangers associated with the privatisation of services when the state owes a non-delegable duty of care’⁴⁹ and found that: ‘[T]he actions of the Department in providing an unsafe vehicle and its failure to put in place procedures to reduce the hazards associated with use of that vehicle clearly contributed to the death.’⁵⁰
- 4.6 The Ward case represented a contract management failure, that is, a failure of the Department’s contract management systems to ensure that custodial transport services were operated in a way consistent with the duty of care owed to Mr Ward, as required under the *Court Security and Custodial Services Act 1999*. This Office raised a number of duty of care concerns as long ago as 2001 *Report of an Announced Inspection of Adult Prisoner Transport Services*. Contract managers also had several other opportunities to address deficiencies in the CSCS Contract.
- 4.7 The first was the Sandfire Incident on 17 October 2006 mentioned in the Overview of Report 43. A prisoner transport had broken down near the remote Sandfire Roadhouse in the middle of a day in which temperatures reach 40.5 degrees. Despite the extreme heat and lack of air-conditioning, they were not allowed to leave their small cells at all until 8.00 pm when recovery vehicles finally arrived. The incident was subject of a Risk Notice by the acting Inspector of Custodial Services to the Commissioner of the Department, of representations to the Minister by the Aboriginal Legal Service and of news reports. In a statement to the Western Australian Parliament, the responsible Minister stated:
- It is intolerable that in this day and age people should be subjected to such inhumane conditions, and I have requested the Department to scrutinise existing procedures to ensure that similar incidents do not occur in the future.⁵¹
- 4.8 No such review was undertaken by the Department. The Sandfire incident also prompted a substantial submission to the Minister of Corrective Services by the Aboriginal Legal Service. A letter in reply 11 April 2007 included a number of assurances including that ‘all vehicles are serviced strictly in accordance with a documented servicing regime, including the air-conditioning system and that a replacement fleet is currently being built.’⁵²

49 Ibid., 93.

50 Ibid., 107-8.

51 Hansard, Parliament of Western Australia, Legislative Assembly- Statement, *AIMS Corporation – Transportation Of Prisoners*, by Ms Margaret Quirk, Minister for Corrective Services, (Thursday, 2 November 2006) 8153b – 8153b / 2.

52 From a summary of the Minister’s responses recorded in DCS, *Review of Prisoner Transport Services*, (February 2008) Department of Corrective Services, Government of Western Australia, 13-14.

4.9 The second was receipt by the Department of the draft of Report 43 with recommendations in December 2006. In its responses (which were published as part of the report) it responded positively on the question of custodial vehicle standards, but equivocated on most others, including on those impacting on procedures, timeliness for fleet replacement and so on. Almost all were rated as low risk, including the first recommendation, which the Coroner has stated, if implemented would have prevented the death of Mr Ward. This was the recommendation that:

That a standard be established for all custodial transport services: no escort journey should be planned in short-haul secure transport vehicles without a comfort break for all passengers at least every 2-2.5 hours. Journeys likely to take longer must be undertaken in long-haul vehicles.⁵³

4.10 While the recommendation was 'Agreed', it was assigned a risk rating of 'Low' and a timeframe for implementation of '2-5 years (2009-2014)', so it did not appear to have been taken sufficiently seriously. In its response to the recommendation, the Department further stated:

A set of standards will be developed stipulating long journeys and the vehicles used in these journeys – these will be predominantly IP trucks performing:

- regional to regional movements; and
- metropolitan inter-prison movements.

4.11 The Department's focus was limited in scope and somewhat disingenuous. Our recommendation was not limited to long-haul inter-regional transfers or metropolitan inter-prison movements, but was framed to include precisely the kind of journey undertaken by Mr Ward, an intra-regional lockup-clearance run in a remote area. In considering the failure of the Department to act on this and other representations by the Office of the Inspector of Custodial Services, the State Coroner, in the context of the Ward inquest, recommended that the Inspector be empowered to issue the Department with 'a 'Show Cause' Notice in cases where the Inspector is aware of issues relating to the human rights and safety of persons in custody.'⁵⁴

4.12 The third major opportunity given the Department to address contractual deficiencies was the proposed acquisition of AIMS Corporation by GSL (Australia) Limited and a request in March 2007 that the Minister approve novation of the Contract to GSL. In April, the Inspector wrote to Government expressing his firm opinion that the Contract should be market-tested rather than novated directly from AIMS Corporation to GSL. After all, Serco Pty Ltd had recently taken over the Acacia Prison Contract at AIMS Corporation expense when the Contract was re-tendered. Serco has substantial CSCS type contracts in the UK and, along with other potential bidders, would have welcomed the opportunity to consolidate its presence in WA with a second contract. Why should AIMS Corporation, having lost interest in the CSCS Contract, determine by way of a commercial transaction which operator would provide the best service to the people of Western Australia?

53 Recommendation 1, 36.

54 Hope AN, *Record of an Investigation into Death, Ref 9/09*, Inquest into the death of Ian Ward, Coroner's Court of WA (12 June 2009) 133.

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- 4.13 The Inspector of Custodial Services also met at that time with the CEO of GSL and in June wrote setting out six matters of concern he expected GSL to address in operating the Contract. This included the logistical challenge of running a transport service across such huge distances as are involved in Western Australia, the parlous state of the government-owned vehicle fleet upon which GSL would have to rely and the disgraceful condition of some of the government-managed stop-off points for long journeys and the need for GSL to discuss with the Inspectorate the means by which the overall standard of services could be improved.⁵⁵
- 4.14 Interestingly, it was the Department of the Attorney General (not the Department of Corrective Services) which commissioned a ‘high-level due diligence’ report from KPMG about GSL prior to approval of the novation. DotAG sought ‘a broad indication of the recent financial position and performance of GSL and to obtain management’s assessment of how they intend to finance the custodial services contract’.⁵⁶ While the report commissioned from KPMG mentioned a proposal ‘to novate the custodial services contract to GSL’, it is not clear whether this was a reference to the CSCS Contract or the 25-year District Court Building Services Contract which AIMS Corporation had won as a subcontractor of the Western Liberty Group.
- 4.15 The KPMG report provided a corporate overview of GSL, its financial position and the status of its other existing contracts and tenders for new contracts. It identified the loss of either of its two main contracts, the Detention Services Contract with the federal Department of Immigration and Citizenship, and the Port Phillip Prison contract, as the key threats to its business. The report also listed a number of adverse press reports about GSL, including penalties applied in relation to particular incidents. It was noted that: ‘There is a potential risk that these events may adversely impact the probability of GSL being awarded the Detention Services Contract.’⁵⁷
- 4.16 Some of these incidents were extremely serious. The Hamburger Inquiry had made serious adverse findings again the company in relation to an escort of immigration detainees over two days in September 2004, between centres it managed in Victoria and South Australia, without adequate rest, food, water, comfort stops or access to necessary medical care.⁵⁸ A practical joke played on a prisoner, exacerbated by a humiliating strip search at Port Phillip Prison in May 2005, led to the imposition of a \$2,000 fine and the sacking of four officers.⁵⁹

55 Harding RW, Inspector of Custodial Services, *Novation and Renewal of the Prisoner Transport and Court Security Contract*, media statement (26 November 2007).

56 KPMG, *Project Justice – Limited scope high-level due diligence in relation to GSL (Australia) Pty Ltd*, Advisory, KPMG Transaction Services (5 June 2007) 2.

57 *Ibid.*, 9.

58 Hamburger K, *Findings and Recommendations from Report of Investigation on behalf of the Department of Immigration and Multicultural and Indigenous Affairs Concerning Allegations of Inappropriate Treatment of Five Detainees during Transfer from Maribyrnong Immigration Detention Centre to Baxter Immigration Detention Facility*, Knowledge Consulting Ltd (2005). The prison van was borrowed from the GSL fleet used for Victorian state prisoners.

59 Walker J, *Prison Suit*, *Business Review Weekly* (6-12 April 2006).

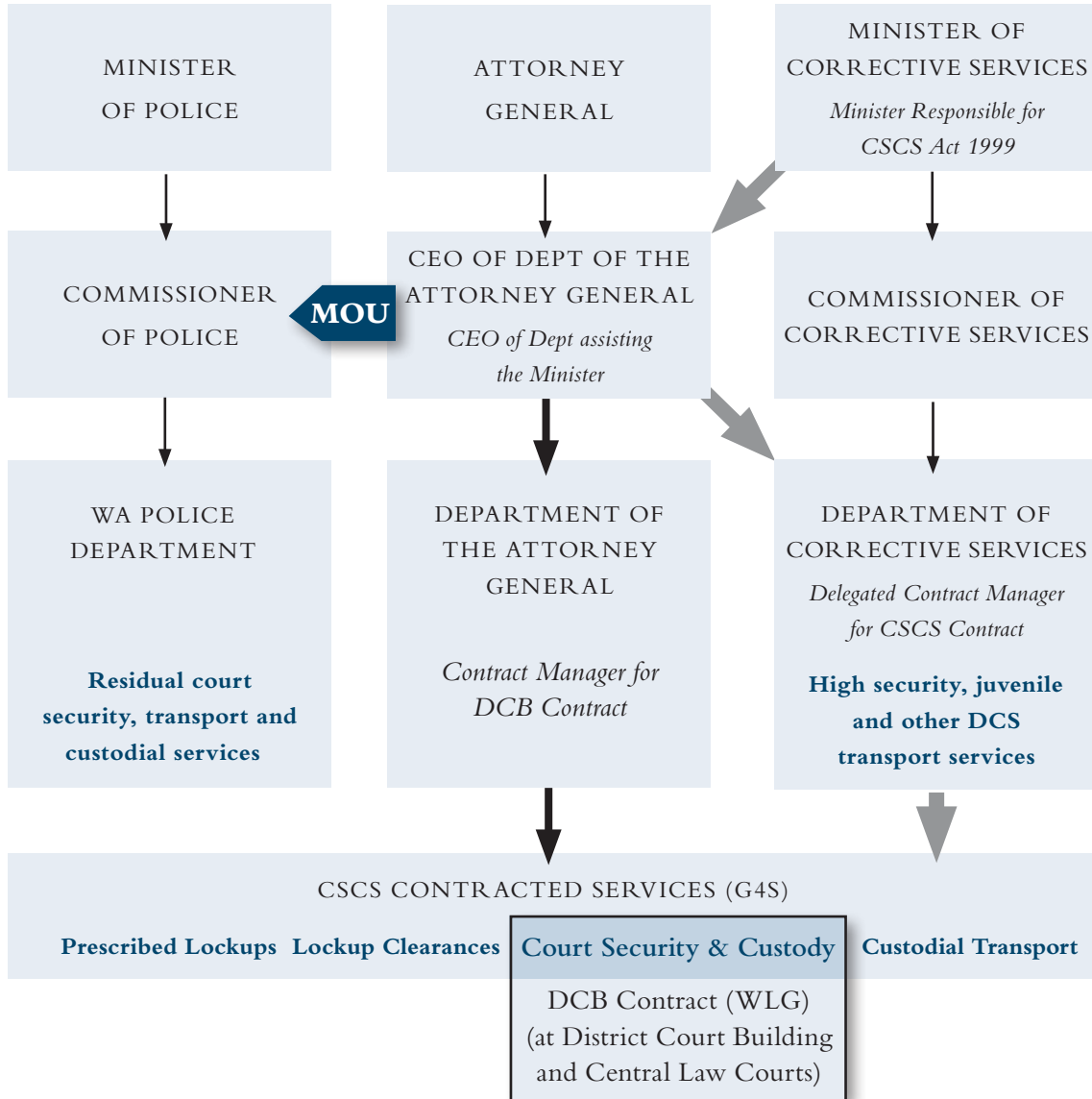
CONTRACT MANAGEMENT

- 4.17 While the KPMG report properly focussed on financial implications of these incidents, no ‘high-level due diligence’ report was commissioned on the company’s operational culture or its performance and capacity in custodial management, custodial transport or court security. The Coroner has also strongly questioned whether adequate regard was given in this novation to the question whether the Department had take a proper investigation of the capabilities of the potential contractor to deliver the services in accordance with duty of care obligations.⁶⁰
- 4.18 The Cabinet approval for the novation of AIMS Corporation interests in the both the CSCS Contract and DCB Services Contract to GSL was announced on 25 July 2007.⁶¹ For the CSCS Contract, the novation would take effect on 1 August 2007, at commencement of the eighth contract year, the last of a three year extension to the original five year contract. A business case to extend the Contract for a second and final three year term was also approved and announced on 30 July. The Contract would therefore expire on 31 July 2011, which date became the deadline for commencement of a new contract or other arrangement to deliver requisite services.
- 4.19 It was questions around contract extension and renewal, and issues relating to contract governance following the demise of the Department of Justice, rather than the novation that triggered a concern with contract reform. The July 2007 submission to cabinet on the extension proposed an exploration of future options on contract governance and renewal with a report back within 9 months. DCS and DotAG jointly commissioned, on 24 August 2007, an ‘internal audit’, also through KPMG, which was delivered in March 2008. The findings of this audit will be discussed below.




60 Hope AN, *Record of an Investigation into Death, Ref 9/09*, Inquest into the death of Ian Ward, Coroner’s Court of WA (12 June 2009) 93-94.

61 Only novation of the CSCS Contract was mentioned in the media release.


Diagram: CSCS Contract Governance, Feb 2006 – Oct 2008



KEY:

-  Main line of authority for CSCS Contract administration
-  Line of authority for DCB Services Contract administration
-  Traditional departmental lines of authority

Green text Services provided under the *CSCS Act 1999*

 Memorandum of Understanding between the CEO of the Department responsible for assisting the Minister and the Commissioner of Police for delivery of residual CSCS Services.

DISPERSED CONTRACT GOVERNANCE

- 4.20 The involvement of the Department of the Attorney General (DotAG) in commissioning a due diligence and internal audit on the CSCS Contract highlights a major issue in contract management following the dissolution of the Department of Justice in February 2006, namely, a dispersal of authority and responsibility for the Contract between two new departments, the DotAG and the Department of Corrective Services (DCS). The *CSCS Act 1999* envisaged that the Chief Executive Officer (CEO) of the Department principally assisting the Minister in the administration of that Act, would have charge of all services covered by the Act, including the power to enter into contracts with the private sector. The CEO also had the power to delegate certain court security and custodial services to the police service, by means of a Memorandum of Understanding.
- 4.21 The Minister of Corrective Services was assigned responsibility for the *CSCS Act 1999* when the position was created on 1 February 2006. However, it was DotAG which was designated as the Department principally assisting the Minister in the administration of this Act and hence its CEO would exercise the powers of the CEO under the Act. However, the CEO of DotAG delegated contract administration to the CSCS Contract Manager who had been placed not in DotAG, but the DCS.
- 4.22 The DCS Contract Manager therefore administered a contract delivering services not only to DCS itself (custodial transport), but to DotAG (court security and custodial services) and to the WA Police (lockup clearances and management of prescribed lockups). This labyrinthine arrangement is depicted in the diagram above. It is complicated further by the fact that with effect from July 2008, certain CSCS services, court security and custodial services at the District Court Building and Central Law Courts in Perth were novated to a new contract, the District Court Building (DCB) Services Contract. While aspects of the DCB Contract operate under the *CSCS Act 1999*, it is administered separately by DotAG's own Contract Manager.
- 4.23 In theory this meant that the Corrective Services Minister could only direct CSCS operations through the CEO of another Department. The Corrective Services Commissioner on the one hand was required to facilitate operation of the CSCS Contract, but had no power to direct CSCS operations, except those services provided by his Department. In practice the delegation of Contract Management functions to a Contract Manager within DCS made its Commissioner in effect responsible for administration of the Contract, yet one may argue that it was the CEO of DotAG which carried under the *CSCS Act 1999*, the duty of care for persons impacted by CSCS operations, not the Commissioner of Corrective Services.⁶²

62 DotAG in responding to the draft text disagreed with the notion that governance arrangements were in some way fractured. 'In reality the situation was straightforward... For the period [February] 2006 to October 2008, the CEO DotAG was the CEO for the purposes of the CSCS Act but delegated all functions (other than the power to delegate) to an officer of DCS. Since the commencement of the new District Court Building in June 2008 in which a custodial centre was established, a further contract under the provisions of the CSCS Act was established. The CEO of DotAG, for the purposes of the CSCS Act was the CEO and in this case delegated (per s 20) all the functions of the CEO to an officer of DotAG.'

4.24 In the end, there was a dispersal and potential misalignment of responsibility, authority and risk between the two departments. Certainly in the period following establishment of the two new departments in February 2006, significant attention had to be given to managing inter-departmental relations in the context of the CSCS Contract, and the soon-to-commence DCB Services Contract. Governance and monitoring arrangements had to be reconceptualised, renegotiated and reconfigured. It was in this context that contract management failures in the period leading to the death of Mr Ward and failure to secure government approval for replacement of the secure vehicle fleet should be understood.

PRISONER TRANSPORT REVIEW

4.25 The death of Mr Ward following a journey between Laverton and Kalgoorlie in a vehicle operated under the CSCS Contract on 27 January 2008 was the most significant crisis in the Contract since the Supreme Court escapes of June 2004 and an earlier death in custody on a journey between the Perth Watch House and the Central Law Courts in 2003. The Minister ordered a review of prisoner transport services and the Department’s contract management team was also augmented both numerically and in its level of expertise. On 26 February 2008, the Minister for Corrective Services, tabled a report from her Department in the WA Parliament which she said was ‘a stringent review of operating procedures which have duty of care implications.’⁶³

4.26 A number of recommendations were approved with strict timeframes over coming months. The following table provides a paraphrased summary of the recommendations from the transport review, together with brief notes on the implementation of these recommendations. A number of these issues are discussed more fully in later sections or elsewhere in this report; in particular the secure vehicle fleet, vehicle standards and fleet replacement are the subject of a separate chapter.



Audible temperature alarms, audible duress alarms, and intercom systems were retrofitted in existing vehicles. All already had video monitors. This is the cell monitoring and communications panel in a new vehicle.

63 Quirk M, *Recommendations from prisoner transport services to be introduced*, Government Media Office (26 February 2008), Government of Western Australia and DCS, *Review of Prisoner Transport Services* (February 2008) Department of Corrective Services, Government of Western Australia.

Summary of Recommendations	Notes on Implementation
<p>Procedures:</p> <ul style="list-style-type: none"> GSL was required to review its procedures relating to prisoner transport which had duty of care implications, including an implementation of journey breaks if over two hours, physical checks and interaction with prisoner during these breaks to check their well-being and any additional provisions required in extreme climatic conditions. The Department was to consult with external stakeholders before amending and approving the changes. Police were also to be asked to provide a fitness to travel clearance from lockups. 	<p>The Contractor did indeed draft the required amendments to its procedures relating to prisoner transport which had duty of care implications. However, consultation with stakeholders and the need for significant revisions extended adoption of these by some months beyond the proposed deadline, in one case by over a year. Nevertheless, the welfare checks were implemented by the Contractor.</p> <p>DCS was unable to gain a commitment from WA Police to supply such a clearance from lockups, despite a public request for cooperation by the Corrective Services Minister.⁶⁴ Some changes to the police Custody Handover Summary were agreed, but hampered by the need for IT system changes.</p>

64 Quirk M, *Minister calls for police co-operation in prisoner transportation procedures*, Minister for Corrective Services, Government Media Office (2 April 2008) Government of Western Australia.

CONTRACT MANAGEMENT

Summary of Recommendations	Notes on Implementation
<p>Secure vehicle fleet:</p> <ul style="list-style-type: none"> Maintenance records were to be collated and each vehicle checked for roadworthiness. 	<p>Attempted, but records before 2005 were not recoverable. A new checklist was developed for roadworthiness which was applied at the next service. All passed the annual DPI inspection in May/June 2008. Given that the Mazdas all passed, despite being known to have inadequate air-conditioning, the robustness of the standards is in question.</p>
<ul style="list-style-type: none"> Temperature monitoring and audible duress alarms were to be installed in every cell of every vehicle. 	<p>Completed by June 08.</p>
<ul style="list-style-type: none"> Vehicle design standards were to be reviewed in consultation with stakeholders and by reviewing interstate vehicles. 	<p>This was completed and extended to include a national forum on custodial transport standards in August 2008.</p>
<ul style="list-style-type: none"> Options explored for expediting fleet replacement. 	<p>Governmental approval was obtained in November 2008 to revise SVM contract to complete fleet replacement.</p>
<ul style="list-style-type: none"> Consideration was to be given to transferring the vehicle fleet to CSCS Contractor. 	<p>GSL provided a proposal, on the basis of which, the Department commissioned an 'internal audit' from KPMG which showed possible \$5M savings over 10 years, but with high risks, including potential loss of access to the fleet if contractor became insolvent. An early fleet transfer was not proceeded with.</p>
<ul style="list-style-type: none"> Consideration to be given to alternative means of transport, such as coach or air transport. 	<p>The use of coaches was supported in an April 2008 report, but only in 2009 were coach and air transport actively pursued.</p>

Summary of Recommendations	Notes on Implementation
<p>Reducing Aboriginal imprisonment:</p> <p>The Department was to work with other agencies to reduce the rate at which indigenous people were held in custody, and reduce the rate at which they are incarcerated 'out of country'.</p>	<p>The Department cited its participation in a working group convened by the Chief Justice in 2007 on reducing prisoner transport, including the increased use of video-links through courts, as fulfilling this commitment. The lack of further initiatives by the Department is disappointing.</p>

CONTRACT MANAGEMENT

Summary of Recommendations	Notes on Implementation
<p>Contract Administration:</p> <ul style="list-style-type: none"> The Department undertook to implement the findings of the internal audit conducted by KPMG. Review the Department's risk management framework for the contract. Continue to review contract administration arrangements and advise on any legislative amendments needed to support contract administration. Development of rigorous service standards for all aspects of the contract. All agencies to put in place monitoring arrangements against these specifications. Review and document the Department's contract monitoring processes and meetings. The Department was also to ensure that contractor personnel have undertaken adequate indigenous cultural training. 	<p>The Department claimed to be making good progress on implementation.</p> <p>Risk Cover was engaged to convene a risk management workshops, which contributed towards revisions of the risk management framework, risk management plan and contingency plan.</p> <p>AOT Consulting were engaged to further review contract administration arrangements as discussed below. It included a recommendation that the CSCS Act 1999 be amended to allow Ministerial (and departmental) responsibility to be aligned with their respective portfolio.</p> <p>A new set of performance measures was developed to replace those in Schedule 1 of the contract together with revisions in performance linked fee calculation, implemented for the 08/09 contract year (see below).</p> <p>DCS monitors were returned to Contracted Services and the monitoring plan reviewed (see below).</p> <p>A Corrections Victoria expert was asked to review contract processes and procedures in May 2008. Certain reforms to monitoring arrangements were subsequently proposed (discussed below). The Contract Management Team also clarified the purposes and membership of the Contract Management Group and Client Agency Group Meetings which have since operated much more effectively.</p> <p>The Contractor continued to provide indigenous cultural training to recruits, but not new training to existing staff was provided. However, an Aboriginal Liaison Officer position was created who has contributed to recruitment of indigenous staff.</p>

Summary of Recommendations	Notes on Implementation
<p>OICS Recommendations:</p> <ul style="list-style-type: none"> The Department was to continue implementation of its responses to seven of the recommendations from Report 43: <i>The Thematic Review of Custodial Transport Services</i>, of the Office of the Inspector of Custodial Services. 	<p>This is discussed below.</p>

4.27 The Department’s *Review of Prisoner Transport Services* marked a turning point in contract management in a number of respects. For the first time, it placed the safety of persons in custody squarely at the centre of its focus in its relations with the Contractor. The point was finally appreciated that the risks from long-haul transport operations from both the operating environment and inappropriate vehicles prone to breakdown meant that stringent procedures would be needed to guarantee the safety of persons in custody and staff. Most of the reforms outlined in the review were pursued energetically by the new contract management team more or less in accord with the deadlines that had been set.

CONTINUED EQUIVOCATION ON THE INSPECTOR’S RECOMMENDATIONS

4.28 Before continuing discussions of CSCS contract management, it is important to place on record that the announced commitment to implement seven key OICS recommendations was misleading. The commitment was *not* to implement the OICS recommendations themselves, but to implement the Department’s *responses* to those recommendations. Those responses were equivocal:

- Recommendation 1** (‘That a standard be established for all custodial transport services: no escort journey should be planned in short-haul secure transport vehicles without a comfort break for all passengers at least every two to two and a half hours. Journeys likely to take longer must be undertaken in long-haul vehicles.’):⁶⁵ This was still only interpreted to apply to inter-prisons journeys – there was no commitment made to deploying a long-haul vehicle (one with toilets and enhanced features for comfort and safety) for lock-up clearance runs, the kind of escort in which Mr Ward passed away. The report also appeared to take the idea of a ‘comfort break for all passengers’ every two to two and a half hours from this recommendation but changed it to a ‘welfare check’ every two hours. The vehicle would stop and each cell door opened briefly to check on the welfare of the prisoners, without providing them the opportunity to stretch their legs, visit a toilet and have a rest.

65 This is the same recommendation discussed above, which the Coroner has stated, if implemented would have prevented the death of Mr Ward.

- **Recommendations 10** ('That the Department establish fail-safe procedures to ensure that adequate fresh food and water is provided in cells for all long transport journeys.') **and 11** ('That adequate reserve supplies of potable water and food be carried for staff and persons in custody by any transport provider involved in non-local journeys outside the metropolitan area.'): It was simply restated that WA Police are responsible for supplying 'fresh' food and water for journeys from police lockups, without any commitment to securing better performance from WA Police in this respect. The Contractor had previously agreed to carry extra water as a failsafe.
- **Recommendations 27** ('That the following minimum standards be incorporated in vehicle design for all secure transport vehicles:-...') **and 28** ('That long haul transport vehicles have the following additional standards:-...'):⁶⁶ It was claimed that replacement mid-haul and long-haul vehicles 'have been built to required specifications', but it is made clear in the text that this is not a reference to standards proposed by OICS in Report 43 but to specifications developed at a consultative workshop in 2004. These were criticised in Report 43 for failing to include safety restraints in secure vehicles. Report 43 had set out standards for all secure vehicles, with additional standards for long-haul vehicles, defined as those undertaking journeys like to take two and a half hours or more without a comfort break for passengers and staff. The response makes no actual commitment to minimum standards for future vehicles either generally or for long-haul vehicles.
- **Recommendation 31** ('That to ensure consistent application of vehicle design standards and fleet replacement strategies, the Department of Corrective Services consider placement of responsibility for management of the entire secure fleet under a single desk system.'): Despite previously having agreed that the Department place responsibility for management of the entire secure fleet under a single desk system, this report narrowed that to the adult secure fleet. Secure vehicles used for juveniles had been found in Report 43 to be even less suitable than those in the adult fleet.
- **Recommendation 39** ('That an inter-departmental taskforce comprising the Department of Corrective Services, the Department of the Attorney General and the WA Police Service be established to urgently re-examine requirements and options for safe and humane transport services for persons in custody, especially in remote and regional areas including:-...'):⁶⁷ While OICS had recommended that an inter-departmental taskforce review certain strategic questions surrounding options for safe and humane custodial transport, it was reaffirmed that the CSCS Board was a sufficient inter-departmental forum, and that anyway, the most significant proposal, inter and intra-regional air transport had already been rejected as too costly. Only use of a modified coach was said to be under active consideration.

66 The full text of these recommendations is reproduced in Appendix 2.

67 The full text of this recommendation is reproduced in Appendix 2.

- 4.29 In other words, it appeared that the Department wanted to be seen to be implementing the recommendations of an OICS report that it had been widely criticised for ignoring, but at the same time to show that it was driving its own reforms.
- 4.30 In the following 15 months or so, a number of these positions softened, latterly including a much fuller examination of the place air transport must play in a state the size of Western Australia. Interestingly, it came to light in the AOT report (see below) that a high-level interdepartmental body able to consider the kind of issues proposed in recommendation 39, has always existed in theory, the CSCS Strategic Planning Group. Unfortunately it had met barely once in 18 months and hence not played an active role in addressing major issues for the Contract.

THE KPMG 'INTERNAL AUDIT' ON CONTRACT MANAGEMENT ARRANGEMENTS

- 4.31 The KPMG 'internal audit' on CSCS contract management, commissioned in August 2007, was delivered in March 2008, shortly after completion of the Prisoner Transport Review.⁶⁸ While the complexity of the governance structure was acknowledged, it focussed on contract management arrangements and processes which are structured through a Contract Management Framework with associated Work Instructions.
- 4.32 The audit found confusion among the governing bodies of the Contract, in particular a blurring of roles between the Contract Management Group (contract management's meeting with the Contractor) and the Client Agency Group (a forum for client groups to address service issues). The high-level Strategic Planning Group, which includes agency heads and heads of jurisdiction, had hardly ever met, very concerning given strategic recommendations from Report 43 of the Inspectorate, the proposed novation from AIMS Corporation to GSL and questions surrounding contract extension or renewal. Reporting lines between monitors, prisons, courts and the contract manager had also become blurred.
- 4.33 The audit found that the contract management team's risk management plans had not been updated or approved; this would cover situations such as a major contract failure, or Contractor staff going in strike. It was also found that the Contractor's own annual risk management plan had not been submitted. Nor had local court security policies and procedures been finalised and included in the Contractor's operations manual.
- 4.34 KPMG also found that the Contractor was not including a descriptive report on its performance against the contracts performance measures in its monthly reports. Nor was there a process for monitoring performance issues and reconciling self-disclosed reports from the Contractor with information from client agencies (prisons, courts, police). There was a lack of controls surrounding the performance linked fee calculation and other significant issues in financial management. These findings were especially concerning as they indicated that contract managers were not effectively managing Contractor performance. Crucially, for the future of the Contract, there was a lack of a formalised mechanism to identify and action upcoming contract extension and/or re-tender requirements.

68 KPMG, *Internal Audit: Court Security and Custodial Services Contract Management – Internal Audit Report –* (March 2008), for the Department of the Attorney General and the Department of Corrective Services, Government of Western Australia.

- 4.35 Taken together, these findings represent serious deficiencies in contract management of the CSCS Contract in the period following the creation of the two Departments in February 2006 until the death of Mr Ward in January 2008. The audit's recommendations were included for implementation in the DCS review which followed the death of Mr Ward, mostly by late May.

THE AOT CONSULTING REVIEW ON CONTRACT GOVERNANCE

- 4.36 Following receipt of the KPMG internal audit in March 2008, it was appreciated that important issues surrounding the dispersal of authority and responsibility in the governance of the CSCS Contract were still unresolved. A further report was commissioned by AOT Consulting to address options to resolve governance issues both in the short term, but also with an eye to post-July 2011 contractual arrangements that would meet the requirements of government including transparency and accountability for any new contract.⁶⁹
- 4.37 The AOT report affirmed that the management of the CSCS Contract had been disrupted by the formation of the two new departments in 2006 and also highlighted what it called the 'churn of contract management resources'. There had been a succession of contract managers, possibly nine or more, with 'varying levels of experience and practices'. It also noted that the contract manager role was highly operational. The Report also explored quite fully the issues associated with what it terms the conflicted governance of the Contract including in relation to:

Strategic management – failure by agencies to share strategic planning initiatives to better manage downstream impacts. Ideally an integrated governance approach is needed.

Demand management – competing objectives between agencies with the power of the judiciary inevitably prioritising services to courts against other service needs.

Performance management – a failure to improve performance management since the Contract commenced and a performance linked fee system which fails to encourage Contractor innovation.

Financial management – difficulties apportioning costs between the two departments and controlling costs across diverse operational areas. This includes awareness of cost impacts of operational decisions or service deficiencies on the agencies, for example, the cost of a late delivery or a person in custody to a district court, or the impact of a decision by police to bring a person in from a remote lockup instead of waiting for the Contractor's scheduled clearance run. The latter example, also highlighted the question of the demarcation of services and the allocation of risk between agencies.

⁶⁹ AOT Consulting, *Court Security and Custodial Services: Review of appropriate governance framework for existing arrangements and for any future contractual arrangement that will facilitate transparency and accountability of a CS&CS Contract*, (4 December 2008). The CSCS Annual Report 2007/2008 reported that a separate review was requested from the Department of Treasury and Finance. This was said to be narrower in scope. The Inspectorate has not seen a copy of that review.

- 4.38 Like the aforementioned KPMG report, this report is not in the public domain and it is impossible to reproduce its findings here in full. In the interests of transparency and accountability, both reports should be published on the DCS website along with CSCS Annual Reports.⁷⁰
- 4.39 The AOT report ultimately recommended that the Department live with current governance arrangements in the short term (despite identifying this as the least-preferred option), and invest their energies into designing a service strategy for the future which would inform the requisite governance structure including any legislative amendments.
- 4.40 The report appeared to favour the notion that in the long term, the CEO of DotAG should retain responsibility for the Contract but that, to improve alignment, Ministerial responsibility would be transferred to the Attorney General. It was further suggested that contract management could be effectively split between the Departments of the Attorney General, Corrective Services and possibly police departments in relation to their respective services. Something similar could be achieved by implementing a group buying model whereby the three departments purchase CSCS services together, but administer separate contracts for their own needs.
- 4.41 Alignment of responsibility for the CSCS Contract with the Attorney General and the DotAG CEO was predicated on the notion that the largest portion of CSCS resources (about 60 per cent) are required for court security and court custody centre operations. Yet in a sense, courts have never managed their own security and custody operations. These were traditionally serviced by police and latterly of course, by contractors. It can be argued that courts are best placed to supervise their own security requirements, but it could equally be argued that corrective services are best placed to supervise custodial services, whether in courts, major police lockups, correctional facilities or in transit.

IMPROVED ALIGNMENT: OCTOBER 2008

- 4.42 In October 2008, upon assumption of office, the present Government made the Minister of Corrective Services responsible for *CSCS Act 1999*, and the DCS the agency responsible, and its CEO (the Commissioner of Corrective Services) responsible for its administration. This means that the Commissioner of Corrective Services is the now the CEO administering the Act.
- 4.43 With the CSCS contract management team also within Corrective Services, this radically simplified contract governance and accountability.⁷¹ This model is nevertheless reliant on strong participation by client agencies and excellent communication at all levels in contract governance: in the board, in strategic planning, in the client agency group, in monitoring systems and so on to ensure client needs are met and that contract issues are collectively resolved.

70 In responding to this text, DCS stated that it is 'not permitted to distribute or publish such reports under the contractual arrangements on which these reports are generated.' It also stated that Annual Reports are on the DotAG website. However, this is not the case. As at 9 April 2010, no CSCS Annual Reports had been published on either the DCS or DotAG websites since that for 2006-2007.

71 The same, however, cannot be said for CSCS services provided under the DCB Services Contract. Control of this contract legally, as with the CSCS Contract, now lies with the Minister of Corrective Services and the Commissioner of Corrective Services. However, contract management is delegated back to DotAG.

MONITORING ARRANGEMENTS

- 4.44 The CSCS Contract never had more than two or three monitors covering diverse services across a vast state. When it was calved from the former Department of Justice in early 2006, the DCS was left with two Operational Review Officer positions initially placed in the division responsible for prisons, but later returned to the division responsible for contract management. These were tasked with conducting Operational Reviews of CSCS Transport operations. The content of these reviews was modified to balance questions of security and compliance with duty of care for persons in custody. While the schedule of reviews included weekly, fortnightly or monthly on-site visits to each metropolitan prison, the Central Law Courts and East Perth Watch, records provided indicated these could only be undertaken every two to three months.
- 4.45 Regional reviews were to be conducted every two months, to ensure an annual review at each major site, although the record provided suggested that Broome had not been revisited in an 18-month period. The quality of the regional reviews was quite high, with a number of operational risks and issues identified for the attention of contract management. However, the scoring of risks identified was conservative, with the state of vehicles typically attracting a risk rating of 'elevated' (as opposed to 'high' or 'extreme'). Also while contracted services in regions included both court-related and transport operations, monitoring reports were focused only on the latter.
- 4.46 It is understood that DotAG retained a monitoring position in its Court Security Directorate, which was utilised as part of its own operational reviews of security and custodial operations in court houses operated by that Department. This Directorate had developed its own Risk Management Framework on which its operational reviews were based. These reviews were comprehensive, but only partially focused on activities of the contractors at courts. Nevertheless, our field work indicated that Contractor staff on the ground were rather more likely to report having recent contact with someone from the Court Security Directorate than with CSCS review officers from DCS or even from their own company management.
- 4.47 Relevant information from DotAG operational reviews was being passed on to the DCS contract manager in a form and in time frames that did not align well with those of CSCS Contract Managers. As the KPMG review progressed, it was increasingly understood that CSCS contract management needed direct monitoring information. Returning DCS monitors to the contract management team from Adult Custodial Division in January 2008 was the first step in this process. It was also noted that the Acacia contract had hitherto enjoyed a higher level of monitoring resources, so in early 2009 it was decided to pool the positions from both contracts and to deploy monitors more widely for CSCS both in geography and scope, meaning that they would cover court operations as well as transport. Three more monitors were appointed for this purpose.

- 4.48 DotAG managers were somewhat nervous about monitors from DCS taking a more active role in courts. It was thought they might impose something of a ‘corrections mentality’ on court operations as monitors began to exert more influence on Contractor operations in the courts. Strong concerns were also held over the new performance measures approved by the Board which only required that timeliness of court escorts not disrupt court proceedings; it was contended that the Contractor should be required to ensure that court escorts arrive a set period before court proceedings were due, to facilitate legal interviews and other pre-court procedures.
- 4.49 In the wake of the Ministerial decision that the Commissioner of Corrective Services is the CEO responsible for administration of services under the *CSCS Act 1999*, it has also now been appreciated that while contract management of the District Court Building Services Contract is delegated to DotAG, the Commissioner of Corrective Services retains ultimate responsibility for these services, and in particular for the duty of care of persons involved in these services. It has latterly been recently determined, therefore, that DCS contract monitors will have to include the District Court and Central Law Courts in their purview – another example of the rather strange way in which officers from one department are involved in managing another Department’s contract.
- 4.50 We became aware of some tension between some DCS and DotAG officers. That was not due to ill-will but was the inevitable consequence of the dispersal of governance arrangements under an Act which was designed for administration by a single department. Importantly, since the question of CEO responsibility has been determined, there have been signs of better communication and closer cooperation between officers in the two departments in governance of these contracts.
- 4.51 While the pooling of CSCS and Acacia Contract monitoring resources may increase flexibility and coverage to some degree, it will make little difference to the ability of monitors to undertake field visits or analyse Contractor performance in depth. It is unacceptable that monitors have only been able to visit regional sites as little as once in 12 months, and have hitherto only focussed on the transport aspects of CSCS services.

4.52 The contract management team was aware of these weaknesses and developed a business case for the 2009–2010 financial year to increase the monitoring team for these contracts.⁷² Given the level of risk associated with regional transport operations in the Contract and the need to significantly increase scope to include both CSCS and DCB court operations increased monitoring resources are germane to the state’s capacity to ensure the duty of care of persons subject to such services. The following recommendation provides a basis for determining the level of monitoring that would be needed. It is essential that direct observation includes contact with and solicitation of feedback from persons in custody, staff and other relevant stakeholders.

Recommendation 20

That the monitoring resources of CSCS Act 1999 services provided under the two relevant contracts and by the Department be significantly increased to ensure the following minimum levels of monitoring:

- *An annual operational review of every CSCS site and service;*
- *A capacity to investigate and reconcile reports of notifiable incidents and identified performance deficiencies;*
- *A permanent monitoring presence to cover central Perth Courts, including the District Court Building, Central Law Courts, Supreme Court and Perth Children’s Court;*
- *Weekly on-site observation of CSCS-related activity at Hakea, Bandyup, Rangeview, Secure Medical Centre and Contractor operations base, fortnightly at Casuarina, Acacia and Banksia Hill, and bi-monthly at minimum-security facilities and outer-metropolitan courts;*
- *Weekly on-site observation of long-haul transport activities, including at least fortnightly in a regional site and whole-of-journey observation at least monthly;*
- *Whole-of-journey observation of medical, funeral and similar escorts on at least a monthly basis;*
- *Observation of a hospital bed-sit on at least a monthly basis;*
- *On-site observation of CSCS-related activity at each regional court and prison at least twice per annum, with a capacity for additional random or targeted visits;*
- *Direct observation of Contractor training activities at least monthly.*

72 As indicated previously – three further monitoring positions were secured in 2009–2010. This goes part-way to meeting the monitoring requirement described in Recommendation 20.

Chapter 5

THE CONTRACTOR

BACKGROUND

- 5.1 In previous inspections, the Inspectorate has focussed more on the question of contract management and less sharply on the Contractor as such. This is because the government carries the ultimate duty of care and remains responsible for the outcomes of the Contract and for contract management and monitoring. However, a closer examination of the Contractor now warranted especially given public interest since the death of Mr Ward in January 2008.
- 5.2 In 2004, the former contractor AIMS Corporation won a battle against the Department in arbitration to establish that the CSCS Contract is a cost-plus contract. This means that the government is obliged to cover the operational costs of the Contractor plus the agreed profit margin of 1.5 per cent of turnover and up to another 4.5 per cent in performance linked fees. In retrospect, this victory was pyrrhic, because every aspect of the Contractor's operation became subject to Departmental funding approval. With operational costs fully covered regardless of peaks and troughs in service demand, there was also little incentive for the company to create new efficiencies or innovation in the way services were delivered. It also lost control of its vehicle fleet, acquired by government for its residual value. AIMS Corporation already had a fleet replacement plan in place, but could scarcely have anticipated the glacial pace of government efforts to renew a fleet already considered prone to breakdown and obsolete in design.
- 5.3 With thin profits, AIMS Corporation was able to accumulate little working capital, few real assets and limited managerial capacity beyond managing its contract business day to day. In particular, AIMS Corporation as an organisation had little capacity to properly develop its competency in training, human resource development and retention, security risk assessment, communication strategies, quality control, procedural development or business innovation.
- 5.4 GSL, now G4S, effectively inherited this situation on its assumption of the Contract in August 2007. This chapter shows that there have been a number of very significant issues with respect to performance, training and communication on the part of the Contractor. However, there are signs of improvement. In its response to the draft report, G4S openly acknowledged that it was necessary to 'correct the inadequacies of the past'⁷³ and there was a general acceptance of our findings and recommendations at the July 2009 briefings. G4S has also proved to be a willing and responsive partner to the Department in the introduction of coach and air transport during 2009 and 2010.

73 In its response, G4S stated: 'G4S is totally committed to delivering a service of the highest calibre to the Western Australian Government. There have been challenges, many of them accurately described in the Draft Report. The condition of the fleet, now being addressed by the Government, unquestionably contributed to many of the shortcomings in delivery of a service to the standard demanded by the Government and the company. However, there has also been much progress made to correct the inadequacies of the past and G4S is committed to ensuring this will continue.'

EMPLOYMENT ARRANGEMENTS

- 5.5 A combination of low pay, and casual or flexible employment conditions has caused difficulties with staffing levels throughout the term of the Contract. The problem deepened as the resources boom strengthened. By mid-2007, it proved impossible to maintain a resident staff team at Roebourne or a full staff complement at a number of other regional sites. In the metropolitan area, transport staff were often required to stay at outer courts after dropping off prisoners to help manage them at the court custody facility. This was increasingly at the expense of ad-hoc escorts such as medicals and funerals. Members of the Special Security Group (SSG), established following the Supreme Court Escapes in 2004, were deployed to metropolitan court duties and the SSG was effectively disbanded.
- 5.6 Contract managers funded Contractor staffing reviews which triggered the replacement of most casual positions with permanent-flexi positions, establishing fly-in/fly-out arrangements for regional areas and a number of rounds of aggressive recruiting. To increase workforce diversity, this included a special recruitment drive for Aboriginal staff, with some success. There was also a change in selection processes with the abandonment of psychometric testing which had typically screened out a great many applicants. Recruitment was especially important in the lead-up to and following commissioning of the District Court Building in June 2008 which required a major net increase in staffing across the two contracts.
- 5.7 Aided by a fortuitous pause in the resources boom caused by the global financial crisis, G4S successfully boosted its staffing levels during the period of the present inspection in early 2009. However, a number of sites still ran short and fly-in-fly-out arrangements were still the norm in most regional sites, with the costs of accommodation and airfares, and the loss of team cohesion and continuity of service provision which this necessarily involved. With signs of a resumption in the resources boom evident from mid-2009, and with the Contractor's current staffing model, staff retention and recruitment still poses a major challenge.
- 5.8 While inspectors were impressed with the dedication and decency of most Contractor staff, including many new recruits, there appeared to have been a reduction in the competency and fitness of the workforce. This was certainly the view of staff themselves, who told us that some recruits were not physically or mentally capable of doing the job and that training levels were inadequate. They also said that they felt their personal safety was continually at risk due to poor skills and judgement of fellow staff. Court staff and police in some locations expressed similar concerns.

STAFF TRAINING

- 5.9 At the time of the inspection, staff training was seriously deficient within G4S. Many staff were scathing both about their initial training and the very limited nature of further training. A number complained they had no further training, although it does appear that most sites had more recently had, or were shortly scheduled for, locally delivered refresher training in use of force and first aid. Some Supervisors did provide ongoing refreshment training in locally relevant skills and procedures. More generally, there was little encouragement and virtually no take up by staff in obtaining their Certificate III in Correctional Practice, which combined their pre-service training with recognition of prior learning based on workplace experiences.
- 5.10 The Ward case shows the folly of concentrating on security, force and first aid alone. It is critical to have proper systems in place to focus attention on welfare and human dignity. Unfortunately, at the time of the inspection, and despite a specific recommendation of the Department's *Prisoner Transport Review* following the death of Mr Ward, the Contractor had yet to provide further Aboriginal cross-cultural training to its staff. Nor had further training been generally provided in prisoner welfare and other aspects of custodial management.
- 5.11 An audit of G4S training in Western Australia, commissioned by the Department and delivered in March 2009, was damning. It found that G4S were not meeting the requirements of the national benchmarks and therefore not compliant with the training requirements of the CS&CS Contract. In particular, it found that the learning materials available for Certificate III in Correctional Practice were inadequate; both pre-service and in-service training lacked sessions plans; the quality of training was not effectively monitored; there was no capacity to make judgements about individual competency in training; trainer competence had not been established; training record systems were not effectively applied; a lack of self-auditing against contract training requirements; and a lack of information provided to staff and clients about training, assessment and support services and their rights and responsibilities throughout the training and assessment process.⁷⁴
- 5.12 G4S management, in collaboration with contract managers, have developed a 'cure plan' to address the deficiencies in training identified in this audit. G4S also reported, in response to our draft report, that: 'a follow-up audit has been completed by the same auditor and the initial feedback is that the auditor has observed a significant turnaround in the quality of training material and training delivery.'⁷⁵ Although we have not seen the report of this audit, we are aware of a number of specific developments, including a new 'duty of care' module delivered to all new staff on day one of the Internal Training Course.

74 Applic8 Pty Ltd, *An Audit of the Training Provided by G4S for the Court Security and Custodial Services Contract, A Report to the Department of Corrective Services* (1 March 2009). Findings are here summarised and paraphrased.

75 The G4S response states: 'G4S is pleased to report significant improvements... over the past 12 months... A follow-up audit has been completed by the same auditor and the initial feedback is that the auditor has observed a significant turnaround in the quality of training material and training delivery. G4S has provided 139 officers with refresher training during the period 1 January 2009 to 31 March 2010. Topic covered... include: duty of care, cross-cultural communication, senior First Aid/CPR and control and restraint. Over the past year G4S has developed a capacity to ensure the majority of training is delivered in house...'

INTERNAL COMMUNICATION AND SUPERVISION

- 5.13 G4S appeared to lack effective internal communication strategies. This was quickly identified as an issue at every site. For example, we encountered staff who had been told by supervisors of a directive prohibiting staff participating in strip searches ‘under any circumstances’. Staff did not know the reason for the directive, nor whether DCS staff had been told, nor how to manage situations where it was expected they would assist in strip searches. Nor had they been required to sign anything to confirm they knew of the directive. The directive was simply ignored in some cases. This parallels the findings of the Coroner who was told that neither of the staff members involved in the Ward incident was charged with a disciplinary offence for breaching instruction because of a lack of evidence as to the instructions which had been given.⁷⁶
- 5.14 G4S were far too dependent on its Supervisors to inform staff of instructions and policy changes. Supervisors have traditionally met in an annual conference at which senior management has communicated changes and expectations. Communications through Supervisors was complemented at times by notices placed on notice-boards and a broadcast email to staff whose email was known. However, with staff working different shifts and in different locations, many seemed to miss direct communication about such matters, and only a minority had access to computer equipment and an official email address. The organisation lacked a system of bulletins or newsletters made widely available to staff, mailings to all staff or registers to ensure all staff have received essential new information. In response to our findings, G4S stated that communication has been improved.⁷⁷
- 5.15 It was disappointing to find high levels of antipathy between frontline Contractor staff and their senior managers, especially in a relatively small organisation. A number of staff expressed deep disappointment that changes of ownership from AIMS Corporation to GSL to G4S left their senior management intact. This appears to be due in part to infrequent contact between senior management and staff members, and a belief that staff needs and views were not being taken into account when decisions were made.
- 5.16 The Ward Coronial Inquiry painted a vivid picture of the operational culture in the Kalgoorlie Office, including the limited training provided to staff and variations in practice between staff members.⁷⁸ It was also noted that staff were not inclined to reject work as the Supervisor had the power to withhold further work from casual or permanent/flexi staff. While few staff are now employed on a casual basis, most staff at most sites are still employed permanently on a ‘flexi’ basis which guarantees only 35 hours work per fortnight. They are thus dependent on work allocations by Supervisors or Coordinators. A number of staff

76 Hope AN, *Record of an Investigation into Death, Ref 9/09*, Inquest into the death of Ian Ward, Coroner’s Court of WA (12 June 2009) 111.

77 The G4S response reads: ‘Notwithstanding the challenges of maintaining communication with and between more than 300 employees, across 21 operational locations, G4S has implemented a number of strategies to communicate key information: Weekly Supervisors’ teleconferences...; Operational Orders...; Mail outs to staff who are not permanently assigned to sites; Scheduled site visits as part of G4S’s internal inspection schedule; New format Supervisors’ workshops, focusing on key components of effective supervision and operational delivery.’

78 Hope AN, *Record of an Investigation into Death, Ref 9/09*, Inquest into the death of Ian Ward, Coroner’s Court of WA (12 June 2009) 52ff.

expressed strong concerns about unfavourable work allocations, favouritism in work allocations, discrimination against female workers and fears about speaking up or refusing work assignments.

A RISK-AVERSE OPERATIONAL CULTURE

- 5.17 We found that the operational culture within G4S, as with AIMS Corporation, was still profoundly risk-averse. There was little opportunity for judgement on the part of individual officers to balance security concerns with the care, safety and decency of their charges. This stems in part from the Contract imposing a strict penalty for an escape, without allowance for the nature of the escort, the security rating of the person in custody or the operating environment. This approach was illustrated in a 2006 incident in which not even minimum-security rated prisoners were allowed to alight from a broken-down prisoner transport at Sandfire Roadhouse, three hours out of Broome, on a scorchingly hot day. In managing the incident, contractors sent recovery vehicles from the destination, Roebourne, over five hours away, instead of Broome, just three hours away. We understand that more recent breakdowns have been managed more humanely, and also that discussions are underway to change this aspect of the Contract and it is hoped this will support a less risk-averse approach to custodial management on the part of any future contractor.
- 5.18 However, it is not just a matter of what is in the Contract. It is also important for the Contractor as an organisation, supported in appropriate ways by contract managers, to provide better training and guidance to staff in the exercise of judgement in managing persons in custody. As reported above, inspectors did find there occasions in which officers did exercise judgement to allow prisoners, for example, to relieve themselves at the side of the road on a long transport (much as a good police officer or prison officer would have done). But they did this knowing that it was contrary to company policy and that their jobs might be on the line if there was an escape.
- 5.19 In its response to the draft report, G4S pointed to a number of changes to training and to its policies and procedures that are designed to elevate staff awareness of duty of care issues and to embed such issues operationally.⁷⁹ We are obviously not able in this report to assess the extent to which these new procedures are followed in practice but they are a positive step towards reaching a better balance between security and prisoner welfare.

79 The G4S response reads: 'Duty of Care: G4S has developed an in-house Duty of Care module that is delivered personally by the General Manager to all new staff... [it] includes a viewing of the ABC Four Corners Report into the death of Mr Ward, followed by an in-depth examination of the roles and responsibilities of a CSCS Officer with respect to Duty of Care. This module has also been delivered at every Regional G4S location and to all staff attending refresher training in Perth.' **Policy & Procedures:** 'G4S Policy and Procedures are infused with clear instructions around Duty of Care obligations including: provision of food and water; regular (minimum 15-min) welfare checks; two hourly comfort stops on long haul escorts...; Thirty-minute restraint checks for persons restrained on coaches and aircraft; Hourly contact between long-haul escorts and coaches and Canning Vale Operations; and Detailed records of all activity relation to each person while in G4S custody. One of the innovations introduced to provide clear instruction to staff and ensure an accurate record of activity is a series of booklets that capture all required information in one document. There is a separate booklet for persons admitted into a G4S-controlled custody centre, one for transport by secure escort vehicle, and for transport by coach.'

CONCLUSION

- 5.20 Although we did not undertake a definitive or comprehensive audit of the Contractor, we have questioned the sustainability of its staffing model, the adequacy of staff training, its communication strategies with staff, the antipathy between staff and senior managers and the failure to develop a mature custodial culture in aspects of its operations. AIMS Corporation, GSL and G4S, the corporations variously involved, appear to have invested insufficient capital, technological and corporate management resources to meet the complex needs of the CSCS Contract. However, this is partly the result of the contractual arrangements.⁸⁰
- 5.21 The outworking of the post-arbitration history of the Contract is that the Contractor essentially became something of a shell through which the Government could provide certain services. If the Department's contract managers thought (as after the 2004 Supreme Court escapes) that an augmented security capacity was required, it funded new security positions; if it thought staff recruitment was needed, it funded the recruitment drive; if it thought a round of training was needed, it funded that. If it decided that a WA-based executive was needed, as it did when GSL took over, it funded that position. Even more remarkably, if it subsequently considered that executive did not add value to the Contract, it simply defunded the position.⁸¹
- 5.22 As a cost-plus contract, the Contractor has little to gain by cutting corners or reducing staff numbers and the like. On the contrary it has everything to gain by taking on and performing as many services as possible with a full complement of staff confident that costs will be fully covered with overall turnover determining the amount of profit. In that sense, there is no direct link between the profit motive and deficiencies in service provision. As we have seen, the performance-linked fee system which penalises escapes regardless of circumstance has also made the custodial management culture excessively risk averse.

80 See text at footnote 73.

81 In response to the draft text, G4S stated: 'The CSCS Contract receives close monitoring and support from G4S's Corporate Head office in Melbourne, primarily through the role of the Melbourne-based Director, Transport, Courts and Security...' The response details corporate activities of this Director, including hosting a weekly teleconference, informal contact with G4S in WA, regular visits to WA including to attend quarterly CSCS Board Meetings and reporting on and representing the operational areas within the G4S senior management forums.

- 5.23 On the positive side, the Contractor has, for the most part, proved a willing partner with government in addressing service deficiencies raised by contract managers and issues raised by ourselves. At an operational level, we became aware of innumerable instances in which service changes were instituted. Unfortunately, in some cases, these proved to be unsustainable (for example, taking women directly to medical appointments, or dedicating a vehicle to escorts to the Secure Facility at Royal Perth Hospital). However, G4S has proved operationally responsive and capable in meeting the demands generated by the introduction of coach and air transport.⁸²
- 5.24 This chapter has shown that, as the state works towards new contractual arrangements, it will need to ensure it has a partner which has the management capacity to; engage with government in maintaining and enhancing service quality; engage, train and retain a professional workforce; review and assess risks to security and safety; develop and implement innovative service strategies; and apply enhanced technologies for communication, security and transport scheduling. Chapter Seven outlines the processes and timeframes that are being followed in the re-tender process.

82 The G4S response stated as follows: **Coach Escorts:** 'G4S demonstrated its ability to be operationally responsive in July 2009, when [DCS] made the decision to conduct Inter-Prison escorts by coach. With only three-days' notice, G4S pulled together all the logistical and resource requirements and at the time of writing, has successfully completed more than 100 Inter-Prison coach escorts with no incidents or issues.' **Air Charter:** 'As part of the [DCS] drive to make long-haul Inter-Prison and police lock-up clearances safe, secure and humane, G4S has been involved in the introduction of regular and scheduled air charter services for the movement of persons in custody... Following an inspection of the Carnarvon Police Lock-Up by G4S's Director Transport, Courts and Security and the CSCS General Manager in August 2009, G4S formed the view that continued use of the ... lockup for the overnight accommodation of persons in custody on Inter-Prison transfers presented an extremely high risk to both G4S, as the Contractor, and DCS. This view was presented formally to the CSCS Board... in October 2009 and again in February 2010. At the February meeting, the decision was taken to cease using the Carnarvon Police Lock-Up. The only viable alternative... was to move persons by air...G4S offered to engage a charter company to provide the service for an interim period while the Government was completing its own process...' A weekly service was chartered by G4S between Perth and Broome via Geraldton and Karratha, commencing 11 March 2010 until 30 April 2010.

Chapter 6

POLICE INVOLVEMENT

CSCS SERVICES AND POLICE

- 6.1 The CSCS Contract was primarily intended to release police and prison officers from ‘non-core’ duties to be redeployed back to the ‘front-line’ on the streets and in the prisons. Police had traditionally been responsible for managing lockup facilities around the state, transporting arrestees to court, transporting remandees and sentenced prisoners and detainees to correctional facilities, maintaining security in courts, providing court orderlies to manage court lists and managing prisoners in court custody centres.
- 6.2 From its commencement on 31 July 2000, the Contract has successfully relieved police from court security and custody duties in metropolitan courts and major regional courts and some of their transport responsibilities. However, police had originally anticipated that they would gain more from the privatisation process.
- 6.3 In particular, the Contract was designed to include lockup management services at the larger regional centres in the second stage of its implementation. This was never progressed, as many of those facilities were in poor condition. It should also be noted that it was never envisaged that the Contract could relieve police in smaller regional centres and communities from custodial management, court security or custodial transport duties.
- 6.4 Since the advent of the *CSCS Act 1999*, it has been accepted that security and custodial services to courts, and post-court transport services provided by police are undertaken under the terms of that legislation. Under section 19 of the Act, the CEO responsible for the Act has the power to ‘make arrangements’ for the provision of court security or custodial services with the Commissioner of Police (section 19(1)) or any member of the public sector (section 19(2)). Section 20 then provides that the responsible CEO may delegate a number of functions and regulates the way in which such delegations are to occur.
- 6.5 It was recognised that it was not viable to have contracted services in some parts of the State. Pursuant to section 19,⁸³ a Memorandum of Understanding was therefore created between the CEO of the former Ministry of Justice and the Commissioner of Police for continued provision of these services in selected locations. This included a requirement that police furnish the Contract Management Group monthly statistical reports on their activities and due notice of notifiable and reportable incidents, something which has never been provided.⁸⁴
- 6.6 These arrangements raise the question whether (i) the DCS Commissioner (as the CEO now responsible for the *CSCS Act 1999*), and (ii) the Minister of Corrective Services are at law responsible for relevant police activities and, if so, for how these responsibilities are being discharged.

83 Curiously, the MoU states that it is established under section 19(5) of the Act. The Act has never had any section 19(5).

84 In response to the draft text DCS stated: ‘The Commissioner of Police wrote to the Department’s Commissioner on 24 September 2009 advising that the police would be withdrawing from the existing MoU. Police Services to courts and post court transport services are provided by police under sections 21 and 22 of the *Police Act*. We understand that there may be some sense in developing a new MoU but the reference to sections 21 and 22 of the *Police Act* is baffling. The convoluted and obscure language of the *Police Act* belongs in the nineteenth century not the twenty first century and does not appear relevant to the issues at hand.’

Recommendation 21:

That the Commissioner of the Department of Corrective Services seek State Solicitor advice on the extent to which:

- a) The Department of Corrective Services Commissioner (as the CEO responsible for the CSCS Act 1999), and (ii) the Minister of Corrective Services are responsible for police activities undertaken under the Memorandum of Understanding for the continued provision of court security and custodial services between the Ministry of Justice and the Western Australia Police Service under section 19 of the CSCS Act 1999;*
- b) The Department of Corrective Services Commissioner and Minister of Corrective Services have responsibility for police activities undertaken at prescribed lockups at Carnarvon, Albany and Kalgoorlie.*

6.7 Many regional and remote police stations are reliant on the Contractor to provide lockup clearance services which, according to the Contract, could only be provided a certain number of times per annum. In the East Kimberley, for example, 34 clearances per year were funded by the Contract, with the Contractor Supervisor based in Broome having to negotiate with local Sergeants when such services were best utilised. Many sergeants in small centres opt to bring prisoners to major regional centres in advance of such clearance runs to minimise having to staff their lockup 24 hours per day until cleared, despite the cost of such escorts in overtime and fuel.⁸⁵

6.8 We found in our fieldwork that police were generally happy with the services provided by the CSCS Contractor, but wanted more from the Contract. In part this seems to be due to a lack of corporate memory – incoming sergeants and superintendents have rarely been properly briefed as to previously agreed levels of service. It also stems from a desire to be freed from activities relating to custodial care fuelled by the Frontline First philosophy of the police leadership. As we observed at Wyndham and Karratha, Contractor staff bringing a prisoner to a regional court will often be asked by police to relieve them of managing that prisoner at Court, without having cleared contract legalities in advance.

6.9 Another example, is that metropolitan police sergeants successfully requested soon after commencement of the Contract, that the Contractor be asked to relieve them of early morning transfers from East Perth Watch House back to other metro stations in time for Court.

More recently however, their successors complained about having to receive detainees from G4S, hold them for a while, and move them back into G4S custody at the court holding rooms. ‘Why don’t G4S just drop them off at the Court?’ they said, not appreciating that this required additional expense to open court holding rooms at an early hour. In the case of Joondalup Court, contractors had to open early to accept such prisoners directly as the co-located police facility was closed for an extended period following a firebomb attack.

⁸⁵ In response to the draft text, WA Police commented: ‘To assist Corrective Services with a more timely lockup clearance process Western Australia Police have proposed a ‘hub system’ where identified lockups are used as centrally located clearance hubs, reducing the number of locations serviced by the Contractor’.

POLICE INVOLVEMENT

POLICE LOCKUPS

- 6.10 Although stage two of the Contract was never progressed, three police lockups have been gazetted as prescribed lockups under the *CSCS Act 1999*, those at Carnarvon, Albany and Kalgoorlie. The Inspector only has jurisdiction to inspect prescribed facilities. Kalgoorlie was prescribed only as a contingency. It has never been staffed by contractors and has not been subject to inspection. At both Carnarvon and Albany, police facilities are co-located, and the police lockup serves as the custody facility for people attending court.
- 6.11 At Albany, contractors operate the lockup facility on court days. When sitting, contractors convey people to and from the court as well as meeting other court security requirements. It is a modern facility, and in general, the arrangement works well, although issues do arise from time-to-time in relation to quality of cleaning, graffiti and maintenance issues.
- 6.12 At Carnarvon, the facility is operated by contractors for approximately 48 hours each week to accommodate prisoners being escorted on inter-prison transport journeys travelling North or South between Greenough and Roebourne Regional Prisons. The disgraceful state of the Carnarvon Lockup was documented in Report 43,⁸⁶ and since then, inspectors have made a number of visits and worked with contract managers, police and contractors to attempt to raise standards. While the facility now has a block of modern cells which makes the accommodation rather more pleasant, prisoners still have to use the yards, ablutions and kitchen facilities in the decrepit old part of the lockup.
- 6.13 Agreement was reached in late 2007 that contract cleaners would clean the facility twice a week, paid for respectively by police and DCS. The Contractor agreed to source packaged evening meals from a local supplier instead of cooking or reheating in the filthy kitchen. New blankets and sheets were purchased and Greenough prison agreed to launder them. DCS contract managers later offered \$10,000 for some necessary maintenance work. These arrangements have only partly been honoured, with police paying for a weekly clean of the facility, but DCS not paying for the second weekly clean. Police subsequently asked contract managers to recoup their cleaning costs. Sheets have never been issued to prisoners, meaning they still sleep on bare vinyl mattresses, and there were suggestions that new blankets had been swapped for old ones during laundering at Greenough. Police initially refused the maintenance funds offered as it was thought this might prejudice decisions about a replacement police facility in Carnarvon.

86 OICS, *Thematic Review of Custodial Transport Services*, Report No. 43 (May 2007) 65ff.

- 6.14 While weekly cleaning is essential, its value was undermined by the lack of a complete high-pressure clean to remove the accumulated grime. While contractors continued to serve meals from a local supplier, hot drinks and breakfast still have to be provided from the filthy kitchen. It should be stated here in passing, that the cooked breakfast provided by contractors (typically including toast, eggs and baked beans) is a highlight in the experience of prisoners in an otherwise unpleasant environment. In March 2009, after the new government shelved plans for police station redevelopment at Carnarvon for the time-being, police agreed to receive funds from DCS for maintenance.⁸⁷
- 6.15 The problems at Carnarvon have stemmed partly from the poor state of the facility and partly from incompatible requirements and operational cultures between the two operators, the police and the Contractor, on behalf of DCS. Replacement of the entire facility is sorely needed, or failing that a much more substantial refurbishment than \$10,000 will provide. Consideration should also be given to making a single agency responsible for managing this facility in a decent way. The recent advent of air transport, as proposed in our Report 43, allows the Carnarvon Lockup to be bypassed. In cases of inter-prison transfer. However, whilst this may remove the necessity for the contractors to staff the Carnarvon Lockup, it does not remove the necessity for this lockup to be administered in a decent way. It will still have to accommodate arrestees, and remandees returning from prisons and juvenile facilities to attend court from time to time.

Recommendation 22

That Carnarvon Police Lockup be properly refurbished, regardless of whether it is required to accommodate prisoners on inter-prison transport journeys and an operating charter established to ensure decent conditions for all persons accommodated in that facility.

- 6.16 While the Inspector lacks jurisdiction over other police lockups, police were kind enough to allow inspectors to visit a number in the course of our fieldwork, including East Perth Watch House, other metropolitan stations, major regional centres, small town centres and remote communities. The most important of these is the East Perth Watch House where the Contractor has a substantial involvement in removing arrestees each week-day morning to the Central Law Courts and to metropolitan police stations, and in providing security for the Magistrates Court hearing at the facility on Saturdays, and transfers for those remanded or sentence to Hakea or Bandyup prisons.
- 6.17 Despite its age and a number of unfavourable features, the East Perth Watch House continues to be a very good facility, due to good management, good staffing levels and the presence of up to 12 trusty prisoners who keep the watch house clean and provide fresh food for persons in custody. This is unfortunately not replicated at other police facilities where custodial care

⁸⁷ In response to this text, DCS stated that it offered funds to police in 2008 and 2009 for maintenance, but that the offer was rejected in 2008, as 'these were normal building maintenance issues and already provided for in funds from police to DHW [the Department of Housing and Works].' It further stated that police only agreed to accept funds in March 2009 and that police sent G4S an invoice for the previous 12-months. DCS instructed G4S to only pay from March 2009. DCS contributes \$10,000 per year in cleaning and also purchased white goods and other amenities.

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has to be constantly balanced against other priorities. When prisoners are held overnight, many country facilities may have a single officer observing the prisoners through a monitor at a desk in the police station. From here, they may also have to deal with members of the public attending the station, answer the telephone, make arrangements to respond to issues requiring attention, monitor police communications, do various kinds of paper-work or data-entry and so on. Even major regional and suburban police stations at times can be faced with similar challenges.

- 6.18 Only certain regional centres were able to roster staff to provide custodial care on a 24 hour, seven nights per week basis. Even there, compromises have to be made with other operational requirements, such as transporting juveniles to Perth, or due to staffing deficiencies. It is important to record that the police officers we encountered appeared conscientious about their responsibilities in custodial care and many were able to ensure their facilities were kept clean and decent. However, there was big variation in the fitness of the facilities and in the services available (such as a working microwave, toaster, fresh food, washing up facilities, TV, radio, working shower, sheets, blankets, washing machine). Unfortunately, some facilities were filthy and poorly maintained.
- 6.19 Halls Creek Lockup, which often holds remandees for extended periods between contractor clearance runs, was in better condition than during our previous field work, with the dirt floor in the yard having been concreted over and the kitchen in better repair. The station had a prisoner trusty for a period of four months who had worked around the station and yard. Having left the previous week, there was no arrangement for cleaning, which was especially evident in the women's cells, one of which reeked and included a used disposable nappy.



The open yard of the Halls Creek Lockup where police detainees and prisoners of any age or gender can mix.

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- 6.20 Halls Creek Lockup, like most facilities, relied almost exclusively on frozen food supplied through Hakea Prison. These comprised pastries (pies, sausage rolls and pasties) which are factory seconds, sandwiches (sliced meat and cheese without butter) and packaged meals. The meals are simply excess food from batches cooked for evening meals for prisoners at Hakea. They are frozen, packed, dated and boxed, awaiting a request from a lockup then despatched. Each box generally holds a single meal type and no attempt is made to mix them up.
- 6.21 A number of Kimberley prisoners complained, for example, about a batch of chilli-con-carne which was inedible for them, but was the only meal available for an extended period of time. No vegetarian meals are provided. Pastries or sandwiches are generally provided for lunch and often for breakfast or dinner as well. A pie or sandwich from the freezer is typically supplied to those leaving on escorts, together with a 600 ml bottle of water. Most facilities also supply milk, coffee, tea and sugar, and some provide cereal, but few supply fresh bread or fruit, let alone fresh meat or vegetables. Evidence was given in the Ward inquest that Laverton only keep frozen pies for detainees.⁸⁸
- 6.22 It is impossible to segregate men, women and juveniles at many facilities. Even if they can be separated in cells, they cannot be separated in the yards. A magistrate related to inspectors that she realised that a woman she had dealt with out of the lockup for a minor matter that morning, had later been arrested on an old warrant when police came to take away her violent partner. She had then been placed in the same lockup as her abusive partner.
- 6.23 In summary, the conditions and standards of custodial care at many police lockups are well below acceptable standards of decency, notwithstanding significant efforts by the Police Service in recent years. The issues include access to nutritious food, clean sheets, pillows and blankets, off-floor bedding, clothes-washing facilities, meaningful activities and so on at many sites. Standards of cleanliness are often seriously wanting, as are standards of maintenance.
- 6.24 The only system of inspection that currently exists for police lockups, is an annual visit by the Superintendent of the Regional Prison. The stated purpose of the inspection is 'to report on the suitability of the lockup to be used for the placement of prisoners.' The report covers whether it is staffed 24 hours per day, whether it is suitable to accommodate males and females together, whether it is secure for overnight stays, whether emergency medical assistance is available, whether cleanliness levels are satisfactory, whether prisoner property is recorded and stored properly and whether a prisoner can receive visits there.
- 6.25 Most of these lockups are never used to accommodate prisoners after their initial arrest, and the trusty system has been all but abandoned. It does not state that Superintendents have ever declined to allow prisoners to stay at facilities like Halls Creek (where prisoners sometimes have to stay for extended periods when returning for a court appearance) or at Carnarvon (where prisoners are held overnight on inter-prison transport journeys) even though neither could be considered compliant with standards of decency and cleanliness.

88 Hely B, *Coroner's Court of Western Australia, Inquest into the Death of Mr Ward (File No 8008/08), Submissions of the Human Rights & Equal Opportunity Commission*, 20, [78].

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- 6.26 The Department did not agree with Recommendation 14 in Report 43, to the effect that it should cease to utilise such sub-standard lockups. Both lockups were needed, it said, ‘to break what would otherwise be intolerably long journeys...The standard of accommodation in police lockups is not within the jurisdiction of this Department.’⁸⁹ Police acknowledged that such lockups are not suitable for accommodating prisoners but it would be costly to upgrade them. Fortunately the belated advent of air transport has reduced the utilisation of such facilities and associated risks.
- 6.27 As reported in the CSCS Annual Report 2007–2008, in September 2007, Cabinet supported a proposal that East Perth Watch House be staffed by the Contractor (GSL) thereby releasing police for frontline duties. However, the Police Commissioner reapproached Cabinet in April 2008 to revise its previous decision by establishing a new body of Special Constables to staff the watch house.
- 6.28 During early 2008, the Contractor was struggling to replenish its staffing levels and was having to prepare a major recruitment campaign to staff the new District Court Building Services Contract in the second half, so it is possible that police were not confident in their ability to effectively staff the watch house. There were also potential problems in the time that it would take to effect the transfer of services from police to G4S.⁹⁰
- 6.29 In conclusion, almost a decade after the CSCS Contract the police lockup system remains unreformed, with police largely unrelieved of associated custodial duties. Reform of the system of management of police lockups in Western Australia, in parallel with deliberations towards the CSCS Contract re-tender, is urgently required.

Recommendation 23

That the Government reform the system of management of police lockups in WA, in parallel with deliberations towards the CSCS Contract re-tender. This should include:-

- a) A rolling program of upgrades to bring such facilities to a decent standard and ongoing resources to maintain them properly.*
- b) Implementation of standards to guarantee dignity and safety of all detainees in police custody, including the segregation of women and minors from other detainees, the ability of staff to monitor detainees effectively, provide clean and decent bedding, provide nutritious food and drink, facilitate personal hygiene, access necessary medical assistance and facilitate legal interviews and contact with families.*
- c) Creation of a mechanism to inspect compliance of lockups in relation to these standards and to remedy any deficiencies.*

Recommendation 24

That pending reform of the management of police lockups, the Department of Corrective Services should cease to utilise substandard police lockups for the accommodation of prisoners and juvenile detainees on transport journeys, to attend court or reside as trusty prisoners.

89 OICS. *Thematic Review of Custodial Transport Services*, Report No. 43 (May 2007) 132.

90 This view was expressed by DCS in its response to our draft report.

POLICE INVOLVEMENT

- 6.30 This recommendation places a burden on DCS representatives in courts and movements officers in prisons and juvenile facilities to actively persuade courts in cases where bail cannot be obtained, and an unsatisfactory standard of custodial accommodation is available, to deal with the matter by way of video-link, or transfer the matter to a court where satisfactory accommodation is available. Most magisterial circuits have at least one facility, if only the regional prison where satisfactory accommodation can be provided.

CUSTODIAL TRANSPORTS LEAVING POLICE LOCKUPS

- 6.31 It was mentioned above that a pie or sandwich from the freezer is typically supplied to those leaving on escorts, together with a 600 ml bottle of water. This may be a reasonable snack between meals for a short-haul journey up to two hours or so, but is wholly inadequate as a main meal or for a long-haul journey, typically taking between two and a half to six hours. Our fieldwork confirmed that the above provision is standard issue, although a second sandwich or bottle of water is sometimes provided. This issue was highlighted in relation to the Ward incident.⁹¹ It is the Inspectorate's view that a substantial meal should be provided, including a piece of fresh fruit and at least a 1.5 litre bottle of water, to each person embarking on a long-haul transport journey.



One of the inter-prison vans from the original fleet deployed in 2000 at Halls Creek Lockup.

91 Hely B, *Coroner's Court of Western Australia, Inquest into the Death of Mr Ward (File No 8008/08), Submissions of the Human Rights & Equal Opportunity Commission*, [132], [33], [42]. Victorian Police have developed a pocket-sized check-list to better equip their police to assess whether a person in their custody needs medical assistance or assessment.
Hope AN, *Record of an Investigation into Death, Ref 9/09, Inquest into the death of Ian Ward*, Coroner's Court of WA (12 June 2009) 64, 65, 121.

- 6.32 The Contractor has undertaken to carry extra water supplies on long haul transports as a contingency. While water should also be offered by Contractor staff at welfare stops and in cases where the transport is delayed, it is incumbent on police to provide adequate food and water for the projected journey in every instance.

Recommendation 25

That contract managers and the WA Police ensure that each persons-in-custody embarking at a police facility for a journey over a regular meal time or for a long-haul journey expected to take two and a half hours or more receives a substantial meal, including a piece of fresh fruit, and at least a one and a half litre bottle of water.

- 6.33 Another issue that was considered as part of the *Prisoner Transport Review* following the death of Mr Ward, and also in the ensuing Coronial inquest, was the question of provision of fitness to travel certification and the quality of risk information provided by police to the transport provider. As recalled in a submission to the Ward inquest from the Human Rights and Equal Opportunity Commission, it had been acknowledged in the report of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) ‘that police officers cannot and should not be expected to make a diagnosis of a prisoner’s medical condition’ but it recommended that police officers be ‘trained to make a preliminary assessment of the detainee’s physical and mental condition based on information known to them and upon their own observations and to seek medical assistance if left in any doubt as to the person’s state of health.’⁹²
- 6.34 The Inspectorate was informed by the Director of Health Services that he retained medical staff at a number of remote hospitals prepared to provide medical assessments at the expense of DCS, specifically including the question of fitness to travel. These services had been established in the first instance to support the Department’s Work Camp programs, but were also said to be available to local police in relation lockup clearances.
- 6.35 Failure to provide adequate risk information more generally was highlighted in an earlier coronial inquest into the death of Mr Charles Gamble on 6 May 2003 in a custodial transport vehicle travelling between East Perth Watch House and the Central Law Courts.⁹³ Since then police have developed an IT custody system which incorporates a Custody Handover Summary which includes known risk information about the person in custody.⁹⁴

92 RCIADIC, National Report, v 3, [24.3.4].

93 Hope AN, *Record of an Investigation into Death, Ref 9/09*, Inquest into the death of Charles Gamble, Coroner’s Court of WA (2004).

94 While this system maintains risk information from previous police contacts, it was criticised by the Human Rights and Equal Opportunity Commission for including information that was old, irrelevant and likely to be prejudicial. Hely B, *Inquest into the Death of Mr Ward (File No. 8008/08)*, submission of the Human Rights and Equal Opportunity Commission (2009) [76]-[77].

POLICE INVOLVEMENT

- 6.36 In the wake of its *Prisoner Transport Review* DCS was unable to gain a commitment from WA Police to supply a fitness-to-travel clearance for persons in custody being transported from lockups, despite a public request for cooperation by the then Corrective Services Minister.⁹⁵ However, in discussion between DCS and police, it was noted that the police IT custody system failed to capture admission information about the behaviour and condition of the detainee and the coding of visible or reported injuries formerly reported on the Lockup Admission Record form. Some changes to the police Custody Handover Summary were agreed, but implementation was expected to be delayed by the need to fund IT system changes.
- 6.37 The Ward death has certainly increased vigilance about custodial transport of people with potential health risks. Kununurra police related an instance when G4S had refused to take a prisoner on escort back to Broome Prison as they said he was ‘unfit to travel’. Despite having a chronic medical condition which caused fainting, he was returned to Kununurra by road from Casuarina Prison in Perth via Broome Prison. He suffered a fit in the vehicle on the way to Kununurra and also fainted in the lockup, resulting in transfers by ambulance to the hospital on numerous occasions during his stay.

Recommendation 26

That the WA Police consider whether opportunities exist to enhance the ability of custody officers to assess health issues that may require medical treatment or assessment and make known information about health risks available to custodial transport providers.

JUVENILE TRANSPORT

- 6.38 Inspectors observed a juvenile at Rangeview Remand Centre being picked up for transportation back to Kalgoorlie to attend a court hearing. He faced a journey of six to seven hours in police vans sitting on a low-angled side-ways unpadded bench seat on a hot day cooled only with rammed air. A sideways seat with restraints is perhaps the least-safe configuration if an accident occurs. At least he would likely have the opportunity to use a toilet at Merredin Police Station where he would be transferred to another van for the rest of the way.
- 6.39 As the Police Commissioner has publicly declared, police vehicles are inappropriate for transporting people in custody over any significant distance. Nor is it reasonable to deprive regional communities of two police officers for extended periods to convey a juvenile to and from custodial facilities in Perth and from those facilities to and from courts in the regions. Internal reforms may assist to some degree. For example, Special Constables from East Perth Watch House have at times been utilised to pick up juveniles from major regional centres by air, and also to convey them from Perth back to regional courts.

95 Quirk M, *Minister calls for police co-operation in prisoner transportation procedures*, Margaret Quirk, Minister for Corrective Services, Government Media Office (2 April 2008) Government of Western Australia.

- 6.40 Furthermore, juveniles from remote areas should not be subject to the arduous road journeys taken by adult prisoners and cannot be safely or humanely accommodated in the prisons or the Carnarvon Police Lockup on the journey. It may therefore be reasonable for appropriately trained and supervised Contractor staff to escort juveniles on air transport, or other means of transport, provided they are afforded complete sight and sound separation from adult prisoners at all times and provided the journey conditions are not afflictive.
- 6.41 It is of great concern that juveniles are taken so far from their home communities and families to be incarcerated in Perth and, indeed, that so many are remanded in custody. Nevertheless, the procedure is certainly an unnecessary impost on police human resources and one which, with appropriate safeguards, could readily be undertaken either by juvenile custodial officers or contractors.
- 6.42 It is understood that the police and DCS have looked closely at the question of juvenile custodial transport and that various approaches have been considered and costed. DCS would prefer that Juvenile Custodial Services provide this service, consistent with their metropolitan role. Negotiations are continuing over a transfer of funds between the departments to support a transfer of responsibility. Fortunately, the processes around the re-tender of the CSCS Contract will resolve this important question.
- 6.43 It will be important that any juvenile transport service be timely in the sense that young people should not have to stay more than one night in a police lockup facility, and preferably should only be in a major regional facility where correct separation and 24-hour custodial care can be provided.⁹⁶ On the other hand, it is also important that the young person have exhausted opportunities for bail, before being transported away from their region. Some months ago, the President of the Children's Court issued a practice direction to the effect that no child is to be sent from regional Western Australia to Perth for detention because of the refusal of bail, unless bail has first been refused by a magistrate, an important practical improvement.
- 6.44 The transport itself must be accomplished in a manner that is safe and non-afflictive, in appropriate vehicles and with appropriate comfort stops, if the journey is extended. Air transport should be utilised whenever possible. Sight and sound separation should be maintained from any adult prisoners being conveyed on the same vehicle and at any points of embarkation or disembarkation. It should be undertaken only by officers with specific additional training and duly screened and authorised for the management of juveniles in custody.

Recommendation 27

That the Government resolve the question of how juveniles should be transported between regional and remote areas of Western Australia and detention facilities in Perth. Their conveyance should be in a manner which is safe and non-afflictive and with effective sight and sound separation from any adult prisoners also being transported. It should be undertaken by officers specifically trained and authorised for the management of juveniles in custody.

96 In response to the draft text, WA Police commented: 'Western Australian Police supports the need to move, at the earliest opportunity, not only juveniles but all persons in custody to a facility more adequately equipped to manage their needs. WA Police is engaged in ongoing discussions with Corrective Services to improve the lock up clearance service provided in Regional Western Australia.'

Chapter 7

RE-TENDERING COURT CUSTODY AND SECURITY SERVICES

THE RE-TENDERING AND CONTRACT PROJECT

- 7.1 Contracted Services in DCS commenced planning towards the re-tender of court security and custodial services contract in the second half of 2008. Contract Services personnel were appointed to the key project positions of Project Director, Business Change Manager and Project Manager. The Assistant Commissioner for Corporate Support, whose portfolio includes Contracted Services, was recognised as Project Owner and the Commissioner of DCS accepted the role of chairing the Sponsoring Committee.
- 7.2 The CSCS Contract has attained a high profile in government, not only because of the risks highlighted in the Coronial Inquiry on the death of Mr Ward, but also because it is one of the State's largest service contracts. All options have been considered, including returning some transport services back to the government sector or transferring some operations from the police to DCS. However, private sector service provision in the area of prisoner transport is here to stay and a comprehensive project for re-tendering the CSCS Contract is underway.
- 7.3 This report is not the place for a detailed outline of the methodology and governance for the project, but it is important to record that a rigorous, best-of-class approach is being taken. The Sponsoring Committee has voting representation from DCS, DotAG and police and advisory representation from various internal stakeholders and project staff, from the Department of Treasury and Finance, the Department of Housing, the State Solicitor, a Probity Auditor (Stantons), a Project Management Consultant (AOT Consulting) and a Financial Consultant (KPMG).
- 7.4 The project itself is managed by a Project Committee with voting representation from DotAG, police and Contracted Services and both Adult Custodial and Juvenile Custodial from within DCS. Advisory members include the Assistant Commissioner Aboriginal Justice, the Project Manager, and the same Probity Auditor and Project Management Consultant. A range of advisory and probity services have been engaged, mainly the consultants listed above, and various compliance and review processes will be undertaken, including departmental project management requirements, government procurement policy requirements including advice from the State Tender Review Committee and a Gateway Review process involving a team of WA Government officers, project management consultants and interstate government officers.

PROJECT TIMELINE

7.5 The project timeline for the re-tender and contract project is as follows:

Table: Project Timeline for the Re-tender and Contract Project

2nd half 2008	Preliminary planning
Early 2009	Project planning – establish project governance
Jun – Aug 2009	Stakeholder engagement
Sep – Dec 2009	Develop business case and project procurement plan
Dec 2009	Gateway reviews, 1 and 2
Nov 2009 – Feb 2010	Review business case and project procurement plan
Feb – May 2010	Prepare request for market and draft contract
Jun 2010	Review request and contract; Gateway review 3
Jul – Sep 2010	Request out to market
Sep – Dec 2010	Evaluation
Jan 2011	State Tender Review Committee advice; Gateway review 4
Feb – Apr 2011	Due diligence and contract negotiations
Apr 2011	Gateway review 5
May – July 2011	Commence operational transition
Aug 2011	Commence operations under new contract; Gateway review 6

Source: adapted from a graphical version provided by contracted services.

7.6 Encouragingly, the following Statement of Intent was adopted for the CSCS Re-tender and Contract Project, embodying, post-Ward, a strong duty of care focus:

To provide safe, secure and decent court security, custody and custodial transport services in a responsive and innovative manner to achieve quality outcomes for the State, the Judiciary, the justice system and the community by:

- Exercising a high level of duty of care in an ethical and human manner;
- Treating all persons fairly and with respect for the inherent dignity of the human person, having due consideration to differing, individual and cultural needs;
- Delivering progressive service solutions in an effective, flexible manner with regard to alternative delivery methods.

7.7 While the previous CSCS Contract did embed duty of care principles relating to people in custody, it was flawed in aspects (and application) of its supervisory framework and ambiguous in its financial arrangements (some of which took years to finalise). It was also fatally compromised by a fleet of sub-standard vehicles that government failed to renew for an extended period.

- 7.8 As this Report has shown transport involves so many different parties that it is unlikely that everyone will get what they want out of the new contractual arrangements. However, we are in a much more positive place than two years, or even 12 months ago. The statement of intent for the new contract, recent efforts at contract reform, the commissioning and building of a safer and more decent fleet of vehicles, the increased use of coach and air transport, and the level of forward planning and investment in the procurement project all bode well for a much more successful outcome in terms of both governance and service delivery.
- 7.9 In order to cement the focus on duty of care, decency and respect for human dignity, this Office would also prefer that all legislation dealing with people in custody be amended to include such principles. As the Ward tragedy shows, such principles are not a matter of contract – which suggests they are open to negotiation – they are absolute, non-negotiable requirements.



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Appendix 1

RESPONSES TO 2010 RECOMMENDATIONS

Recommendation	Acceptance Level/Risk Rating/Response
<p>1. That the security needs of civil courts and magisterial circuit courts be reviewed and addressed as part of the Court Security and Custodial Services Contract re-tender process.</p>	<p>The Chief Justice (The Hon Wayne Martin): I must say I am particularly attracted by [this] recommendation... Civil courts do need security from time to time, and the provisions of a dedicated Orderly in magisterial circuit courts would, I think, be of significant benefit to the court process.</p> <p>DotAG: Disagree/Low Response: The contract re-tender process is to develop contractual arrangements for court security services and is not a means by which requirements for circuit courts should be determined.</p> <p>Action Plan: The Department is continuing to review services and security requirements for Magistrates Courts during civil proceedings and on circuits.</p> <p>DCS:⁹⁵ DotAG is responsible for the determining the level of security required in their court. The re-tender process is a contractual arrangement for services not a means by which the level of security required and or should be determined.</p> <p>G4S: G4S has no comment.</p>
<p>2. That a range of nutritious meal options, including fruit, salad and other fresh food in reasonable quantities (including a vegetarian option) be made available at all court custody centres for lunch. Morning and afternoon tea should also be provided, and food offered to any person likely to be held after 6 pm.</p>	<p>DotAG: Agreed/Low Response: The contract provides for the provision of meals. CBD Courts contract and the next CSCS arrangements will provide additional specification as to the requirement.</p> <p>Action Plan: The Department will continue to monitor the provision of meals to persons in custody centres.</p>

95 DCS, which has contract management responsibility for the CSCS Contract did not provide an Action Plan as requested under existing arrangements between OICS and DCS. The intent behind an Action Plan is to understand the level of acceptance of recommendations (Agree/Disagree) by the Department, its assessment of the Risk Rating application to the matter and its time-line for implementing responses to recommendations. DotAG did follow this agreed process.

RESPONSES TO 2010 RECOMMENDATIONS

Recommendation	Acceptance Level/Risk Rating/Response
	<p>DCS: DCS supports the provision of a healthy lunch for prisoners. DCS does not support the provision of morning and afternoon tea.</p> <p>G4S: G4S has been asked by the Contract Manager to investigate the options of providing more nutritious meals to all Court Custody Centres operated by G4S.</p>
<p>3. That DCS in consultation with its Contractor revise custodial management procedures, staffing ratios and processes in the CSCS Contract to conform with sound risk-management and dynamic security principles.</p>	<p>DotAG: Agreed/Low Response: While the Contract Manager has responsibility for the approval of CSCS procedures, DotAG retains a shared responsibility to ensure the activities of the Contractor within the court are carried out safely, securely and with due regard to the operational needs of the jurisdiction concerned.</p> <p>Action Plan: The Department will continue to review procedures as part of the court security assessments and work with DCS to endorse changes as required.</p> <p>DCS: The Department and Contractor establish staffing levels on an annual basis in accordance with the demand and budget for services. Adjustments to these levels, in accordance with sound risk-management principles, are made where required throughout the year.</p> <p>G4S: G4S support this recommendation and welcomes an opportunity to review current practices to deliver a safe, secure and efficient service.</p>

RESPONSES TO 2010 RECOMMENDATIONS

Recommendation	Acceptance Level/Risk Rating/Response
<p>4. The standard design brief for court custody centres should be amended to:</p> <p>a) Ensure an appropriate balance should be struck both to safeguard staff and to support positive interaction between staff and persons in custody. Natural lines of sight and openness in interview areas should not be unduly compromised.</p> <p>b) Preclude cell designs incorporating water fountains provided as part of the toilet assembly, and bare metal or concrete seating.</p> <p>c) Include adequate facilities for lawyers and other official interviews both adjacent to public waiting areas and within the secure area (the latter should include both standard and non-contact interview rooms).</p>	<p>DotAG: Agreed/Low</p> <p>Response: The Standard Design Brief includes the recommendations. The capacity of a particular project to deliver the competing requirements largely a function of the specific project conditions for example the budget, location or timing.</p> <p>Action Plan: Include the Inspector in value management workshop.</p> <p>DCS:</p> <p>The design of Court Custody Centres is a matter for DotAG.</p> <p>G4S:</p> <p>The standard design brief should also include adequate facilities for Contractor staff to conduct the breadth of contractual requirements e.g. a dedicated Office for Supervisors and the provision of adequate amenities for staff to take breaks.</p>
<p>5. That unless and until a special security capacity is restored on the part of the Contractor, Emergency Services Group personnel bringing a high security escort to a court should remain at the court to maintain a high level of security in the management of that person whilst at the court.</p>	<p>DotAG: Disagree/Low</p> <p>Response: Where risks associated with an individual require special security arrangements, the Department will ensure adequate measures are in place to ensure the community's safety. The Department's preference is that where arrangements require an armed presence in the courtroom or custody centre, that the presence be provided by police.</p> <p>Action Plan: No additional action.</p> <p>The Department will continue to assess risks associated with the operations of courts and tribunals and with the assistance of police and DCS, meet them.</p>

RESPONSES TO 2010 RECOMMENDATIONS

Recommendation	Acceptance Level/Risk Rating/Response
	<p>DCS: The G4S Security Support Group (SSG) was removed from the contract at the request of the Contract Manager as the service was not being utilised. The agreement was that at least one person from each location would be trained at a higher level to compensate for the removal of the SSG.</p> <p>G4S: G4S supports this recommendation</p>
<p>6. That the Department of the Attorney General undertake a major refurbishment of the Perth Children’s Court Holding Facility.</p>	<p>DotAG: Disagree/Low Response: The Department’s facilities priorities are recorded in the Strategic Asset Plan. The President of the Children’s Court and the Department continue to explore options for reducing the need for young people to attend the Perth Children’s Court.</p> <p>Action Plan: No additional action.</p> <p>DCS: For response by DotAG.</p> <p>G4S G4S has no comment.</p>

RESPONSES TO 2010 RECOMMENDATIONS

Recommendation	Acceptance Level/Risk Rating/Response
<p>7. That the Department of the Attorney General, the Department of Corrective Services and the President of the Children's Court collaborate on establishing a system to ensure that children and young people have access to a bail hearing within 24 hours of arrest.</p>	<p>DotAG: Agree in part/Low Response: The Department is assisting the President of the Children's Court in establishing measures which minimise the detention of young people prior to a bail hearing.</p> <p>Action Plan: No additional action.</p> <p>DCS: CYS [Community and Youth Justice] will facilitate discussions with the President of the Perth Children's Court.</p> <p>G4S: G4S has no comment.</p>
<p>8. That the Contractor develop a strategy to upgrade awareness and skills of transport drivers in their role as drivers of passenger vehicles.</p>	<p>DCS: The G4S Officers conducting prisoner transport are required to have an F class endorsement on their driver's license.</p> <p>G4S: G4S is developing a driver familiarisation module to supplement the existing vehicle familiarisation Module.</p>
<p>9. That the Department of Corrective Services in consultation with its Contractor, review use of restraints on prisoner coach transfers, commensurate with each prisoner's security rating and risk profile.</p>	<p>DCS: This is current practice.</p> <p>G4S: G4S already conducts a dynamic risk assessment of all persons in custody to establish how they should be managed on an escort.</p>
<p>10. That the Government commit to use of air-transport for back-bone prisoner transfer routes, and for other regular clearance routes exceeding a distance of 300 kilometres.</p>	<p>DCS: The Department already has in place guidelines for the movement of persons in custody including the use of air charters and air services and believes these are sufficient.</p> <p>G4S: This is already occurring.</p>

RESPONSES TO 2010 RECOMMENDATIONS

Recommendation	Acceptance Level/Risk Rating/Response
<p>11. That best-of-class software for modelling service demand and scheduling solutions, efficient tasking of escort journeys and real-time satellite tracking and recording of escorts be a requirement for any future service provider under a new CSCS Contract.</p>	<p>DCS: The Department will be specific about what it intends to do in the tender documents for the new contract.</p> <p>G4S: G4S has a customised ‘best of class’ vehicle tasking and scheduling programme which has recently been introduced to Australian operations and is in use in Victoria and South Australia. G4S intends to put forward a proposal to Contract Management to trial the programme in CS&CS ahead of the new contract tender.</p>
<p>12. That the Government support investment in infrastructure, support services and related reforms to increase use of video-link technology to significantly reduce risks associated with unnecessary court escorts.</p>	<p>DotAG: Agreed in part/Low</p> <p>Response: The Department continues to explore options to increase the use of video-link (AV) systems between prisons and the various court and tribunal facilities. It should be noted that additional or new investment is not a universal remedy, and that there are significant gains to be made through improved coordination and cooperation within and between the agencies concerned.</p> <p>Action Plan: The Department will continue to monitor the use of AV facilities in courts and tribunals.</p> <p>DCS: A Business Case from 3 agencies was presented to Government and DCS is awaiting a response.</p> <p>G4S: G4S supports this recommendation.</p>

RESPONSES TO 2010 RECOMMENDATIONS

Recommendation	Acceptance Level/Risk Rating/Response
<p>13. That Juvenile Custodial Services review and implement:</p> <p>a) Revised procedures for tasking and assigning young people in court transports and video-links to minimise risks posed by juveniles to each other during court escorts.</p> <p>b) Revised procedures and staffing levels at Rangeview reception to ensure adequate supervision of young people being prepared for or returned from external escorts, including conduct of unclothed searches and of embarkation and disembarkation.</p>	<p>DCS:</p> <p>a) YCS [Youth Custodial Services] will revise procedures</p> <p>b) A review has been conducted and a submission has been put to the Department's Establishment Control Board for approval of more FTE. This will be contingent on funding.</p> <p>G4S: G4S has no comment.</p>
<p>14. That a separate medical transport escort service, with a select team of trained staff and a dedicated fleet of appropriate vehicles should be established to ensure practical coverage of metropolitan prison medical escort requirements.</p>	<p>DCS: [No response was provided to this recommendation.]</p> <p>G4S: While G4S understands the reasoning for this recommendation it should be noted that significant improvement has been made in delivering persons to medical appointments. As new vehicles come on stream, the capacity to meet the full demand will increase. Moreover, there are significant efficiencies to be gained from having an integrated fleet available for all tasks.</p>

RESPONSES TO 2010 RECOMMENDATIONS

Recommendation	Acceptance Level/Risk Rating/Response
<p>15. That pregnant women be conveyed directly to and from the relevant medical facility in a vehicle appropriate to their needs without undue restraints</p>	<p>DCS: Currently provided under Adult Custodial Rules (Policy Directive 44).</p> <p>Prisoners will be escorted according to their security ratings as well regardless of whether they are pregnant.</p> <p>The vehicle at Bandyup described in the report was intended for the Contractor and despite its base at the prison is available to G4S to facilitate approved movements.</p> <p>G4S: G4S supports this recommendation.</p>
<p>16. That in relation to the Secure Facility at Royal Perth Hospital:</p> <p>a) Artificial limitations on numbers able to be accepted should be lifted</p> <p>b) Restraint arrangements should be reviewed to reduce unnecessary and undignified use of wheelchairs for some classes of prisoners;</p> <p>c) The metal benches in the holding rooms should be covered by an insulating material; and</p> <p>d) Prisoners should be able to access coffee or tea and biscuit for morning and afternoon tea.</p>	<p>DCS:</p> <p>a) Already completed.</p> <p>b) The security arrangements are those agreed with RPH security. The restraint regime is commensurate with community expectations.</p> <p>c) Asset services.</p> <p>d) Disagree.</p> <p>G4S: The secure facility is running extremely well and previous restrictions on numbers have been lifted. The restraint regime utilised to escort persons outside the secure facility is the same for any escort in an unsecure location and would need to be reviewed as part of a general review of restraint.</p>

RESPONSES TO 2010 RECOMMENDATIONS

Recommendation	Acceptance Level/Risk Rating/Response
<p>17. That the Government review the escort arrangements of persons subject to a Hospital Order under the Criminal Law (Mentally Impaired Accused) Act 1996 to ensure that such persons are transported safely and humanely as patients and not inappropriately detained in police lockups or prisons in the course of such journeys.</p>	<p>DCS: This is for Government's response.</p> <p>G4S: G4S supports this recommendation where it is practical to do so.</p>
<p>18. That the custodial medical escort service for the metropolitan area be available for all Frankland Centre inmates, whether held on a hospital order, remand warrant or other legal instrument. If the conduct of such escorts is returned to individual prisons, then an arrangement should be established to cover such escorts from the Frankland Centre.</p>	<p>DCS: The movement of persons in custody is done in such circumstances where the person meets the definition of a person in custody under the CSCS Act.</p> <p>G4S: G4S has no comment.</p>
<p>19. The Department of Corrective Services acquire modified domestic-style vehicles, such as a sedan or small van for use by detention centres and minimum-security metropolitan and regional prisons or a contractor conducting ad-hoc escorts such as medicals and funerals.</p>	<p>DCS: The Department has reviewed its vehicle fleet standards and is in the process of acquiring a vehicle fleet that meets our standards.</p> <p>G4S: G4S would welcome an opportunity to include the transportation of juveniles under the CSCS Contract.⁹⁶</p>

96 G4S appear to have misunderstood this recommendation as applying juvenile ad-hoc escorts. Its subject is the nature of the vehicles used generally for ad-hoc escorts.

RESPONSES TO 2010 RECOMMENDATIONS

Recommendation	Acceptance Level/Risk Rating/Response
<p>20. That the monitoring resources of CSCS Act 1999 services provided under the two relevant contracts and by the Department be significantly increased to ensure the following minimum levels of monitoring:</p> <ul style="list-style-type: none"> • An annual operational review of every CSCS site and service. • A capacity to investigate and reconcile reports of notifiable incidents and identified performance deficiencies. • A permanent monitoring presence to cover central Perth Courts, including the District Court Building, Central Law Courts, Supreme Court and Perth Children’s Court. • Weekly on-site observation of CSCS-related activity at Hakea, Bandyup, Rangeview, Secure Medical Centre and contractor operations base, fortnightly at Casuarina, Acacia and Banksia Hill, and bi-monthly at minimum-security facilities and outer-metropolitan courts. • Weekly on-site observation of long-haul transport activities, including at least fortnightly in a regional site and whole-of-journey observation at least monthly. • Whole-of-journey observation of medical, funeral and similar escorts on at least a monthly basis. • Observation of a hospital bed-sit on at least a monthly basis. • On-site observation of CSCS-related activity at each regional court and prison at least twice per annum, with a capacity for additional random or targeted visits. • Direct observation of contractor training activities at least monthly. 	<p>DCS: The Department will continue to review the monitoring services and make changes as required.</p> <p>G4S: G4S has no comment.</p>

RESPONSES TO 2010 RECOMMENDATIONS

Recommendation	Acceptance Level/Risk Rating/Response
<p>21. That State Solicitor advice be sought on the extent to which:</p> <p>a) The Department of Corrective Services Commissioner as the CEO responsible for the CSCS Act 1999, and Minister of Corrective Services are thereby responsible for police activities undertaken under the Memorandum of Understanding for the continued provision of court security and custodial services between the Ministry of Justice and the Western Australia Police Service under section 19 of the CSCS Act 1999;</p> <p>b) The Department of Corrective Services Commissioner and Minister of Corrective Services have responsibility for police activities undertaken at prescribed lockups at Carnarvon, Albany and Kalgoorlie.</p>	<p>DCS:</p> <p>a) Agreed DCS has some advice and will seek further advice.</p> <p>b) Agreed DCS has some advice and will seek further advice</p> <p>G4S: G4S has no comment.</p>
<p>22. That Carnarvon Police Lockup be properly refurbished, regardless of whether it is required to accommodate prisoners on inter-prison transport journeys and an operating charter established to ensure decent conditions for all persons accommodated in that facility.</p>	<p>WA Police: A refurbishment plan currently exists for the Carnarvon Police Station Lock up. It is anticipated the works will commence mid 2010. Not all cells will be upgraded and those not refurbished will be converted into storage areas.</p> <p>DCS: As of 3 February 2010 DCS has suspended the use of Carnarvon Lock-up for the holding of persons in custody that the Commissioner has responsibility for.</p> <p>The Carnarvon Police Lockup is a police facility, and the responsibility for any refurbishment or upgrade lies with police.</p> <p>G4S: G4S supports this recommendation.</p>

RESPONSES TO 2010 RECOMMENDATIONS

Recommendation	Acceptance Level/Risk Rating/Response
<p>23. That the Government reform the system of management of police lockups in WA, in parallel with deliberations towards the CSCS Contract re-tender. This should include:-</p> <p>a) A rolling program of upgrades to bring such facilities to a decent standard and ongoing resources to maintain them properly.</p> <p>b) Implementation of standards to guarantee dignity and safety of all detainees in police custody, including the segregation of women and minors from other detainees, the ability of staff to monitor detainees effectively, provide clean and decent bedding, provide nutritious food and drink, facilitate personal hygiene, access necessary medical assistance and facilitate legal interviews and contact with families.</p> <p>c) Creation of a mechanism to inspect compliance of lockups in relation to these standards and to remedy any deficiencies.</p>	<p>WA Police: Western Australian Police have proposed a ‘hub system’ to hold detainees awaiting transportation. These hubs are being given priority for upgrades. Larger Regional Western Australian Police Centres do have the provision to segregate women and juveniles from other detainees. The human management of persons in custody is a priority for Western Australian Police. Our Business Area Management Review process includes inspections of all operational lock ups to ensure safety and hygiene issues are continually monitored.</p> <p>DCS: Refer to WA Police.</p> <p>G4S: G4S supports this recommendation.</p>
<p>24. That pending reform of the management of police lockups, the Department of Corrective Services should cease to utilise substandard police lockups for the accommodation of prisoners and juvenile detainees on transport journeys, to attend court or reside as trusty prisoners.</p>	<p>WA Police: Western Australian Police have identified those lockups that require refurbishment and have prioritised the work scheduled; steady progress is being made on refurbishments.</p> <p>DCS: Prison Superintendents review all lock-ups on an annual basis and advise of their suitability to accommodate prisoners.</p> <p>G4S: G4S supports this recommendation.</p>

RESPONSES TO 2010 RECOMMENDATIONS

Recommendation	Acceptance Level/Risk Rating/Response
<p>25. That contract managers and the WA Police ensure that each persons-in-custody embarking at a police facility for a journey over a regular meal time or for a long-haul journey expected to take two and a half hours or more receives a substantial meal including a piece of fresh fruit, and at least a one and a half litre bottle of water.</p>	<p>WA Police: Sufficient water is required to be supplied to each person transported. Discussion is required with Corrective Services, Office of the Inspector of Custodial Services and Western Australian Police to reach consensus on what would be considered to be a substantial meal and what opportunities are present in the remote locations to provide such meals and access fresh fruit.</p> <p>DCS: The responsibility for the provision of food is with the sending agency. The matter will be referred to WA Police.</p> <p>G4S: G4S supports this recommendation.</p>

RESPONSES TO 2010 RECOMMENDATIONS

Recommendation	Acceptance Level/Risk Rating/Response
<p>26. That the WA Police consider whether opportunities exist to enhance the ability of custody officers to assess health issues that may require medical treatment or assessment and make known information about health risks available to custodial transport providers.</p>	<p>WA Police: Western Australian Police support the need to disclose any known information about the health or risks associated with transporting a detainee to the transport providers. This currently is managed by supplying the transporting officers with a copy of documents from the police custody system that detail any identified health or other risks.</p> <p>DCS: Currently a requirement on the custody handover form received by G4S from police.</p> <p>All government agencies have a joint responsibility for duty of care. Negotiations between DCS, WA Police and G4S are that each agency or organisations are to ensure that their respective duties of care requirements are met before transferring the charge of the person. Each agency or organisation may refuse to take the transfer of charge if there is evidence that the duty of care obligation has not been met.</p> <p>G4S: G4S supports this any improvements in the process for assessing a person’s fitness to travel, it is important to note that any assessments have to be delivered within the limitations of escort officers’ qualifications and training.</p>
<p>27. That the Government resolve the question of how juveniles should be transported between regional and remote areas of Western Australia and detention facilities in Perth. Their conveyance should be in a manner which is safe and non-afflictive and with effective sight and sound separation from any adult prisoners also being transported. It should be undertaken by officers specifically trained and authorised for the management of juveniles in custody.</p>	<p>WA Police: Western Australian Police support [this] recommendation.</p> <p>DCS: Negotiations between WA Police are currently being undertaken.</p> <p>G4S: [G4S did not provide a response to this recommendation, but see its response to Recommendation 19 above.]</p>

Appendix 2

PROGRESS ON PREVIOUS RECOMMENDATIONS

OICS, REPORT OF AN ANNOUNCED INSPECTION OF METROPOLITAN COURT SECURITY AND CUSTODIAL SERVICES, REPORT NO. 31 (PUBLISHED – FEBRUARY 2006)

No	Recommendation	Progress noted and/or evidence needed
1	That the Department undertake a review of services actually being provided by AIMS at each custody centre, and in light of this reassess approved staffing levels accordingly. Staffing must be such that court custody centres are continuously staffed by at least two staff members whenever persons in custody are present.	This was agreed in part by the Department of Justice and AIMS. No issue was identified.
2	That AIMS provide a better quantity and quality of ongoing professional development training for its staff.	The former contractor undertook a training and needs survey, and the Department increased its funding for training, but further training was limited to increased regularity of essential training (use of force/restraints training, first aid requalification training) and a round of Aboriginal cultural awareness at some sites. Efforts to provide Cert IV training to Supervisors has also stalled. Issue further discussed in present Review.
3	All amendments and variations to the Contract that have already been agreed between the Department and AIMS must be put into writing and tabled in Parliament in accordance with the Act as a matter of urgency. The Department must comply with its legislative obligations in the future in all instances to ensure public accountability and the protection of the rights of those held in custody.	DCS states that 'the Contract was varied on 6 March 2009 and is not awaiting tabling in Parliament'.

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Progress noted and/or evidence needed
4	<p>The Department must clarify AIMS' and where appropriate for the Department itself obligations with regards to bail surrenders and those required to complete paperwork before release on bail. If the Department intends AIMS to have responsibility for the custody of these individuals, then:</p> <ol style="list-style-type: none">Approved staffing levels must be increased to allow AIMS to undertake these duties in a manner that is safe for staff and allows for the appropriate tending to the safety and welfare needs of those in custody; andConsideration should be given to the widening of the use of bail lounges in metropolitan court custody centres, with the provision of appropriate facilities and the development of guidelines for its use.	<p>Bail surrenders are regarded as persons in custody for the purposes of staffing of court custody centres. While DoTAG consider that bail lounges should be an appropriate part of the standard design brief for some courts, nothing has been done to extend such facilities to further courts. DoTAG consider both matters completed.</p>

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Progress noted and/or evidence needed
5	<p>In relation to the security at metropolitan court custody centres:</p> <ul style="list-style-type: none"> a. The Department produce clear policies and procedures as to the practical implementation of a secure key policy that are developed individually for each court custody centre, in particular with reference to how it should be used in that particular operational environment. This process should include a full analysis of staff and infrastructure needs to properly implement the key protocol and resources appropriately applied. b. The Department must assess the dock infrastructure in place in each courtroom at each court complex and plan for the rectification of identified deficiencies. In the interim, alternative arrangements to improve the security in courts where deficiencies have been identified must be put in place. c. That AIMS (and where relevant, the Department) provide sufficient radios at all court custody centres to ensure each staff member rostered to a security position on any given day can access a radio. d. That AIMS and the Department reassess the documentation required to be completed at each court custody centre to ensure consistency across centres. 	<ul style="list-style-type: none"> a. Key policies not raised as an issue in recent visits nor systematically checked. Both Department & Contractor claimed to have relevant procedures and have audited them locally. Not verified through inspection. b. DoTAG has reviewed all centres as part of operational reviews. Changes in design are reflected where upgrades have been undertaken. Unsure whether a list of defective docks exists. c. DoTAG says there is no limitation on what Contractor can purchase. Contractor claims sufficient radios deployed. Not verified through inspection. d. DoTAG Court Security promised to address as part of operational reviews. Outcome unknown.

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Progress noted and/or evidence needed
	<p>e. That the Department reassess the contents of the transfer of custody form to be completed by police when transferring custody of an individual to AIMS, and that AIMS and where appropriate the Department ensure that all such forms are provided and completed before accepting any individual into its custody.</p>	<p>e. The new police Custody System has provided a much better capture and print-out of detainee hand-out information. The C3S system at CBD/CLC & Supreme Court also captures detainee info from police and DCS (TOMS) systems. In response to the draft text, DotAG added that C3S will be rolled out if and when IT funds permit. In the meantime, OICS notes that G4S recently implemented its own Custody Booklet system to ensure such information is properly captured at all locations on receiving new detainees, to facilitate their management in custody and ensure handover of information back to the prison or other facility.</p> <p>DotAG Court Security also has an enhanced intel gathering and risk analysis capacity with forward info provided to all courts.</p>

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Progress noted and/or evidence needed
6	<p>That the Department and AIMS act together to improve the services provided to persons in custody to best serve the welfare and safety of those individuals, and in particular:</p> <ul style="list-style-type: none"> a. That AIMS better coordinate transport services so that persons in custody are transported to prison within a reasonable time after completion of their court appearance; b. That AIMS and the Department improve the quantity and quality of food available to persons held in court custody centres; c. That the Department and AIMS together develop policies and procedures with regards to searches to prevent the repeated searching of individuals being transported from prison to custody centres; d. That the basic amenities in court custody cells at Midland, CLC and Mandurah be improved, including the provision of appropriate in-cell toilet facilities, fresh drinking water and in-cell activities. e. Arrangements should be made as a priority to ensure that all persons exiting custody are able to access assistance on being released from court custody centres in line with the Department's commitment to re-entry; and f. Appropriate numbers of interview rooms are provided at each court custody centre with particular consideration to client legal counsel confidential and adequate communication capability. 	<ul style="list-style-type: none"> a. Not generally improved, although Depts claim this is carefully monitored. DotAG claim this matter is completed. <i>In response to this text, DotAG states that progress of this action depends on the roll out of the C3S system, which captures this information, currently operational only at CBD/CLC and the Supreme Court.</i> b. Not generally improved; DotAG claim this matter is completed. c. The Department agreed to review. DotAG claim this matter is completed. Outcome unknown. d. Cell upgrades completed at these and some other sites in accord with the standard design brief. Significant progress in this area. e. DotAG, in conjunction with DCS and ALS completed a survey on this in July 2008. Initiatives were subsequently taken by the Chief Justice's Indigenous Justice Taskforce, including a request that all court staff ensure a defendant's travel status is known in the court hearing.⁹⁷ f. Such facilities have been provided as court custody centres have been upgraded.

97 DotAG in response to this text also noted that assistance is provided to certain prisoners released through expanded Re-entry Program service providers and the Transport Options Program which returns prisoner to their home communities. This is true, but would only be relevant for a small number of persons release from court centres.

PROGRESS ON PREVIOUS RECOMMENDATIONS

OICS, REPORT OF AN ANNOUNCED INSPECTION OF REGIONAL COURT SECURITY AND CUSTODIAL SERVICES (CSCS), REPORT NO. 40 (PUBLISHED – FEBRUARY 2007)

No	Recommendation	Progress noted and/or evidence needed
1.	Administration and Accountability That the responsibilities and powers of the Department of the Attorney General and the Department of Corrective Services regarding court security and custodial services be clarified and formally documented. This should happen as a matter of urgency to formalise any interim arrangements in place whilst waiting for proposed new CSCS legislation to be developed.	Government has determined that the Commissioner of Corrective Services is principal of the CSCS Contract. Contract management continues to be undertaken by DCS. However, DotAG remains generally responsible for matters of court security and engages directly with the Contractor and undertakes its own operational reviews as required. A legislative fix is no longer considered urgent.
2.	Staffing Issues That the Department and Contractor in conjunction review regional conditions and incentives for staff, and implement practices to ensure further improvement in regional recruitment, retention and staff diversity.	Fly-in/fly-out staffing arrangements have supplemented staffing at many regional sites. Roebourne, where government has provided a house for this purpose, is solely staffed in this way. The former contractor received DEWR funding to recruit and train Aboriginal staff and a small recruit proceeded in 2007. A revised recruitment and training strategy was tabled with the CSCS Board in December 08, proposing full staffing by Mar 09. Issue further discussed in present Review.
3.	Staffing Issues That AIMS assess training needs for all regional staff and provide appropriate recurrent training to address those needs, to include (but not be limited to) computer and information systems training and cross cultural awareness sessions.	The former contractor undertook a training and needs survey and the Department increased its funding for training, but further training was limited to increased regularity of essential training (use of force/restraints training, first aid requalification training) and a round of Aboriginal cultural awareness at some sites. A review of contractor training was completed by Jan 09. <i>In response to the draft text, DotAG stated that the adequacy and content of staff training continues to be assessed during operational reviews undertaken by Court Security Directorate staff.</i> Issue further discussed in present Review.

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Progress noted and/or evidence needed
4.	<p>Administration and Accountability</p> <p>That AIMS reviews all sites for ambiguous or site-specific activities and clarify correct procedures. In particular the position of 'JP runner' should be examined and the requirement or otherwise of this position should be made clear and all site and procedural manuals updated accordingly.</p>	<p>JP runners not approved for regional sites. DotAG monitors review site orders as part of operational reviews. Intended for Contractor to propose adjustments as needed.</p>
5.	<p>Care and Wellbeing</p> <p>That the Department resolve differences between police standard and court standard design of shared facilities where court custody is managed in a police owned lockup. If differences are not able to be resolved, the Department should seek to implement court-owned custodial facilities to meet their specified standards to maintain an appropriate level of care for those persons held in custody for court purposes.</p>	<p>No progress. Issues continue to arise at joint court/police facilities such as those at Albany, Geraldton, Carnarvon and now including Kununurra. Issue further discussed in present Review.</p>
6.	<p>Staffing Issues</p> <p>That the Department incorporate the requirements of the Contractor in future plans for building works and upgrades, to ensure basic staff amenities, office space and other standard facilities are available and accessible in their workplace. This includes reliable and convenient access to technology.</p>	<p>The Courts Standard Design Brief includes facilities and amenities for custodial staff irrespective of employer. Progress has been made in some sites, notably at Broome and to some degree at Carnarvon. However, the Kununurra site is a major concern in this regard. Issue further discussed in present Review.</p>

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Progress noted and/or evidence needed
7.	<p>Human Rights</p> <p>That every court custody centre, regional and metropolitan, have adequate interview facilities to enable legal and other official interviews to be conducted in a confidential, professional and private manner.</p>	<p>The Courts Standard Design Brief includes interview facilities. Progress has been made at Broome, but the issue has recently arisen at Kununurra. Issue further discussed in present Review.</p>
8.	<p>Care and Wellbeing</p> <p>Measures should be introduced to all regional sites to reduce stress and boredom of persons waiting in custody, which may include but is not restricted to access to outside areas or natural air and light, in-cell televisions, music or reading material, nicotine substitutes for smokers unable to smoke.</p>	<p>The Courts Standard Design Brief includes TV/ videos in each cell. This is progressively being implemented. However, none of the other ideas has been taken up. Nor is the opportunity to smoke or have a nicotine substitute supported.</p> <p><i>In response to this text, DotAG states that ‘measures to reduce stress and boredom have been incorporated in the security and amenity section of the standard design brief. Government policy [is] that smoking is not permitted in buildings.’</i></p>
9.	<p>Care and Wellbeing</p> <p>That the Department and Contractor review court holding facilities and procedures to ensure appropriate conditions are available in all custody centres for women held awaiting court hearings, including provision of appropriate toilet and hand-washing facilities and sanitary products and disposal. Additionally, the standard design brief for court custody centres should include specific minimum standards for women.</p>	<p>DotAG claims its Standard Design Brief addresses facilities for women which informs any centre upgrades. However, no sanitary disposal or toiletry is routinely provided.</p> <p><i>In response to this text, DotAG states that the Standard Design Brief now contains requirements to address amenities for female Persons in Custody. Measures and procedures for dealing with gender differences are developed through the design and commissioning stages of refurbishment and/or construction projects.</i></p>

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Progress noted and/or evidence needed
10.	Custody and Security That only areas specified as custody cells and provisioned appropriately are to be used as cells for holding persons in custody. Each site should be provided with an adequate number of cells to allow appropriate segregation and to limit overcrowding in cell.	The Department reserved the right to use non-cells or transport pods if necessary, but noted that the specific concern had arisen at Albany which had since been fixed. However, the issue has recently arisen in Derby due to displacement of Court due to major building repairs, to a community centre.

PROGRESS ON PREVIOUS RECOMMENDATIONS

OICS, REPORT OF A THEMATIC REVIEW OF CUSTODIAL TRANSPORT SERVICES IN WESTERN AUSTRALIA, REPORT NO. 43 (PUBLISHED – MAY 2007)

No	Recommendation	Notes on progress of implementation
1	That a standard be established for all custodial transport services: no escort journey should be planned in short-haul secure transport vehicles without a comfort break for all passengers at least every 2-2.5 hours. Journeys likely to take longer must be undertaken in long-haul vehicles.	<p>Originally agreed with a 'Low' risk-rating, but NOT for lock-up clearances and. Further reviewed following the death of Mr Ward on a lock-up clearance run.</p> <p>The notion of journeys over 2 hours being classed as Long Haul Escorts has since been accepted and 'welfare stops' every 2 hours (solely to check on the welfare of prisoners) were also implemented, which helped address questions of safety but not questions of comfort and dignity.</p> <p>The new fleet will include 7 x 14-seaters and 12 x 7-seaters with toilets. Coaches and aircraft are latterly being used for inter-prison transfers, and aircraft for most lock-up clearances over 400km. Issue further discussed in present Review.</p>
2	That the Department ensure that information systems are capable of recording and reporting on actual time spent by prisoners or detainees in vehicles.	Not agreed nor implemented.
3	That the Department of Corrective Services review contractor involvement in High Security Escorts, develop a strategy to facilitate a closer working relationship between the ESG and SSG and review, in consultation with the Department of the Attorney General and the Contractor, protocols to ensure seamless hand-over of High Security Escorts at court custody centres.	The Contractor's SSG has been defunded and disbanded. Issue further discussed in present Review.

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Notes on progress of implementation
4	That bail coordinators be made available at courts and prisons, to assist people effect bail, and that persons granted bail be retained at a court or police facility for a reasonable period to arrange their bail, before being transferred to a prison.	Recommendation was disagreed, However, a bail coordination program has since been implemented at Perth Courts by the Community and Youth Justice Division of DCS.
5	That the Department of Corrective Services obtain a State Solicitor's opinion about transport and accommodation arrangements for persons subject to a Hospital Order.	A State Solicitor's opinion date 5/05/03 was already in hand confirming that persons could not held at a prison or police station on a Hospital Order until assessed by a psychiatrist. Subsequent practices remain a continuing concern. Issue further discussed in present Review.
6	That the Department of Corrective Services, together with the Department of the Attorney General, establish a project to investigate continuing barriers to the use of video links and ensure that systems are in place to quantify actual usage of the system and the extent of its contribution in reducing the requirement for custodial transport.	The Chief Justice implemented a series of meetings to address questions relating to use of video court links and other means to reduce unnecessary custodial transport. Practice directions from heads of jurisdiction and regionally by magistrates, especially around bail matters, have made some impact. Issue further discussed in present Review. 'In response to this text, DotAG states that 'Work is continuing to identify barriers to the use of AV.'
7	That at a minimum, valuables including wallets, purses, ID's and ATM cards and civilian clothing always accompany unsentenced prisoners or detainees to court. In addition, private cash and gratuities must either accompany the prisoner or detainee to court, or a system established for this to be paid, if released, at or near the court. Where practical, all property for such remandees should also be sent to court, especially when the court is a great distance from the prison or detention facility.	Regional Prisons at Eastern Goldfields, Roebourne, Albany, Bunbury and Greenough either already routinely sent VP to courts or have since implemented this policy. However, the Department claims it is not possible at Hakea due to large numbers, and is therefore especially culpable in this respect. Casuarina Prison has also been culpable for failure to send property with prisoners being returned to regional areas for Court or release. However, an Operations Notice 23.2009 now requires that all personal property is sent with the prisoner on transfer or forwarded separately at the sending prison's expense.

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Notes on progress of implementation
8	That consideration be given to the issue of nicotine lozenges on prisoner transfer journeys.	This was not agreed previously, but should be revisited in the light of the Department's new policies to restrict smoking in prisons.
9	That the Department make food available at reception for prisoners or detainees failing to obtain breakfast in units before leaving on transports.	This was not agreed previously, but remains an issue at some locations due to late unlocks and medication arrangements.
10	That the Department establish fail-safe procedures to ensure that adequate fresh food and water is provided in cells for all long transport journeys.	No procedural changes were made in this regard. Most prison facilities provide two sandwiches, fruit and 1.5l of water per passenger for a long journey – while adequate for most journeys, it is hardly sufficient for a 9 hour journey. Police lockups, however, rarely provide more than one or two frozen sandwiches and 600ml bottle of water. Issue further discussed in present Review.
11	That adequate reserve supplies of potable water and food be carried for staff and persons in custody by any transport provider involved in non-local journeys outside the metropolitan area.	The former contractor undertook to provide extra water on inter-prison transports (IP trucks are supposed to carry 3 x 1.5l per person). This was evident in most cases. However, the practice does not appear to have been implemented for other runs.
12	That the Department establish fail-safe procedures to ensure that prisoners and detainees have sufficient notice of transfers to appeal the transfer and receive family visits, except as dictated by acute management or security issues.	The Department was confident that prisoners were indeed notified. We have found that it continues to be the case that prisoners often receive no or inadequate notice of routine transfers, especially prisoners on remand. Issue further discussed in present Review.

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Notes on progress of implementation
13	That handwashing facilities or towelettes be made available to all prisoners or detainees using on-board toilets and hygiene packs be made discreetly available to women on prisoner transfer journeys or other escorts.	Despite agreeing to do so, neither DCS nor the Department have provided handwashing facilities or towelettes to prisoners using potty-style toilets. The issue of hygiene packs to women for escorts by prisons has become routine, however, they are often confiscated by contractors during metropolitan journeys.
14	That the Department of Corrective Services cease to utilise sub-standard police lockups for the accommodation of prisoners and juvenile detainees on transport journeys, for extended stays and for court escorts or for trusty prisoners, recognising that conditions in many of these are incompatible with expected standards for prisoners and detainees.	Not agreed initially by DCS but latterly a decision was made not to use Carnarvon Lockup on prisoner transport runs. However, a number of other lockups in the Kimberley and elsewhere, also to fail to meet basic standards of decency and safety. Issue further discussed in present Review.
15	That a system be established to ensure an unbroken line of control and accountability for all property transferred with prisoners or detainees. The system must also provide for and track the timely movement and re-issue of unaccompanied property.	No change was considered necessary by DCS. However, submission states this recommendation is “in progress”. Reception staff and prisoners continue to complain about lost items.
16	That tobacco, toiletries or other items needed by prisoners or detainees during transport journeys be held in a separate bag from that used for valuables.	No change was considered necessary by DCS.

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Notes on progress of implementation
17	That the Department cease to charge for video-visits to close family members in remote locations and establish a project to ensure the system is promoted as part of orientation to all eligible prisoners or detainees and their families, to resolve other barriers to its use and to implement outlets on key Aboriginal Communities.	No change was considered necessary by DCS. While the service continues to be unevenly promoted to prisoners and detainees, it has been better promoted in some facilities for out-of-country prisoners, in one case, including suspension of the standard \$4 fee. OICS also advocates controlled use of IP services such as Skype as low cost alternative, potentially far more accessible for people in the community.
18	That the Contractor ensure that critical and urgent medical appointments are always undertaken and that difficulties with these are instantly reported to the nominated person at the relevant prison.	The Contractor continues to fail to undertake a significant proportion of medical escorts, whether due to staffing, vehicle availability or scheduling issues. Issue further discussed in present Review.
19	That superintendents ensure that alternative arrangements are made to ensure that critical medical appointments, and if so advised by the nurse manager, urgent medical appointments, are facilitated by the centre in the event that the transport provider is unable to undertake the escort.	Facilities have increasingly used their own resources to undertake important medical escorts not provided by the Contractor. Bandyup Woman’s Prison was the notable exception. While it has obtained a specialist vehicle, it is not known whether it is stepping in as needed when the Contractor fails to provide a medical escort.
20	That performance linked fees under the CS&CS contract be adjusted to include penalties for failure to satisfactorily complete escorts for medical purposes (especially for those rated critical and urgent), authorised absences or to take over hospital bed sits within the prescribed period.	PLFs have been adjusted to take account of underperformance in these and other areas. However, the Contractor can claim “mitigation” due to circumstances not under its control, eg unavailability of roadworthy vehicles.

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Notes on progress of implementation
21	That the Department of Corrective Services and the Contractor ensure that persons under escort for a medical appointment or an authorised absence, never be held en route (in either direction) at a court custody centre. Wherever practical, such persons should be segregated from others.	While this was disagreed by DCS, the opening of the Secure Facility at RPH has prevented most instances of persons on medical escorts being held at a court custody facility. Issue further discussed in present Review.
22	That the Department of Corrective Services Health Services take further steps to ensure that, for all kinds of escorts, appropriate direction is given to transport providers in relation to injured, infirm or disabled prisoners and detainees, and to ensure that essential medicine accompanies those indicated as requiring such treatment.	DCS claimed that special transport arrangements, including use of station wagons, maxi-taxis, ambulance, air transport as advised by medical staff are made in all cases of special need. This, however, failed to address the issue that inadequate systems are in place to identify and address such needs, for example, sending a person unable to bend their leg in a regular court escort vehicle.
23	That the Department of Corrective Services review both the classification system and restraints policy as they apply to women, to eliminate the overuse of restraints in medical escorts consistent with a more realistic risk profile.	A joint review of the classification system by OICS and DCS failed to confirm any basis for a reduction in female security ratings. Nor has there been any changes in restraints policy.

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Notes on progress of implementation
24	That the Department of Corrective Services implement changes in its authorised absence policy and practice for adults and juveniles, to ensure that significance of the relationship is the dominant factor in decision-making, that an Aboriginal person is formally involved in decisions about applications from Aboriginal persons, that families or communities are appropriately consulted in these decisions and that the use of restraints is minimised, consistent with security and public safety.	There have been no changes to policy or practice in this regard. Issue further discussed in present Review.
25	That the Department of Corrective Services continue to develop strategies to assist people released from custody, particularly from regional and remote areas, to return home safely.	DCS has funded the Transport Options Program services in regional areas to transport released prisoners back to their home communities as part of the Reducing Imprisonment Project. While there have been logistical issues at times, this has been overwhelmingly successful. (See also notation to recommendation 6 (e) of report 31 above).
26	That the Department of Corrective Services review the transport arrangements for prison visitors, including for families of juveniles from remote areas.	There have been no notable developments in this area.

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Notes on progress of implementation
27	<p>That the following minimum standards be incorporated in vehicle design for all secure transport vehicles:</p> <ul style="list-style-type: none"> • Seat belts to be fitted for all passengers. • Passenger seats to be preferably forward, or rear facing, never sideways. • All seats to be moulded, and/or cushioned. • Cells to have one way windows fitted to afford natural light and external views with privacy from outside. • Seats and cells to have sufficient width and leg room to accommodate larger prisoners. • All cells to be safe-cell compliant. • All cells have hatches to enable food or other materials to be passed between staff and persons in each cell and to enable handcuffs to be securely applied. • All cells to have a rescue exit in case of emergency. • Effective video and audio monitoring and communication systems between the cabin and cells. • Robust climate control for staff and passengers, adjustable in each zone. • Good natural ventilation readily available when the climate control system is not functioning. • A capacity to broadcast music, radio or essential information to passengers. • A cool store for staff and passenger meals and drinks. • Adequate storage for staff and passenger valuables, paperwork and other property. • Effective communication systems from the vehicle to its operating base. • Vehicle is able to be tracked via satellite in real time and an activity trace securely recorded. • Vehicle is fully configured, and at all loadings, certified as resistant to rollover. 	<p>The Department's recently adopted vehicle standards are largely consistent with these standards, as were the draft national standards initially sponsored by the Minister.</p> <p>At the time of writing, Government aims to replace all old vehicles by the end of 2010, with vehicles which meets its standards.</p>

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Notes on progress of implementation
28	<p>That long haul transport vehicles have the following additional standards:-</p> <ul style="list-style-type: none"> • Cells of sufficient height to allow passengers to stand when the vehicle is stopped or to access the toilet. • At least one cell to allow extended leg room for injured and partly disabled passengers (consider installation of a chair lift also). • Enclosed toilets accessible on request by all passengers. • Views of the horizon from a seated position. • A potable water supply. • Redundant power system for air-conditioning when vehicle is stationary. • Vehicle is sufficiently robust to operate at night without risk from livestock. • Dual cabs (for larger inter-prison transfer vehicles) to accommodate a third Officer. 	See above.

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Notes on progress of implementation
29	<p>That the Department of Corrective Services develop a strategy for the dignified conveyance of prisoners and detainees of all security ratings who are infirm, disabled, pregnant or injured including:-</p> <ul style="list-style-type: none"> • Systems to ensure such needs are identified in advance of escorts and notified to those making transport arrangements. • Circumstances and procedures in which non-secure vehicles may be utilised, including sedans, maxi-taxis, ambulance and aircraft and the availability of such resources in each area identified. • Determination as to the requirement within the fleet for chair-lift equipped vehicles and for extra leg room in certain cells in secure vehicles. 	<p>As per 22 above. Issue further discussed (in part) in present Review.</p>
30	<p>That as a matter of urgency, the secure vehicles used by Juvenile Custodial Services be upgraded to safe cell standards, and fitted with at least the same standard of monitoring, communications equipment, GPS tracking and emergency equipment as the adult fleet.</p>	<p>JCS has two new vehicle in operation, which meets high standards. However, it recently decided to refurbish its old Mercedes Sprinter which does not meet the same standards. Issue further discussed in present Review.</p>
31	<p>That to ensure consistent application of vehicle design standards and fleet replacement strategies, the Department of Corrective Services consider placement of responsibility for management of the entire secure fleet under a single desk system.</p>	<p>This recommendation was agreed. However, while Contracts Management properly took responsibility for JCS vehicles, ESG and secure vehicles for prisons are still managed separately. Issue further discussed in present Review.</p>

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Notes on progress of implementation
32	That the Department of Corrective Services ensure that a program of refresher training for all transport staff be considered a core budgetary component of any contract for custodial transport.	Despite an initial assurance that essential refresher training by the Contractor has been improved from within existing resources and subsequent advice that extra funds were provided in contract year 9 for further training for staff ‘who regularly undertake long journeys in regional areas’, a 2009 training audit was scathing about the quality and scope of Contractor training. The Contractor has latterly claimed significant improvements in this area. Issue further discussed in present Review.
33	That the Government ensure that suitable staff facilities are provided in police, courts and Corrective Services buildings at which officers engaged under the CS&CS Contract are expected to work.	This recommendation was not acted on. Nevertheless, such facilities have improved at Broome and Carnarvon and to a lesser extent at some other sites as part of court upgrades. However, the latest contract site, Kununurra, exemplifies such problems. Issue further discussed in present Review.
34	That AIMS, in conjunction with the Department of Corrective Services, develop a strategy to ensure a stronger complement of locally recruited Aboriginal staff in the light of the over-representation of Aboriginal people carried by custodial transport services.	AIMS did in fact receive DEWR funding for an Aboriginal recruit drive in March 2007 which attracted a small but valuable contingent of Aboriginal staff. This should be tried again by G4S.
35	That AIMS, in conjunction with the Department of Corrective Services, revise its staffing arrangements in regional areas to attract and retain experienced staff through strengthening job security, increasing regular hours of work and the provision of better zone allowances, taking account of current job market conditions.	AIMS engaged an HR consultant to review its staffing model and implemented a recruitment/retention strategy. More positions were made permanent-flexi and fly-in/fly-out arrangements were established to support regional operations. Issue further discussed in present Review.

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Notes on progress of implementation
36	That secure medical outpatient and inpatient facilities be included in the scope of the proposed Fiona Stanley Hospital at Murdoch to maximise public security and minimise unnecessary public exposure and use of restraints for those being treated.	We understand that such facilities are in scope of the Fiona Stanley Hospital under development at Murdoch.
37	That Juvenile Custodial Services review its assessment systems and custodial transport policies to eliminate unnecessary use of restraints, especially for medical escorts and authorised absences.	While agreed, there was no further change in JCS procedures or rules. Assessment and classifications systems have not been reviewed. Issue further discussed in present Review.
38	That the Department of Corrective Services review arrangements for intra-regional transport of juveniles and transport of juveniles from remote regions to Perth with a view to service provision by the CS&CS Contractor and/or, where possible by the Juvenile Custodial Services transport unit. Should juvenile custodial facilities be established in any region, Juvenile Custodial Services should accept responsibility for custodial transport of juveniles within those regions and for transfers between those regions and their facilities in Perth.	An in-principle position has been reached between Commissioners of Police and Corrective Services that the latter will assume responsibility for juvenile custodial transport in regional areas. Issue further discussed in present Review.

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Notes on progress of implementation
39	<p>That an inter-departmental taskforce comprising the Department of Corrective Services, the Department of the Attorney General and the WA Police Service be established to urgently re-examine requirements and options for safe and humane transport services for persons in custody, especially in remote and regional areas including:-</p> <ul style="list-style-type: none"> • Establishment of particular standards for custodial transport in regional and remote areas. A system of secure yards to facilitate road journey breaks. • Use of a modified coach for long haul custodial transport to obviate unnecessary overnight stays in police lockups. • Development of a capacity to utilise police air or air charter services for prisoner transport within each region on a routine basis. • Development of an air service for custodial transfers along the coast between Perth and Broome. • Arrangements for the transport of juveniles in custody. • Transport of visitors to custodial facilities and of persons released from custody. • The appropriate mix of service provision by police, corrective services and contractors. • Continuation of court and transport custodial services in a single contract. 	<p>The Inspectorate did not accept that the Board of the Contract constitutes the taskforce envisaged in this recommendation. The CS&CS Strategic Planning Group may have been more suitable. Nevertheless, it accepts that through a range of processes, including the activities of the Board, Government initiatives following the Review of Custodial Transport ordered following the death of Mr Ward, the project to develop a new CSCS Contract and parallel discussions between the Departments of Corrective Services, Police and the Attorney General, the matters raised here have been properly considered. Significant progress has been achieved or is in train in relation to establishment of standards for custodial operations in remote and regional areas, use of coaches and/or air transport for long-haul transport, transport of juveniles in custody and in determining preferred service models and contracting arrangements going forward. Issue further discussed in present Review.</p>

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Notes on progress of implementation
40	<p>That the inter-departmental taskforce also urgently examine requirements for safe and humane custodial services in regional and remote police stations and courts including:-</p> <ul style="list-style-type: none"> • Establishment of essential accommodation and service standards for such facilities. • Development of a capital plan to upgrade or rebuild existing facilities to meet these standards. • Strategies to ensure that such facilities are adequately cleaned, and that persons in custody receive fresh, nutritious food and appropriate levels of care. • Reform of the prisoner trusty program including reasonable work expectations, standards of accommodation and the provision of gratuities and other rewards. • Consideration of the extent to which the CS&CS Contractor should become involved in the provision of such services. 	<p>The Inspectorate is not aware that any inter-departmental taskforce has addressed these matters, but the issues had attention at CSCS Board level leading to a decision to bypass Carnarvon Lockup during inter-prison transfers and further addressed in feedback to the draft Review. Issue further discussed in present Review.</p>
41	<p>That any proposal to return custodial transport services to the public sector be on the basis of a specialised custodial transport service by dedicated transport officers, both in the metropolitan and regional areas, with a central unit responsible for coordination, incident management, specialist training, data collection and compliance with service standards throughout the state.</p>	<p>This recommendation stands as the basis for any major return of custodial transport services to the public sector. A business case for a return of services to the public sector was prepared in February 2007 and remains a consideration in the project to prepare a new contractual arrangement beyond July 2011.</p>

PROGRESS ON PREVIOUS RECOMMENDATIONS

No	Recommendation	Notes on progress of implementation
42	That public sector service provision in custodial transport be transparent and accountable, with comprehensive service standards established for all such services along with excellent systems of data collection, performance measurement, grievance resolution and monitoring. Custodial transport tasking, tracking and reporting systems should operate seamlessly across public, private, adult and juvenile sectors.	Service provision in custodial transport is still siloed between the respective agencies and lack comprehensive service standards, or integrated tasking, tracking and monitoring systems.



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