



OICS Ref: 0208 Vol. 2

The Hon Liz Behjat, MLC
Chairman
Standing Committee on Public Administration
Parliament House
PERTH WA 6000

Dear Liz

Inquiry into the Transport of Persons in Custody

Please find enclosed our submission to the Inquiry and I would like to thank the Committee for granting our Office the extension of time in which to make our submission.

I am available to answer any questions that the Committee may have on the submission.

Yours sincerely



Neil Morgan
Inspector

16th April 2015

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**Submission to the Standing Committee on Public
Administration Inquiry into the Transport of
Persons in Custody**

**Professor Neil Morgan
Inspector of Custodial Services**

16 April 2015

Scope of the Inquiry and of this Submission

The Standing Committee is inquiring into the 'transport of persons in custody in Western Australia'. Terms of reference (a) to (d) all refer to transports undertaken under the Court Security and Custodial Services ('CSCS') Contract and, in particular, to the management and scope of the contract; the 'interaction between stakeholders'; and the issue of regional transportation. However, the Committee's overriding term of reference is to inquire into the 'transport of persons in custody'.

While the CSCS contract covers a large number of movements of persons in custody, there are many areas it does not cover. In entering the CSCS contract, the state has simply chosen to 'buy in' those services for which it has contracted, and it is for government agencies to undertake those services which fall outside contract scope. Government agencies are also able to 'top up' contracted services if demand for a particular contracted service exceeds what has been agreed in the contract.

The complex patchwork of transport services needs to be understood if issues of contract scope, management, performance and improvement are to be properly understood. The majority of this submission therefore provides a review of all the different situations in which adults and children in custody are transported and who is responsible for such transports. It touches on many aspects of terms of reference (a) to (d), and concludes with some additional comments on those terms of reference.

Two critical points must be made at the outset. First, although this is not made explicit in the Committee's terms of reference, duty of care must be the paramount consideration. In January 2008 Mr Ward died a death which the Coroner called 'terrible' and 'wholly unnecessary and avoidable'. His death graphically reinforced the point that when the state chooses to buy in transport services, it does not (and cannot) 'contract out' of its own duty of care to persons in custody. Fortunately, within 18 months of Mr Ward's death, the state had moved from having a decrepit fleet to having some of the best vehicles in the country. I am also confident that Mr Ward's death led to a sharper focus on duty of care in training and operations across both the public and private sectors.

Secondly, the CSCS contract embraces court security and court custody services as well as transport. This is important in a number of ways that may impact on the Inquiry. For example, the ability of a contractor (or for that matter, a public provider) to provide efficient transport services, especially in regional areas, is likely to be linked to the viability of its operational arrangements as a whole. Currently, by having teams of staff working in regional courts, the contractor is able to provide operational bases for its regional custodial transport activities. The dual contractual roles also support inter-operability (and therefore efficiencies) between court security and custody services and transport services.

Role of the Office of the Inspector of Custodial Services

General role

The Department of Corrective Services ('the Department') is responsible for monitoring the contractor's compliance with the terms of the contract and for taking action in the event of any alleged breach.

The Office of the Inspector of Custodial Services (OICS) is not a 'contract monitor' and our oversight role is different in its scope, nature and resourcing. For example, there may be times when a contractor is providing the service for which they are being paid, but OICS has concerns about the scope or quality of service provision. OICS also has the power to examine the effectiveness of contract monitoring.

Although OICS has jurisdiction to examine transport under the CSCS Act, unlike some other areas of custody, it has no obligation to do so. Sections 19 and 20 of the *Inspector of Custodial Services Act 2003* require the Inspector to inspect and report at least once every three years on prisons, detention centres, court custody centres and prescribed lockups. Reviews relating to the transport of persons in custody are therefore not mandatory, but section 22 of the Act does empower an 'occasional' review of a 'custodial service (CSCS Act)'.

Transport and CSCS Reports

In deciding what issues to examine under section 22, OICS must make choices between competing priorities. However, transport has been a strong focus. Some reviews relating to transport have been 'stand-alone', and some have formed part of broader reviews.

The OICS reports that most obviously relate to the transport of persons in custody are:

- *Report of an Announced Inspection of Adult Prisoner Transport Services*, Report No. 3 (November 2001)
- *Thematic Review of Custodial Transport Services in Western Australia*, Report No. 43 (May 2007)
- *Thematic Review of Court Security and Custodial Services*, Report No. 65 (July 2010)
- *Review of Regional Youth Custodial Transport Services in Western Australia*, Report No. 74 (October 2011)
- *Prisoner/detainee transportation in WA* (December 2012)
- *Medical transport incidents - individuals transported after major surgery* (April 2013)

The main OICS reports relating to court custody and court security under the CSCS Act are:

- OICS, *Report of an Announced Inspection of Non-Metropolitan Court Custody Centres*, Report No. 20 (Jan 2004)
- OICS, *Inspection of the Interim Arrangements at the Supreme Court following the Escape of Nine Prisoners from the Custody Area on 10th June 2004*, Report No. 25 (Dec 2004)
- OICS, *Report of an Announced Inspection of Metropolitan Court Security and Custodial Services*, Report No. 31 (Feb 2006)
- OICS, *Report of an Announced Inspection of Regional Court Security and Custodial Services (CSCS)* Report No. 40 (Feb 2007)

- OICS, *Report of an Announced Inspection of the District Court Custody Centre*, Report No. 55 (Jul 2008)
- OICS, *Report of an Inspection of Court Security and Custodial Services under the District Court Building Services Contract*, Report No. 64 (Jun 2010)
- OICS, *Court Custody Centres Inspection 2012/13*, Report No. 87 (February 2014)

Other inspection and review reports

Issues relating to transport are frequently addressed in inspection reports and in reviews. For example, during inspections of prisons, we will observe the processes of embarkation and disembarkation of persons in custody from security, safety and decency perspectives. We also talk to prisoners, staff and management about the processes.

Over and above the prison inspections, we have also undertaken a number of reviews that have examined issues that include transport.

Recent examples of relevant reports include the following:

- *Escapes and attempted escapes from corrections in Western Australia* (February 2015). This included escapes that occurred during transport.
- *Funeral attendances by incarcerated people in Western Australia* (October 2013). A key focus was the Department's decision to slash funeral attendance on the basis of transport and security costs. It proved unable to rationally explain either its costs or its projected savings.
- OICS, *Report of an Announced Inspection of Casuarina Prison*, Report No. 88 (March 2014) and OICS, *Report of an Announced Inspection of Acacia Prison*, Report No. 90 (August 2014). These reports included consideration of the impact of contract shortfalls on hospital escorts and prison operations (see also below).
- OICS, *Report of an Announced Inspection of Roebourne Regional Prison*, Report No. 89 (April 2014) and *Report of an Announced Inspection of West Kimberley Regional Prison*, Report No. 96 (forthcoming). These reports discuss some of the issues arising in regional prisons, such as funeral attendance and distance from courts.

Ongoing liaison

OICS adopts a 'continuous inspection' model which includes regular liaison visits to prisons, detention centres and court custody centres. These visits frequently include consideration of transport issues.

OICS engages with the contract management area of the Department of Corrective Services and also used to be invited to attend multi-agency CSCS stakeholder meetings arranged by the Department (as observers). This engagement is valuable from an OICS perspective but the extent of engagement has varied over time.

Transport and Related Services for Adults

Who does what?

The following Table summarises the provision of transport and related services for adults. It shows that whilst the CSCS contractor (currently Serco) provides a large number of services, many functions remain a public sector responsibility, and some can involve either Serco or a public provider. Further explanations follow the table.

Service Needs	WA Police	Serco	Facility	ESG	ACC	Other
1. Police lockup custodial management						
2. Court security & custodial services						G4S
3. Transfers of arrestees from police lockups to a court						
4. Transfers of adult arrestees from Perth Watch-house to metro courts						
5. Transfer of remandees from regional police lockups to a prison						
6. Transfers between courts and prisons						
7. Hospital orders from court to Frankland Centre						
8. Transfers between prisons						
9. Inter-facility visits						
10. Emergency medical escorts						
11. Medical escorts						
12. Hospital bed sits						
13. Funerals & other approved escorts						
14. Transfers to and from work camps.						
15. Section 95 activities/ reintegration leave/ other day leave.						Various
16. Journey home on or before release						TOP

KEY:

	Main service provider
	Secondary/step-in service provider
Serco	Contractor for Court Security and Custodial Services
Facility	Relevant Prison or Work Camp (Department of Corrective Services)
ESG	Emergency Services Group (Department of Corrective Services) responsible for High Security Escorts
ACC	Adult Community Corrections (Department of Corrective Services), with Offices throughout WA

Police lockup custodial management

The CS&CS Act 1999 provides that a contractor may manage a police lockup which is prescribed under that Act. In the past, Carnarvon, Kalgoorlie and Albany lockups were prescribed. However, only Albany lockup is managed by Serco (and only on days when a court is scheduled).

At the time the original CS&CS Contract was created, it was intended that the contractor would take over all the main regional lockups. This did not proceed. Lockups prescribed under the Act are subject to inspection by OICS.

Court security & custodial services

Serco is responsible not only for contracted transport services but also for court security and the management of court holding facilities at most metropolitan and all major regional centres.

However, a different contractor, G4S, operates court security and custodial services at the Perth District Court and Central Law Courts under a 27 year contract, entered under the CS&CS Act, between the State and Western Liberty Group.

Police continue to manage court security and custody at many court locations in country and regional WA.

Transfers of arrestees from police lockups to court

Generally speaking, WA Police have responsibility for conveying arrested persons to a court for an initial appearance. In remote areas, this may first require transfer from place of arrest to a station with a police lockup and court facility, sometimes over considerable distances in police vehicles or air transport.

Traditionally, initial court hearings in small towns were undertaken by JPs, but they are now increasingly undertaken by circuit magistrates remotely by video or audio-link. If bail is granted, the person may be released locally, but if remanded in custody, will require transfer to a corrections facility (or occasionally the Frankland Centre).

Transfers of adult arrestees from Perth Watch-house to metro courts

Adults arrested in metropolitan Perth or near country areas are generally transferred to the Perth Watch-house for an overnight stay.

If the following morning is a Saturday or Sunday, the initial court appearance is at a court at the Perth Police Station. Here, the contractor undertakes only a court security role.

On weekdays, however, the Perth Police Station Court does not operate and the contractor is required to convey arrestees either to the Central Law Courts, or to an outer metropolitan court for their initial appearance. The intention behind the new Perth Police Station and Watch-house was to stop these morning transfers, with arrestees appearing in one of the courts at the Perth Police Station. Unfortunately, WA Police, the Department of the Attorney General and the Department of Corrective Services have not yet been able to achieve this outcome.

Transfer of remandees from regional police lockups to a prison

The most important gain for WA Police under the current contract was that the contractor is obliged to pick up adult remandees within 24 hours of their court appearance for transfer to a prison, usually the regional prison. Previously, such pickups were scheduled just once or twice in a week, and were sometimes delayed by poor weather.

The 24 hour lockup clearance requirement poses massive logistical challenges for the contractor (as it would for a public sector provider). It means that the contractor must commonly use air charter to complete the pickups within the required time-frame. This can be extremely expensive. At times, too, a second air charter must be sent on the same day or the immediate following days as new defendants are remanded in custody.

OICS understands that the contractor is meeting the 24 hour clearance requirement, and it represents an important gain for police. However, it is operationally difficult for police to manage a person in custody in a lockup overnight after a court appearance. Police often therefore prefer to undertake a transfer to a prison later that day. In such circumstances, the police and the contractor often agree to undertake a 'beat transport', which means the contractor and the police meet at a suitable point between the police station and Serco's regional hub.

Transfers between courts and prisons

Serco is generally responsible for the transfer of adults in custody to a prison following attendance at court. It is also responsible for transferring to the court any prisoners who need to appear in person. However, the Emergency Support Group (ESG) undertakes high security escorts for any prisoner presenting a serious security or behavioural risk, including for court transfers, inter-facility transfers, medicals and funerals.

The number of remand prisoners has risen dramatically in the last few years but demand for personal appearances in court has largely been held in check because a large number of court appearances are now undertaken using video or other technologies.

Hospital orders from court to Frankland Centre

The Frankland Centre is the state's sole forensic mental health facility (and far too small). People committed to Frankland are normally escorted by the CS&CS Contractor. However, transfers may also be undertaken by Police or, in the case of particularly difficult or violent individuals, by the ESG.

Transport of psychiatrically unwell people from regional areas can be problematic and difficult to arrange. In some cases, travel on the RFDS with the patient under sedation is possible. Otherwise, direct air charter or road transport may be used.

Transfers between prisons

The contractor undertakes the vast majority of inter-prison transfers across the state. After admission to a facility such as Hakea or Bandyup prison in Perth, or to a regional facility such as Albany or Roebourne, prisoners may be transferred to other facilities where their security risk or other needs can be better managed.

A weekly air charter operates between Perth and Broome return, with stops at Geraldton and Karratha to facilitate transfers among the three Northern prisons and the metropolitan facilities. This arrangement is far quicker and far more humane than the four day journey in pod-style vehicles which prevailed for much of the previous contract. Weekly coach services also now operate to Eastern Goldfields and to Albany/Mt Barker.

Bulk transfers between metropolitan prisons operate on weekly (or bi-weekly) schedules, but many additional escorts have been needed in recent months to reduce numbers at Hakea each week and to fill Acacia to its expanded operating level.

Inter-facility visits

Traditionally, partners and close relatives held in different men's and women's facilities in metropolitan Perth have been allowed inter-facility visits, usually scheduled on a fortnightly or monthly basis. The number of such visits appears to have been reduced.

Emergency medical escorts

Every prison and work camp must be capable of sending staff on an emergency medical escort at any time. Facilities have secure or other vehicles which may be used for this purpose, but such escorts will often be undertaken by ambulance.

Other medical escorts

Scheduled medical escorts from regional prisons and from maximum and medium security metropolitan prisons are undertaken by the contractor. In the case of work camps, metropolitan minimum security prisons and Pardelup Prison Farm, they are undertaken by the facility itself.

Generally speaking the evidence suggests that the contractor is doing an effective job in facilitating the attendance of prisoners at medical appointments. However, medical escorts are often still routed indirectly, with the person going to the appointment via other prisons or courts. Generally speaking, facilities which undertake their own escorts benefit from greater flexibility.

Following a series of escapes in late 2013 and early 2014, including by an unrestrained minimum security prisoner from Karnet on a medical escort, procedures relating to the use of restraints were tightened for all prisoners on escort. Notwithstanding the gradual and selective easing of these procedures, minimum security prisoners have often found themselves in the anomalous position that despite being trusted to undertake work or other activities in the community (in some cases without direct supervision), they are being doubly restrained under a two officer escort when attending a medical appointment.

Hospital bed sits

Hospital sits (also known as 'static escorts') arise when a prisoner is admitted to a medical facility for an extended period, often for one or more nights. This requires 24-hour supervision by two officers.

Under the Baseline Volume Banding system of the current contract, Serco is required to provide up to five simultaneous hospital sits in the metropolitan area and just one in regional WA. It is understandable that on developing the contract the state wanted to place limits on the amount paid under the CSCS contract. However, these numbers are too low to meet actual demand.

Prisons themselves can undertake hospital sits that are required over and above the baseline. However, this means either calling in additional staff on overtime, or utilising staff who are already on duty and closing down other areas of prison activity (such as workshops, training or recreation). Managing demand for hospital sits has been a serious issue at metropolitan prisons.

In regional WA, it is simply luck whether the single bed sit contracted capacity is available at the time it is needed. Regional facilities can at times be severely pressed to mount a static escort and the contractual arrangements mean that local Serco staff cannot assist even if they have the capacity to do so.

Funerals and other approved escorts (including medical)

Prisoners may apply to attend a funeral of a near relative or for a compassionate visit to a gravely ill relative. In 2012/13, the Department decided to reduce funeral attendances as a cost cutting measure. The costs of undertaking escorts, and therefore the potential savings had not been properly quantified. However, cost (based largely on distance) became, in effect, a disqualifier for Aboriginal people in regional prisons. This disadvantaged Aboriginal people and disrespected Aboriginal culture.

By mid-2012, the current CS&CS Contract had been operating for 12 months. It was already clear that the Baseline Volume Banding system was not providing enough services to meet demand, particularly in regional WA. The contract combines service delivery for medical escorts, funerals and other approved escorts, such as allowing prisoners to visit dying relatives. Escorts are provided based on the travel distance, with fewer escorts being available as distance increases. The contract allows for very few escorts over 200km to be carried out per month. Despite multiple requests during this Office's 2013 review on funeral attendances, the Department was unable to provide an analysis which explained how the estimated service provision in the contract was determined.

If the baseline volume was reached for any one of these escorts across the whole of regional WA, the Department either did not proceed with an escort or sought a quotation from the contractor to provide an additional service. Additional services are outside the contract and, like any other quotation process, will reflect the willingness of the contractor to undertake the additional work and whether there is competition for service delivery.

Essentially, if the state chooses to buy in a certain number of services from the contractor, but it turns out that more are needed, it can either buy additional services from the contractor, or it can deliver the service itself. The fact that a contract includes some coverage for funerals and other escorts does not mean that such services can only be delivered under contract, regardless of whether the baseline has been reached.

In fact, it may well be cheaper if the facility itself provides the service freeing up other escorts to be carried out under contract. For example, if Serco is to provide funeral escorts to prisoners at West Kimberley Regional Prison, it must arrange staff from its Broome base, and must comply with the contract schedules. The prison itself is directly adjacent to an airstrip and may well be able to provide the same service at a lower cost. However, the Department appears not to have provided regional facilities with sufficient resources or approvals to undertake their own escorts.

Transfers to and from work camps

Transport of prisoners to work camps is listed as a service exclusion in the CS&CS Contract except at the specific request of the Contract Manager. Such transport is therefore normally undertaken by the work camp or the sending facility. However, we understand that the contractor has assisted at times with transfers to and from the Wyndham Work Camp from Broome or West Kimberley Regional Prisons.

Section 95 activities/ reintegration leave/ other day leave

There are many ways in which prisoners may be approved to be 'out of prison'. Subject to security assessments they may engage in reparative work, recreation or training activities in

the community under s.95 of the Prisons Act. The Prisoner Employment Program (PEP) allows selected prisoners to undertake paid employment or to attend job centres. Reintegration Leave allows selected prisoners to attend home for short periods up to 72 hours to reconnect with family. And, subject to approval from the Prisoners Review Board, prisoners with indefinite sentences may undertake a Resocialisation Program.

Transport and supervision arrangements for these various forms of leave will vary according to the conditions applicable to each prisoner and the type of day leave. Generally, civilian sedans, vans or work vehicles driven by prison staff are used. However, in some cases, workers from other agencies or family members may be approved to provide transport. In rare cases the prisoner may be allowed to ride a bicycle, use public transport or drive their own car, especially under PEP.

Journey home on release

The Committee's terms of reference refer to 'persons in custody'. By definition, a person who has been released from custody is no longer a 'person in custody'. However, it is important to consider this group because a justice system that is committed to reintegration and community safety must try to ensure 'safe passage' home. Some of the services that assist in this are also provided under contract with the Department.

Persons in custody are often released from a court or a prison some distance from their homes. Ideally, family or friends would attend and be able to take them home. However, in the past, people often found themselves released, sometimes unexpectedly, without the resources to get home safely. This caused many problems in regional towns, and often led to drinking and anti-social activities.

In recent years, Adult Community Corrections has taken responsibility to assist people released from court, as appropriate providing bus tickets or other arrangements. For some years the Department has also funded agencies through the Transport Options Program (TOP) in regional areas. TOP services are commonly provided under contract by the agencies that provide re-entry services at the prisons. In many cases, TOP workers drive released prisoners back to their home communities, but some are sent by bus, air charter or other means.

Although programs such as TOP operate well when there is time for planning and coordination by the prison, it is difficult to manage 'unexpected releases' following a court appearance, including video-linked courts.

Many prisoners from regional areas still serve most of their prison time 'out of country'. Some will be released directly from those prisons but they will often be taken to the closest regional prison shortly before release. This will generally be a task for the CS&CS contractor.

Transport and Related Services for Youth

Who does what?

The following Table summarises the provision of transport and related services for youth. It shows that, as with adults, Serco provides a large number of services under the CSCS contract. However, many functions remain a public sector responsibility and some involve both Serco and a public provider. Further explanatory comments follow after the table.

Service Needs	WA Police	Serco	Facility	ESG	YJC	YJCS
1. Police lockup custodial management						
2. Court security & custodial services						
3. Transfers of arrestees from police lockups to a court						
4. Transfers of youth arrestees from metro & near-metro police lockups to detention ie Banksia Hill						
5. Transfer of remandees from regional police lockups to detention						
6. Transfers between courts and detention facility						
7. Hospital orders from court to Frankland Centre						
8. Transfer from detention to prison						
9. Inter-facility visits						
10. Emergency medical escorts						
11. Medical escorts						
12. Hospital bed sits						
13. Funerals & other approved escorts						
14. Day release						
15. Journey home on release						

KEY:

	Main service provider
	Secondary/step-in service provider
	Areas for which YJC is traditionally responsible but presently undertaken by Serco.
	Serco Contractor for Court Security and Custodial Services
	Facility Relevant Prison or Work Camp (Department of Corrective Services)
	ESG Emergency Services Group (Department of Corrective Services) responsible for High Security Escorts
	YJCS Youth Justice Community Services (Department of Corrective Services), with Offices throughout WA

Police lockup custodial management

See comments relating to adults (above).

Court security & custodial services

Serco has been running court security in the Perth Children’s Court (PCC) since it took over the CSCS contract from G4S.

However, up to 2013, Youth Justice Custodial Services (YJCS) had responsibility for managing the PCC holding rooms. YJCS had done a good job but staff shortages in the aftermath of the

Banksia Hill Detention Centre riot in January 2013 led to the Department contracting Serco to operate the PCC holding facility on a 'temporary' basis. This arrangement continues. At the same time, Serco took over the transport of youth between the detention centre and the court (see below).

Transfers of arrestees from police lockups to a court

In regional and country areas, youth are brought to their initial court appearance by police.

Transfers of youth arrestees from metro & near-metro police lockups to detention

Young people arrested by police in the metropolitan area and some adjacent country areas are brought to Banksia Hill by police before their initial court appearance.

Transfer of remandees from regional police lockups to a prison or detention facility

The transfer of young people from regional courts and lockups to youth detention in Perth was originally excluded from the CS&CS Contract, and responsibility remained with police.

In late 2010 this task was handed over to Youth Justice Custodial Services as an extension of their existing responsibilities in relation to youth custodial transport, such as court transfers, medical and funeral escorts.

However, as discussed above, in 2013 Serco temporarily assumed responsibility for all youth custodial transport services, including regional. Transfers of youth from the regions are conducted separately from any escorts for adults in custody and are undertaken by commercial airline or air charter as appropriate.

Transfers between courts and detention facility

Prior to 2013, Youth Justice Custodial Services carried out court escorts for young people in custody. Serco took over this function in 2013. These escorts are conducted separately from those involving adult prisoners.

Hospital orders from court to Frankland Centre

It is extremely rare for young people to be remanded to the Frankland Centre. If this does happen, they will be taken to the Frankland Centre by either Serco or WA Police.

Transfer from detention to prison

Most transfers of youth to adult facilities occur following an appearance in court. They only rarely occur directly from one facility to another. Serco is therefore the main provider of such services.

Inter-facility visits

Visits involving a youth and a close relative or partner in an adult facility are very rarely facilitated. If they occur, Serco will be the likely provider.

Emergency medical escorts

As with adult prisons, Banksia Hill Detention Centre maintains its own capacity to transfer young people to hospital in the event of medical emergency.

Medical escorts

As with other youth transport arrangements, Serco has been ‘temporarily’ responsible for medical escorts for young people in custody since 2013. Medical escorts and other ‘discretionary’ escorts are conducted separately from those involving adult prisoners.

Hospital bed sits

Serco is also temporarily responsible for hospital bed sits for young people in custody.

Funerals & other approved escorts

As with prisoners, young people can apply to attend a funeral or to visit a gravely ill close relative. However, it is expensive to mount a funeral escort from Banksia Hill to country and regional areas and significant restrictions apply to youth as well as to adults.

Day release

In theory, a ‘Day Release’ program affords young people the opportunity to spend time in the community attending a course, visiting an accommodation service provider, undertaking work experience or other rehabilitative activities. In practice, day release is extremely rare. In the past, centre staff in civilian vehicles, other agency vehicles and parents provided transport for such leave.

Journey home on release

Staff at Banksia Hill make arrangements for young people to return to their homes upon release, engaging parents whenever possible, and Youth Community Justice Services (YCJS) staff as needed. Banksia Hill staff accompany young people who are returning to regional areas by plane to the gate at the airport. The young people are then met on arrival by YCJS staff, and taken home to their town or community.

Terms of Reference (a) to (d)

Terms of Reference (a) to (d) are matters on which the Department of Corrective Services is best placed to provide data, analysis and commentary at this early stage in the Committee’s Inquiry. The following points are broad in scope and draw mainly on material contained in the preceding discussion. However, the Inspector and OICS staff will be available to provide further comment as the Inquiry evolves.

(a) Oversight and management of the Court Security and Custodial Services Contract, including sub-contractors, by the Department of Corrective Services

As this term of reference states, it is for the Department to manage the contract itself. The Department also publishes annual reports on the CSCS contract, which are publicly available on their website.

Contract management, especially of a high value contract as complex as the CSCS contract, is clearly a matter that requires adequate resourcing, combined with experience and expertise on the part of contract managers. Ideally, in my view, the CSCS contract management teams should include a combination of high level operational experience and legal skills. Our reports, supported by experience, indicate that the quality, rigour and

balance of contact management across a number of Departmental contracts has often been good but that it has been uneven over the years. This is not surprising, and would probably be true of every government department, but it presents significant risk.

Monitoring of regional CS&CS court and transport operations is essential because of the distances travelled and the potential risks. However, it is difficult and resource intensive. This Office understands that the resources devoted to contract management across the Department have been reduced since 2012. This is likely to have impacted further on regional monitoring.

As stated above, OICS has a different and more limited role from contract monitors, but is able to conduct 'occasional' (not 'mandatory') reviews of transport. A number of reports have been published (see above) and the work of the Office was highly influential during the Coronial inquest into Mr Ward's death.

(b) Whether the current scope of the contract adequately meets service demand

This is a very broad question. First, as discussed, there is a demand for a huge range of services across both the adult and youth justice systems. There will always be a need for some publicly provided services in addition to any contracted services that may be bought in. In that sense, no contract will ever meet full 'service demand'.

The 2013 experience with youth justice is important as it showed that demand and contract scope can change. The existence of the CSCS contract with Serco allowed the Department to buy in new services at a time when it needed to bolster staff resources at Banksia Hill. Serco appears to have successfully met the additional contract requirements (metropolitan and regional transfers and court custody management).

In terms of the currently contracted services, many demanding aspects of the contract are being well-met, including standard metropolitan transports and the 24 hour lockup clearance requirement in regional WA. However, coverage for unpredictable ad hoc transports has proved problematic. The most obvious examples of this (see above) are (i) regional ad hoc escorts (including for medicals and funerals) which are impacted by the Baseline Volume Banding System; and (ii) metropolitan and regional hospital sit coverage also impacted by limitations in the Banding System.

Resolving these challenges will require detailed discussion and negotiation. However, it seems to me that two approaches must work hand in hand. First, the structure and terms of the contract will need to be revised to inject more flexibility, and to review the Baseline Volume Banding System and the pricing schedules for additional escorts. Secondly, the Department should examine whether it is more appropriate and efficient for it to provide the additional services, especially in regional areas. To date it appears generally to have been hesitant to do so.

(c) The interaction between stakeholders in the performance of the contract

This question is best directed to the actual stakeholders.

At this stage, I would simply emphasise that poor communication or information sharing will generate serious risks. The contractor is being asked to do a job that carries inherent risks to personal and community safety and must be adequately informed on issues such as who is being transported, the risks they are assessed to pose, and any current intelligence that may impact on their behaviour or risks.

Over the years, there have been situations where communication has been inadequate. The most obvious example was the escape of nine prisoners from the custody area of the Supreme Court. The escape reflected a number of factors, including physical security deficiencies (which had been identified by this Office but not fixed) and poor communication with the contracted staff responsible for managing these prisoners in the court custody area.

Another example, which shows the complex balancing that can be required, concerns medical escorts. Our March 2013 review of medical transport incidents found that escorting officers had very little idea of the nature of the procedures that the persons in custody had undergone. This presented difficulties in terms of their transport back to prison in vehicles that may have been excessively uncomfortable (and potentially risky), and with staff not provided with information which would have ensured continuity of care. While recognising issues of patient confidentiality, we concluded that better communication was required on the part of the hospital, the Department and the contractor.

(d) Implications for Department of Corrective Services on regional transportation of prisoners and contract scope

The previous discussion has already highlighted some issues relating to regional transport. It has suggested, in essence, that more flexibility is required, not only in the CSCS contract itself but, even more fundamentally, in working out the most effective and efficient balance between private and public sector service provision.

The fact that a contract for services exists does not prevent services over and above the contract being delivered by prisons themselves. And in our experience, regional prisons are willing and able to do this, subject to appropriate central direction and oversight.

In regional areas, there are obviously some enormous logistical challenges. Some of these are inherent in the size and remoteness of the regions but they are also exacerbated by the fact that the major court facilities in both the Kimberley and the Pilbara are around two hours by road from the major prisons.

Consideration also needs to be given to the role (and standards) of police lockups. From a police perspective, and from a human decency perspective, it is understandable that the target is for a 24 hour clearance: too many regional lockups are in a run-down state. However, this can have expensive consequences, as where people are moved from the East Kimberley to Derby or Broome to 'cut out' fines. Consideration of regional transportation and contract scope will therefore require strong inter-agency collaboration.