

# Inspector's Overview

## HAKEA PRISON: DELIVERING GOOD REMAND SERVICES TO THE JUSTICE SYSTEM BUT OVERCROWDED, OVER-STRETCHED AND OVER-STRESSED

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### HAKEA DOES A REMARKABLY GOOD JOB IN DELIVERING SERVICES TO THE JUSTICE SYSTEM

Hakea Prison is Western Australia's main metropolitan male remand and reception prison. It holds around 1,160 men. Around 200 have been sentenced but the majority are awaiting trial.

Hakea faces major infrastructure limitations and is overcrowded, stretched and stressed. In the circumstances, it does remarkably well in providing core remand services for the justice system.

Prisoners are constantly coming and going. In 2017, Hakea managed over 16,500 prisoner movements in and out of the prison without major incident. Prisoners' property was managed well, with no recorded complaints about missing or damaged property. Bail services were stretched but generally well-managed, and coordination with the courts was good. The legal profession should also be pleased that, after some years of negotiation and pressure from our Office, the Department of Justice (the Department) has amended its policies to make it easier for lawyers to take laptops into the prison for client consultations.

The video link area provides the best example of how staff managed, against the odds, to service the courts. In each of the last two years, they facilitated around 25,000 video link court appearances from a centre that was small, run-down, high risk and unfit for purpose. I am pleased to report that the current government prioritised the construction of a new video link facility. This became operational on 1 February 2019 and will provide a safer and more appropriate environment.

### POOR SYSTEM PLANNING HAS IMPACTED HEAVILY ON HAKEA

Over the past decade, the Western Australian prison population has grown from 4,000 to over 6,900, an increase of almost 75 per cent. Hakea has been heavily impacted, not only by this general increase, but also by the fact that remand numbers and women have increased even faster.

Between February 2009 and February 2019, remand prisoner numbers increased by 200 per cent (from 690 to 2,050). They now comprise 30 per cent of the prison population, compared with 17 per cent in 2009. The number of female prisoners increased by 140 per cent over the same period (from 300 to 730). Women now comprise 10.5 per cent of the prison population, compared with 7.6 per cent in 2009.

Unfortunately, as we have said numerous times, there was inadequate planning and investment for these two critical growth areas, even when the trends were obvious.

## HAKEA PRISON: DELIVERING GOOD REMAND SERVICES TO THE JUSTICE SYSTEM BUT OVERCROWDED, OVER-STRETCHED AND OVER-STRESSED

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The growth in remand numbers cranked up the pressure on Hakea, in terms of both overcrowding and service delivery. The previous government did build two additional accommodation units but added little other infrastructure. And, as it turned out, the new units were rarely available for Hakea. For most of 2013, they held juveniles following a destructive riot at Banksia Hill Detention Centre (OICS, 2013c). Then in 2014, the government decided to convert them into a women's prison (Melaleuca Remand and Reintegration Facility).

The opening of Melaleuca did reduce intolerable overcrowding at Bandyup, but there are two major problems. First, it falls far short of what is needed (OICS, 2018). Women need a new, purpose-built, female-specific facility. Secondly, the decision to excise much-needed remand beds from Hakea when the remand population was booming, means that it is far too small to meet demand. This, in turn, generated serious problems for Casuarina Prison which must now house a large number of remand prisoners, intermingled with its long term sentenced population (OICS, 2016).

### CONDITIONS ARE OVERCROWDED, STRESSFUL AND DEGRADING

Hakea is severely overcrowded, with no signs of reprieve. In 2015, it held around 900 people in 12 residential units. It was already under stress (OICS, 2016d). It now holds almost 1,200 men, and has only 10 units, as a result of the decision to create Melaleuca.

The residential units were noisy, cramped and stressful. Some were so crowded that it was considered too dangerous to unlock all the prisoners at one time, and they were regularly locked behind grilles. Prisoners spent most of their days lingering in unit wings with little to do except get bored. They had to eat in their cells because there was not enough space in the day rooms, encouraging poor hygiene. And there were long queues to use the telephones, which was causing stress and tension. The environment was not decent or humane, but it was tense.

Almost every cell in Hakea houses two prisoners. All are small and many do not meet national or international standards for one person, let alone two (OICS, 2016e). Cell mates must negotiate the use of floor space, chairs, bunk allocation, television, radio, lights and toilet.

The lack of personal space and privacy compromises dignity. 'Doubling up' also compromises safety. This is a matter I am continuing to monitor, and have again raised with the Department of Justice following some incidents that occurred after the inspection.

I was disappointed that the Department did not support Recommendation 4, that prisoners should have a clean set of clothes available every day. This should be an easy fix.

## HAKEA PRISON: DELIVERING GOOD REMAND SERVICES TO THE JUSTICE SYSTEM BUT OVERCROWDED, OVER-STRETCHED AND OVER-STRESSED

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Some accommodation units were doing it, but others were not. Improved oversight should solve the problem.

Every area was impacted by overcrowding. The kitchen was not equipped to cater for such a large population, access to recreation was restricted, and prisoners experienced excessive waiting times for medical appointments.

Overcrowding also impacted on families, as the visits booking telephone line could not keep up with demand. Even when families could get through, prisoners were not always able to get their entitlement to visits, either because the sessions were booked out or due to contact restrictions.

### The expansion of Casuarina and Bunbury prisons

The government recently announced the injection of \$96.3 million to construct 512 additional prison beds at Casuarina and Bunbury prisons. Provided that the prison population remains relatively stable, as it has for the last 12 months, this should offer the Department the opportunity to mitigate the most severe levels of overcrowding at prisons such as Hakea and Casuarina.

I am also pleased that there will be a focus on mental health and drug treatment at the new Casuarina units, and that some of the prison's supporting infrastructure will be improved. Too often, in the past, beds were just added to prisons without any clear focus on prisoners' needs and other infrastructure requirements.

## SHORT STAFFING WAS INCREASING PRESSURE AND LEADING TO EXCESSIVE LOCKDOWNS

As prisoner numbers increase, so does the need for more staff on the floor. Staff numbers are governed by a local agreement, but Hakea has too often been short of the agreed number.

Traditionally, prisons covered daily shortfalls by bringing staff in on overtime, even if this meant going over their allocated overtime budget. However, this was leading to massive cost blowouts. In early 2018, the Department instructed all prisons, including Hakea, to remain within their allocated overtime budgets.

As a result, Hakea was almost always short-staffed during the first half of 2018. Under the Department's agreement with the Western Australian Prison Officers' Union (WAPOU), the prison implemented a rolling lockdown regime when it was short-staffed. Prisoners were regularly locked in their cells or behind the grilles in the units. In the first quarter of 2018, there was only one day in February and one day in March when Hakea did not experience some form of lockdown.

## HAKEA PRISON: DELIVERING GOOD REMAND SERVICES TO THE JUSTICE SYSTEM BUT OVERCROWDED, OVER-STRETCHED AND OVER-STRESSED

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When the grilles were closed, the level of interaction between staff and prisoners was severely reduced. The atmosphere was stressed and tense, and prisoners told us they felt unsafe because staff were no longer patrolling the wings and providing adequate supervision.

Prisoner disengagement, a lack of meaningful activity, a poor sense of safety, and restricted access to recreation, telephone calls and basic services are known risk factors in any prison.

### IMPACT OF THE GREENOUGH PRISON RIOT

On 24 July 2018, a riot broke out at Greenough Regional Prison. Prisoners gained control of the prison, threatened staff with makeshift weapons, and sprayed staff with chemical spray. Male prisoners breached an internal fence and gained access to the women's unit, and 10 men escaped.

The independent review of the incident found that the causal factors included the increased frequency of lockdowns and staff shortfalls, resulting in 'constant uncertainty and disruption to normal routines for staff and prisoners; and increasing limitations on access to work, recreation and services which led to frustration, disengagement and boredom among prisoners' (Shuard, 2018). Clearly, these factors were also present at Hakea.

In the wake of the Greenough incident, the state-wide overtime budget restrictions were lifted and, for the first time in months, we saw prisoners out of their units, participating in recreation and attending work and education. However, this proved short lived and soon Hakea began to fall short on filling overtime shifts again. After the inspection, even though the Department had loosened the overtime restrictions, lockdowns were still occurring and tensions have remained high.

### REMAND PRISONERS NEED MORE PRACTICAL SUPPORT

Some remand prisoners spend a long time in prison before their cases are finalised, but a large number are released after a short time. In a report published in 2016 (OICS, 2015), we found that for remand prisoners:

- 55 per cent were released in under a month
- 25 per cent were released in less than a week
- the average stay was less than three weeks for women and four weeks for men.

A new contract for reintegration/ transition services commenced in 2018. The Department has prioritised services for longer term and higher risk sentenced prisoners.

## HAKEA PRISON: DELIVERING GOOD REMAND SERVICES TO THE JUSTICE SYSTEM BUT OVERCROWDED, OVER-STRETCHED AND OVER-STRESSED

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However, short stays in prison can also be extremely distressing, disruptive and destructive for prisoners and their families. Issues include housing, employment, family responsibilities, and household bills.

Hakea had recognised these needs and was employing a person for three days a week, on a casual basis, to assist prisoners. I am pleased to say this increased to five days after the inspection, but more is needed.

### THERE IS AN INEXCUSABLE AND DAMAGING BACKLOG IN ASSESSMENTS

Assessments are a vital component of an efficient and effective prison system. They determine matters such as a person's security rating, their education and treatment needs, and their optimal prison placement. Assessments therefore have a major impact on a person's time in prison and their prospects of being granted parole. They are expected to be conducted within 28 days of the person being sentenced.

Hakea is the main assessments prison for male prisoners but has fallen way behind. On 7 January 2019, 538 assessments needed to be done for men in the metropolitan area, 483 of which were past the 28-day requirement. Reasons include the complexity of the assessment tool and under-resourcing of the Hakea assessments area.

The backlog has serious impacts:

- It affects prison management, as it hinders people's 'flow' through the system.
- By 2018, it was so severe that programs around the state were cancelled. This was not because there were no prisoners needing them, but because they were not assessed.
- It presents a risk to community safety as people will not be given the tools to change their offending behaviour.
- It reduces prisoners' prospects of gaining parole, resulting in them spending longer in custody and inflating an already overcrowded prison population.

Recommendation 2 in this report calls on the Department to ensure that assessments are completed within the prescribed 28 day period. It has supported this recommendation, claiming that it is already addressing the problem and will have completed the task by the end of March 2019.

One of the Department's strategies, implemented in June 2018, was to deprioritise some groups of prisoners, essentially denying them the opportunity to participate in rehabilitation programs. This strategy appeared to be driven by the Department's need to reduce a backlog and not by prisoner or community needs. In any event, seven months on, the backlog remains very high.

## HAKEA PRISON: DELIVERING GOOD REMAND SERVICES TO THE JUSTICE SYSTEM BUT OVERCROWDED, OVER-STRETCHED AND OVER-STRESSED

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I have requested updated monthly advice from the Department about the extent of the backlog and its remedial strategies, and will continue to monitor the situation. Potential solutions include devolving responsibility for assessments to other prisons which hold large numbers of unassessed men, notably Acacia. At present, the Hakea assessments team is travelling to these prisons to try and catch up, but they are swimming against the tide.

### HAKEA HOLDS TOO MANY SENTENCED PRISONERS

Although Hakea is primarily a remand prison, it holds close to 200 sentenced prisoners. Some of them are there for assessment, but some are there on a longer term basis. For reasons discussed in this report (see 4.3), we are of the view that this is inappropriate and have recommended that sentenced prisoners should be moved on so that Hakea can concentrate on its core remand functions.

The Department has simply 'noted' our Recommendation. It is therefore not clear whether they accept or reject it.

### STAFF/MANAGEMENT RELATIONS HAD IMPROVED BUT THERE WERE POCKETS OF BULLYING AND SEXISM AMONGST STAFF

Hakea has always been a complex prison, and at times it has been extremely negative and unhappy, with a marked divide between staff and management. I am pleased to report that we found much less antagonism during this inspection. This is a tribute to the Superintendent and his team, and it is vital for the Department to build on those gains.

Unfortunately, our staff surveys and our on-site discussions and observations revealed widespread concern about bullying and sexism (see Recommendation 16). Again, I am pleased to report that management made it clear that they had zero tolerance for such behaviours and have already instituted some remedial measures.

### RESPONSES TO THE REPORT

It has taken longer than normal for this report to become public. We sent a copy of the Department on 21 November 2018 and, in line with agreed protocols, requested the formal response in three weeks. However, we did not receive it until 21 January 2019, almost six weeks late.<sup>1</sup>

I was also disappointed with some of the responses. Some are clear and well-crafted, but others are unclear. For example, the Department has simply 'noted' four of the recommendations. Under our Memorandum of Understanding, the 'noted' response is used when the recommendation is outside the control of the Department or when it

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<sup>1</sup> Under sections 34 and 37 of the *Inspector of Custodial Services Act 2003*, we must give affected parties a 'reasonable period' to make submissions. After a report is lodged in Parliament, there is an embargo period of at least 30 days (s 35 of the Act).

## HAKEA PRISON: DELIVERING GOOD REMAND SERVICES TO THE JUSTICE SYSTEM BUT OVERCROWDED, OVER-STRETCHED AND OVER-STRESSED

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intends to conduct a further evaluation before making any commitment. However, all four of the 'noted' responses involve matters that fall within the Department's control, and in none of the cases is there any commitment to conduct a further evaluation. In fact, in all four cases, the Department has said that a completion date is 'not required'. This seems to imply that it will not be taking action in response to the recommendations.

**Neil Morgan**  
**Inspector**

**7 February 2019**