

Ms Margaret Quirk; Mr Jim McGinty; Mr House; Chairman; Mr Tony O'Gorman; Mr Tony Dean; Ms Sue Walker; Mr Dan Barron-Sullivan

Division 34: Office of the Inspector of Custodial Services, \$1 422 000 -

Ms Guise, Chairman.

Mr McGinty, Attorney General.

Mr R. Stacey, Director of Operations.

Mr D. Summers, Manager, Business Services.

Ms QUIRK: I draw the Attorney General's attention to the mission statement on page 573 of the *Budget Statements*. Have any trends emerged in Western Australia's imprisonment rates?

Mr McGINTY: Significant issues are emerging in Western Australia's imprisonment rates, as there has been quite a remarkable turnaround. Western Australia has the dubious distinction of having more of its citizens imprisoned per capita than other States in Australia. In the 1990s, this situation was severely exacerbated as a result of a number of the previous Government's policy initiatives. I am pleased to say that as a result of this Government's policy initiatives, we are providing a more effective social and economic direction for Western Australia's prison services. I will be able to provide more detail about this when we come to the division involving the Department of Justice. As far as the role of Inspector of Custodial Services is concerned, the imprisonment rate obviously has an impact on the way in which he deals with matters. Indeed, when the prison system is chronically overcrowded, the Inspector of Custodial Services has many more problems with which he must deal.

Mr HOUSE: Although not exclusively, to a large extent the Pardelup Prison Farm has traditionally been used for Aboriginal prisoners. In that regard, it has provided a good service because it has allowed custodial sentences to be served in a way that is more appropriate to an Aboriginal's general way of life - I cannot think of a better way to put it. The Government has taken steps to reduce this service; however, I believe it should be expanded. Will the minister explain why he took steps to close the prison farm, when it served as a worthwhile part of the prison process for indigenous prisoners?

The CHAIRMAN: Will the member for Stirling please indicate the page number and item to which he referred?

Mr HOUSE: It should be a dot point under achievements, but it is not there!

The CHAIRMAN: That is a nice try!

[10.50 am]

Mr McGINTY: The reasons behind the decision to close Pardelup Prison Farm and to reconstitute it as a work camp will be more adequately explained when we come to the division involving the Department of Justice. However, the farm impacts upon the Inspector of Custodial Service's responsibilities. The decision to close was purely economical. We are trying as best we can to get minor offenders and people in minimum-security facilities out of the prison system so that they can be punished in the community for both economic and social reasons. I would like to see more facilities such as Pardelup Prison Farm, which I visited last year. A significant part of the prison population is better dealt with and punished in that sort of environment rather than in the maximum-security Casuarina Prison or Albany Regional Prison. Some people must be locked up in a maximum-security environment. However, a large number of people will benefit from this initiative. By that I mean that a large number of people are less likely to re-offend if they are dealt with in an environment such as at Pardelup, Karnet and Wooroloo Prison Farms. It was not an easy decision to make because it was an excellent facility. If we were not under such enormous economic pressure in providing prison services, and I will say more about that later, it is the sort of facility in which we would like more people to be imprisoned, if I can call what happened at Pardelup imprisonment.

Mr O'GORMAN: Dot point one under significant issues and trends indicates that this is the first full operational period for the Office of the Inspector of Custodial Services. Can the minister provide a brief outline of the operations of the Inspector of Custodial Services; that is, how inspections are conducted, etc?

Mr STACEY: The Office of the Inspector of Custodial Services outlined its methodology in the last annual report. In summary, the process is that we continuously collect information about the performance of prisons across the State. It comes to us by a variety of means. We monitor some of the information from the department itself, we visit prisons and we are informed by members of the community. In the lead-up to an inspection, we also survey the prisoners and the staff at the location. All this information is composed into what we call an inspection plan. The inspection plan then is the basis on which we inspect prisons. During an on-site inspection phase, inspectors walk around the prison, make direct observations of the operations, speak to members of staff,

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interview prisoners and speak to senior and local management. On the basis of the information we collect off site and on-site; we then compose the report.

Mr DEAN: Has the Inspector of Custodial Services been invited at any stage to inspect the Curtin detention centre? Has that invitation been taken up? If it has been taken up, how did the detention centre compare with Western Australian regional and metropolitan prisons?

Mr McGINTY: The answer to the member's first two questions is yes. The Inspector of Custodial Services, Professor Richard Harding, visited the Curtin detention centre last year. He advised me that he found the conditions there to be appalling, and he was looking comparatively at what is normally found in prisons. It is unfortunate that Professor Harding is otherwise occupied today, because he could have given a first-hand account of those matters.

Mr DEAN: Is there any written report?

Mr McGINTY: It was not in the nature of his providing a report to me as the minister responsible for his area of operation after exercising his functions as the Inspector of Custodial Services. He probably provided a report to the Commonwealth on what he found at the centre and I can pass on only his verbal observations to me. It was not in the nature of a report under this Act, because it was a commonwealth facility.

The CHAIRMAN: I remind members that when asking questions, for the record they should refer to a page number or a program item.

Ms SUE WALKER: I refer to the outcome on page 575. The objective of the Government and the Inspector of Custodial Services appears to be a fair and independent inspection service that provides the regular and ongoing evaluation of the treatment and condition of prisoners. Does the evaluation of the treatment and condition of prisoners include whether they are being properly resourced for drug rehabilitation programs?

Mr McGINTY: It is the role of the Inspector of Custodial Services not to deal with individual grievances, but to deal with systemic issues affecting the system as a whole. The inspector has a power to report on matters affecting either a prison or the prison system as a whole. He would have the power to investigate and report on drug programs in prisons or on any other matter related to drugs in prisons. He has not undertaken a study of that nature at this time and certainly has not reported to me on that matter.

Ms SUE WALKER: Given the dire problem of drugs in our prisons, why has the Inspector of Custodial Services not reported to the minister on this issue?

Mr McGINTY: The problem of drugs in prisons is a fairly profound one and obviously causes a lot of concern to people in the community and to me as the minister responsible for the State's prisons. We have taken a number of initiatives designed to deal with drugs getting into prisons. We have established a drug-free wing at Wooroloo Prison Farm. We are looking at other ways in which we can tackle this issue. The inspector undertakes thematic reviews. I have had discussions with the Inspector of Custodial Services about the issue of drugs in prisons, but he has not undertaken a review at this time.

Ms SUE WALKER: Will the minister request that the inspector provide him with a report on the adequacy of drug programs for rehabilitating offenders in prisons?

Mr McGINTY: During the next 12 months, I intend to focus more attention than has ever been the case in the past on something that members of the community are profoundly aware of; that is, this causal connection between drug abuse and offending. I have met with the people from the crime research centre at the University of Western Australia who provided a report on the criminal careers of drug addicts. That report provided some insight into the way in which we should proceed from here. As the director of that institute, David Indermaur was one of the authors of the report. We are looking at other ways in which we can tackle that problem. I have already sought input on that from the Inspector of Custodial Services, who, apart from occupying that position, has a profound knowledge of these matters. It is something to which I will give consideration in the future if he does not undertake it on his own initiative.

Ms SUE WALKER: If he does not undertake it, will the minister require him to look at whether the programs that are in place in prisons, which I understand are fairly old, are adequate for the rehabilitation of prisoners?

Mr McGINTY: I met with him yesterday on this issue and we are discussing it. I expect that it is a matter in which he has a significant interest. It is one of the major issues confronting the prison system in Western Australia. I suspect that it is a matter that he would want to report on in any event, once he has completed some of his unannounced inspections at prisons. It is a matter that we have in mind, and I expect some significant announcements to be made over the next 12 months as we try to come to grips with this difficult issue.

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[11.00 am]

Ms SUE WALKER: This problem has been ongoing for some time. Why has the minister not acted upon it before now? What are his reasons for not asking the inspector to consider whether the programs in the prisons are adequate, given that the minister has had responsibility for this portfolio for about 15 months?

Mr McGINTY: We have acted on it and taken a number of important steps to stop the flow of drugs into prisons. We are considering identification measures that will stop the flow of drugs into prisons. We are also considering the testing of staff to make sure that the flow of drugs into prisons is minimised. We have created the drug-free unit. We are examining a host of things that can be done. We have also taken advantage of examining world's best practice in this area for ways in which we can inform what should happen in Western Australia. One thing that I have done, among others, is to meet with the Inspector of Custodial Services about this very issue and about what happens elsewhere and the ways in which this important issue is dealt with. It is the subject of ongoing discussions. I expect that in the fullness of time - most probably sooner rather than later - the Inspector of Custodial Services will deal with this matter.

Mr O'GORMAN: I refer to the second dot point on page 573, which deals with the official prison visitors scheme. That dot point states that the scheme is being substantially upgraded. What are the upgrades to that scheme, and was it substantially insufficient previously?

Mr McGINTY: I will get Mr Stacey to answer that in detail. However, I make the preliminary observation that the official prison visitors scheme has operated for a number of years in the State's prisons. It was transferred to the Office of the Inspector of Custodial Services because it fitted very neatly with his inspectorial function. Mr Stacey can give details of the way in which the service has been upgraded.

Mr STACEY: The official prison visitors scheme is now administered by the Office of the Inspector of Custodial Services. Previously the range of individuals who were involved with visiting prisons and reporting to the minister on those prisons was not as diverse and representative of the community as the minister would have liked. The consequence of that is that the office undertook to broaden the range of recruitment of visitors to increase the number of women involved with visiting prisons, as well as minority groups in the community and members of the Aboriginal community, and to get a broad range of views from the community generally. That recruitment program has been ongoing. The change in the recruitment pattern has been significant.

Mr BARRON-SULLIVAN: While we are talking about the review of illicit drug use in prisons, could the minister give an indication of what that review will embrace? I am trying to come to terms with the role that the Department of Justice will play in that review compared with that of the Office of the Inspector of Custodial Services. Will the review go to the heart of issues such as smuggling of drugs into prison, how they get in there and so on? I think we already know the answers to these questions. Will the review examine directly the availability of rehabilitation and detoxification programs in prisons? Will it examine after-release programs? Will it make any recommendations on the need for compulsory detoxification programs and things like that? Will it deal with the collation of information on drug use in prisons? Is that the sort of role that the inspector will play as part of this review, or will that still be within the domain of the Department of Justice?

Mr McGINTY: If the inspector undertakes a review, it will include all those matters, I imagine.

Mr BARRON-SULLIVAN: Will the minister give any direction? For example, he mentioned programs at Wooroloo. However, will the minister give any direction to the effect that he wants the inspector to examine compulsory detoxification and rehabilitation in prisons, or will he leave it very much to the Inspector of Custodial Services to find his way through these issues?

Mr McGINTY: The Office of the Inspector of Custodial Services is an independent office, and we must respect that independence. Since the office was created, the inspector has undertaken a number of reviews of prisons. It was essential that he do that first in order to have a base point for identifying a range of issues in each prison. For instance, comment has been made about a number of the so-called Aboriginal prisons throughout the State. It is important that the inspector come to grips with those matters. He has also carried out unannounced inspections at the secure handling unit at Casuarina Prison. It was necessary for him to do those things, which have been quite resource intensive, to get a foundation point established, given that this is still a relatively new office.

The role that the inspector will play in assisting us to deal with this vexed issue of illicit drug use in prisons has not been defined. It will be the subject of ongoing discussions between us. I imagine that a range of initiatives will be undertaken by the Department of Justice and me, and a review will possibly be undertaken by the Inspector of Custodial Services as his contribution to that debate. I have relied upon the inspector for advice on this and other matters concerning prisons. Given his vast knowledge, he has a great contribution to make to this matter. No decisions have been made about how it will be further progressed.

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Mr BARRON-SULLIVAN: As the member for Nedlands said, this is not a new matter. The minister and I were on a committee four or five years ago that looked at exactly these issues. I must reiterate, why has it taken so long to get to the stage of reviewing the situation? I thought that perhaps we could ask questions today and get more definitive answers about what the Government will do about the problem. I have every confidence in the Office of the Inspector of Custodial Services. Off the top of my head, the idea of placing that office in charge of a review probably makes a great deal of sense. However, I find it absolutely staggering that we have a drug crisis in our prisons about which we have known for some time and that there have been some utterances from the Government about some initiatives that will be taken in this area, yet only now, a year and a half into the Government's term in office, it is thinking about having a review and starting to get serious about dealing with the problem. I am sorry to sound political, but there is no other way of putting it. Why is it taking so long?

Mr McGINTY: It is not, is the simple answer to the member's question. In coming to grips with this problem that besets prisons throughout the world, we can learn from what other jurisdictions have done and from academic studies, and we can change procedures and practices within prisons. All those matters are constantly under review. I say that particularly because we are all very aware of that link that was spelt out on the front page of *The West Australian* yesterday. There was nothing newsworthy in that. We all knew about the heavy linkage between drug abuse and criminal behaviour.

Mr BARRON-SULLIVAN: I find it staggering that the minister should say that that is not newsworthy, because most people on the street find it newsworthy - they find it dumbfounding.

Mr McGINTY: Was the Deputy Leader of the Opposition not aware of it?

Ms SUE WALKER: People wonder why the Government is not doing anything about it.

Mr McGINTY: Members know the context in which I answered that question. Everyone in the public is aware of those connections.

Mr BARRON-SULLIVAN: I am interested in finding out what the minister is doing about the situation. Rather than having a political debate, I will ask the minister a specific question, because that is what this is about. As part of the review, will the minister direct the Office of the Inspector of Custodial Services to examine any specific initiatives? In other words, will the minister be proactive about it? I will give one example. The minister and I signed a document stating that there should be mandatory monitoring of drug use of offenders at the time they first enter the criminal justice system. Therefore, the first time they get into the criminal justice system - not necessarily even the first time they go to the prison gates - they should have blood sucked out of them, basically, to ascertain whether they have a dependence problem.

Mr McGINTY: Is the Deputy Leader of the Opposition volunteering?

Mr BARRON-SULLIVAN: No; thank goodness, I am not in the system. I am using that as a specific example. In the past the minister and I both agreed that a mandatory blood testing or drug testing system for people who go into the justice system was needed. Will the minister tell his inspector that he wants him to pursue a certain policy as part of the review process?

[11.10 am]

Mr McGINTY: Regard would have to be had for the law in this area. I am not interested in breaking the law.

Mr BARRON-SULLIVAN: But you write the law.

Mr McGINTY: The Act under which the inspector operates places him in a position, as indeed it should, of considerable independence. Parallels can be drawn with other independent office-bearers, for instance, the Director of Public Prosecutions; I cannot direct him in respect of a particular prosecution, and neither should I. The Act lays down the relationship between the minister and the inspector. The inspector is not part of the Department of Justice; he is an independent office-bearer and the nature of that independence must be respected. The Act states that the minister should not direct other than in exceptional circumstances. The member has asked me whether I will direct. I would need to be satisfied that there were exceptional circumstances before I did that, and I do not believe, given the nature of the inspector and his abilities, that a direction would be necessary.

Mr BARRON-SULLIVAN: But the minister could request?

Mr McGINTY: The member must listen to the answers. I have just said that I met with the inspector yesterday morning to discuss this whole issue of drugs, drug programs and prisons. This ongoing dialogue occurs, and I expect the inspector to have a role to play in dealing with this matter into the future.

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Ms SUE WALKER: I am not clear what the new responsibility of the inspector under the official prisons visitor scheme encompassed.

Mr McGINTY: The official visitors scheme has been operating in the State's prisons for a long time. Responsibility for that scheme is transferred from the Department of Justice to the Inspector of Custodial Services.

Ms SUE WALKER: What is the inspector's role in observing visitor activities?

Mr McGINTY: Perhaps Mr Stacey can provide an account of that.

Mr STACEY: The visitors to prisons are appointed by the Governor under the Prisons Act -

Ms SUE WALKER: We are not talking about -

The CHAIRMAN: Member! Will the member please allow the person to answer? If the member wishes to clarify something, please do it through the Chair.

Ms SUE WALKER: That is what I wanted to clarify. We are not talking about normal prison visitors; we are talking about a special class of visitors.

Mr McGINTY: Official visitors.

Ms SUE WALKER: Yes. Thank you.

Mr O'GORMAN: On page 576 under major achievements for 2001-02, dot point seven indicates that six full inspections of prisons have been conducted, two follow-up inspections have been performed and two court custody centres inspected. Which prisons were inspected, what was concluded from the follow-up inspections and were the recommendations implemented?

Mr McGINTY: The inspector has published those inspections, as required under the Act, and they have been tabled in each House of Parliament. Inspections have taken place at Riverbank Prison, Eastern Goldfields Regional Prison, Karnet Prison Farm, most recently Broome Regional Prison, and there was an unannounced inspection of the special handling unit at Casuarina Prison. There has also been an inspection of the Australian Integrated Management Services contracted prisoner transport regime, which has received a number of criticisms, and an inspection of the metropolitan court custody centre. Thematic inspections are still to take place at a number of prisons, and foundation reports are to be provided, but, as the member can see, the inspector is getting into other areas, such as transport and the like. He is not just inspecting prisons to see what is wrong with them. The next inspection is proposed to take place in the next fortnight at Bandyup Women's Prison. Inspections of Albany Regional Prison and the work camp at Pardelup Prison Farm are proposed for September of this year. An inspection has taken place of Nyandi Prison, but a report has not yet been tabled in Parliament. An inspection has also been undertaken of Casuarina Prison, Hakea Prison and Roebourne Regional Prison, and the report on Roebourne was completed last month. Those reports have not yet been presented. The inspector is systematically working through the prisons and major facilities associated with the prison system. The extent to which the recommendations have been implemented by the Department of Justice is possibly a question that should be put to the people from that department in a later estimates committee hearing. However, that is the extent of the work that has been done and the work that is proposed for the immediate future. An inspection of Wooroloo Prison Farm is proposed for October this year. The member for Bunbury might be interested to hear that the inspector will be visiting his lovely city in December of this year. Visits to other prisons are proposed for next year.

Ms SUE WALKER: Is it envisaged that the inspector will be doing a review of the drug-free unit at Wooroloo?

Mr McGINTY: As I indicated, Wooroloo is proposed to be the subject of an inspection and subsequent report in October this year. Plans are already in place for an inspection that will include a report on the drug-free unit at the Wooroloo Prison Farm, as it will on all other elements of the operation at that prison.

Ms SUE WALKER: I have a further question -

The CHAIRMAN: I will allow further explanation but, for my own reference, to which page is the member referring?

Ms SUE WALKER: I am referring to significant issues and trends on page 573 and the responsibilities in relation thereto. The third dot point states that the jurisdiction of the office currently extends to adult prisons. A drug-free unit is located at Acacia Prison, which was set up prior to Wooroloo in February this year. Will the minister be extending the jurisdiction of the inspector to Acacia Prison?

Mr McGINTY: It is already within his jurisdiction.

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Ms SUE WALKER: The papers state that extensions to the office's current jurisdiction are under consideration for those contracted out to the private sector. I understood that that was not so but, if it is so, that is fine. Will the inspector be looking at the drug-free unit in Acacia this year as well?

Mr McGINTY: No. I refer the member to significant issues and trends and areas contracted out to the private sector, where the full text in the third dot point on page 573 states -

The jurisdiction of the Office currently extends to adult prisons (public and private), -

That answers the member's question about Acacia -

court custody and prisoner transportation, as well as those Police lock-ups where operation has been contracted out to the private sector.

That refers to lock-ups, the operations of which have been contracted out to the private sector. It continues -

Extensions to the Office's current jurisdiction are under consideration.

That does not in any sense relate to prisons or lock-ups; it relates to juvenile facilities.

Mr DEAN: These questions may well have been answered. What warning under the Act must be given to prisons before they are inspected? I am referring to dot point seven on page 576. Firstly, what is the time line for inspections; secondly, are there any spot inspections; and, thirdly, when will Acacia Prison next be inspected?

[11.20 am]

Mr McGINTY: In answer to the last question, Acacia will be inspected next year, and this will include all the facilities at Acacia. When Acacia established what was called the drug-free unit, it was a place where people who had a drug background were put. No intensive programs were provided. It is not what I would regard as a drug-free unit. No contracts were signed between the prisoners and the prison about penalties to be applied if the rules were broken. It was simply an area where some mutual support could be given. It is not, as the term would be understood in any sense, a drug-free unit. Therefore, the drug-free unit at Wooroloo was in my view the first of its kind in Western Australia. An attempt was made some years ago to establish Nyandi as a drug-free prison for women, but the explosion in the prison population meant that that idea was soon jettisoned as the demand simply to find beds for people took precedence over any sort of anti-drug regime. The prison very quickly dropped the notion of being a drug-free prison.

The Inspector of Custodial Services is given the right to enter any prison at any time, unannounced. He conducts both announced and unannounced inspections. Generally speaking, it is desirable to work with the prison authorities to assess properly what goes on in a prison, but from time to time, where a particular problem is best dealt with in an unannounced way, the inspector will do so. This was done at Casuarina prison last year, to inspect the secure handling unit, about which there had been some considerable controversy. The inspector has the statutory power to enter any prison in the State at any time, which has been, and will continue to be exercised where an unannounced inspection is warranted. Otherwise, the inspector will cast his critical eye over the prison in the form of an announced inspection.

Mr O'GORMAN: I refer to dot point four on page 573, which deals with transferring juvenile detention centres into the jurisdiction of the Inspector of Custodial Services. This will require some legislative change. Is that legislation being drafted, or is it still remotely in the future?

Mr McGINTY: That legislation is not yet being drafted. It has been the subject of three-way discussions between the Department of Justice, the Inspector of Custodial Services and me. It was always envisaged, and considered desirable, but when the legislation establishing the office of the inspector was originally passed, it did not cover juvenile prisons, by which I mean Rangeview and Banksia Hill. Those places are there to act as prisons - although they are called juvenile detention centres - and it is important that they be subject to the same rigorous scrutiny from the inspector as any other prison. It is intended that legislation will be brought before the Parliament, either later this year or early next year, to add those juvenile detention facilities to the jurisdiction of the inspector.

The appropriation was recommended.