

# **STANDING COMMITTEE ON PUBLIC ADMINISTRATION**

## **INQUIRY INTO THE TRANSPORT OF PERSONS IN CUSTODY IN WESTERN AUSTRALIA**

**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
MONDAY, 15 JUNE 2015**

### **SESSION 10**

#### **Members**

**Hon Liz Behjat (Chairman)**  
**Hon Darren West (Deputy Chairman)**  
**Hon Nigel Hallett**  
**Hon Jacqui Boydell**  
**Hon Amber-Jade Sanderson**

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**Hearing commenced at 3.12 pm**

**Dr KARL O'CALLAGHAN**

**Commissioner of Police, sworn and examined:**

**Mr GARY DREIBERGS**

**Deputy Commissioner, Specialist Services, Western Australia Police, sworn and examined:**

**Mr DUANE BELL**

**Assistant Commissioner, Judicial Services, Western Australia Police, sworn and examined:**

**The CHAIRMAN:** Firstly, Commissioner O'Callaghan, can I congratulate you on your contract reappointment for another two years in the hot seat, as it were.

**Dr O'Callaghan:** Thank you.

**The CHAIRMAN:** It is nice to have a familiar person in that role. Commissioner, I will just run through the members of our committee; I am not sure that you know everybody here today, so I might just do these introductions first. Starting on my left here we have Hon Amber-Jade Sanderson, who represents the East Metropolitan Region; deputy chair of this committee, Hon Darren West, from the Agricultural Region; and our advisory officer, Dr Julia Lawrinson. I am Liz Behjat of North Metropolitan Region. This is Hon Nigel Hallett from South West Region; Hon Jacqui Boydell from Mining and Pastoral Region; and our committee clerk, Tracey Sharpe.

Firstly, as you know—you will be familiar with this process—we need to do the swearing in.

[Witnesses took the oath.]

**The CHAIRMAN:** Thank you very much. You will have signed a document entitled “Information for Witnesses”. Have you read and understood that document?

**The Witnesses:** Yes.

**Dr O'Callaghan:** I do not think I have signed it, actually. Is mine signed? It is. I sign so many documents!

**The CHAIRMAN:** You have signed your life away already, commissioner!

**Dr O'Callaghan:** I have signed it yes, and I understood it! It was some time ago.

**The CHAIRMAN:** These proceedings are being recorded by Hansard and a transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record. Please be aware of the microphones and try to speak into them—I know you always do—and ensure you do not cover them with papers or make noise near them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

That is the formalities out of the way and we can now start with the hearing. We have from WA Police acting deputy commissioner, specialist services, Craig Ward, the submission to the

inquiry, which does not really go into much detail, so we have some questions that you might be able to just elaborate on for us, if you can. Do you have an opening statement you might want to make?

**Dr O'Callaghan:** No.

**The CHAIRMAN:** No, you do not. The first area we would like to talk about today is the Perth watch house and the situation of the courts sitting at the Perth watch house. It has been suggested that having the Northbridge Court operating daily, rather than on the weekends only, would reduce the need to transport persons in custody. Can you let us know about any conversations going on at the moment between corrective services, WAPOL and DOTAG about this?

**Mr Bell:** At this stage, yes, we have had some general conversations with the Department of Corrective Services following the new governance committee of the directors general group, which unfortunately the commissioner was away on other business for. What was explored there is that there are around roughly 2 000 movements a quarter from the Perth watch house out to some of the courts in the metropolitan area, and they are listed in the contract. There are a couple of things that have come up with that. Over time we have changed our operating model where we are using the Perth watch house far more as a hub for our outstations around the metropolitan area, so we are not getting prisoners, say, in Armadale; we will bring them into the Perth watch house. That way we are able to provide that better custodial care in that new facility. The contract, though, only provides for a number of Perth courts within this service, so, for example, Rockingham, when we bring prisoners up, does not provide for a return. We are then coming up from Rockingham and taking these prisoners back. The other thing then is that with those 2 000 movements, they will have to go back to the originating court to appear, and most of them are first-appearance courts. So, we have suggested, working through with DCS, that if they were then able to come to Northbridge Court, if there is a magistrate put in and the court security as well, those prisoners could go there. It would alleviate prison transport back to the various courts—alleviate some work on those—and if it is a first appearance only, they can then attend, say, the Armadale Court for subsequent matters. That may then alleviate some of the money in the contract and we could look at other services that might be provided, so it would reduce the risk around that in a more timely appearance for those people in court and hopefully then look at some other services that might be able to be adjusted under the current contract.

**The CHAIRMAN:** At the moment, though, the security at the watch house is not of a standard that would allow for that court to operate daily? That was the evidence just given to us by the Department of the Attorney General, but the suggestion might be that the money you might save in prisoner transport you would put towards upping the security, if that is what it takes.

**Mr Bell:** I will just be clear what securing the watch house is. At the facility is the police station, the watch house and the court, so Perth watch house is only one of the components. There is no daily court security, so it only comes on Saturday and Sunday. In addition to a magistrate, you would need to put additional people under the contract around the court security, not the watch house. The watch house is fine. We move our prisoners from the watch house up to the court or Serco will come down and get them and transport them up; it depends on who is around and what contract service is given. But at the moment there is no service provider for Monday to Friday for court security like there is on the weekend, so it is just a matter of proportioning something into that service.

**The CHAIRMAN:** That would be a cost benefit, surely, in your opinion?

[3.20 pm]

**Mr Bell:** That is what I am saying. I have looked at the figure, I have just solely looked at 2 000 movements a quarter. Surely, that must be able to be quickly estimated and then could be

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weighed against that. I understand corrective services are looking at that in conjunction with DOTAG.

**Dr O'Callaghan:** I think cost benefit is only one issue of course. You are lowering the risk of the prisoners by not moving them in the back of paddy wagons and things like that. If you take the cost over, there is a much better safety factor in not moving them back to Rockingham or Armadale in the back of a police car.

**The CHAIRMAN:** One of the other things we have heard today is that sometimes during the course of prisoners being transported to and from court, we see mealtimes—and then if you were not doing that, obviously they would be fed where they are at the Perth watch house.

**Dr O'Callaghan:** Sure.

**The CHAIRMAN:** WAPOL does not want to enter into a new memorandum of understanding between police and DCS to transport persons in custody where contracted services are not viable. Can you confirm that is the case; and, if it is, why?

**Dr O'Callaghan:** That is the case.

**Mr Bell:** That is the case. We had an MOU and an MOU is only a memorandum of understanding, it is not a legally binding document. The arrangements are made under the act between the two commissioners. They have already stated what the services are and how they lean. There is no benefit in renewing that or changing it. We understand the status quo will remain right through. What we are more interested in is looking forward to when the contract may be renewed and working on changing the current environment or what our future services might be able to do.

**The CHAIRMAN:** You want to put something in place that has a bit more teeth to it than an MOU?

**Mr Bell:** No, we are saying that is already there. There is no benefit in spending all that time drafting another piece of paper that is not legally binding. It does not change any arrangements because they are set and it has been agreed that we will do the current status quo until there is a new contract, until this has been looked at, so, put the effort into that rather than simply review a document that changes back.

**Dr O'Callaghan:** The MOU is effectively the contract plus what is outside the contract that we are currently providing, so whether that is in place or not, nothing changes. What we are looking forward to is a new contract.

**The CHAIRMAN:** I think a few people are. Commissioner, do you want to outline WAPOL's position on the effectiveness of Serco's transport of persons in custody?

**Dr O'Callaghan:** Again, I think we are largely comfortable with the way Serco have been operating in terms of what we do. There are gaps in the service delivery that we have identified and we are working with DCS on, but I do not think overall we have got too many concerns.

**The CHAIRMAN:** What are the gaps you have identified in particular?

**Dr O'Callaghan:** One of the things Assistant Commissioner Bell has been working on is what Serco do when they actually get to a court, particularly regional courts, from the time they got the prisoner off to the time it is time to take the prisoner back, whether you can maximise the amount of work they do. Maybe you would like to talk about that.

**Mr Bell:** Currently Serco are contracted in some areas to transport the prisoner from the airport to the lockup. When they arrive then, they stand down and we will take that prisoner, work in the lockup and convey them to the court; and the Serco officers are basically sitting there. So we have been working with the contract manager from Corrective Services and we are just working through a protocol. We have worked through one example in one of the country areas on how it would work but those officers then conduct some other duties aligned to the contract. So, it may be court

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security or court orderly or provide some other functions seeing they are paid already and they are at the location; and they do that, which would relieve some impost on us and we would have officers return to other duties. Then at the end of that, they will go back to their escort from the lockup to the airport and return. So, it is really getting some more tweaking out of an already paid officer that is at the site and we can get some other duties out of them that are currently not being completed. And that is done by negotiation between —

**Hon AMBER-JADE SANDERSON:** Do they provide security at all the regional courts?

**Mr Dreibergs:** In some courts, not all courts, and they do not provide security in our lockups.

**The CHAIRMAN:** In fact South Headland was an area that was mentioned to us today in evidence where there is a lot of confusion surrounding who has responsibility for those roles in relation to custody and things like that, where you have an officer who might be the prosecuting officer giving evidence in a trial, but then he is also the person in charge of custody and other things as well. So they are sort of having police officers wearing a few hats, and there seems to be some grey areas as to who has got responsibility for what and just, I guess, the general overall look of how it is, given the remoteness of some locations.

**Mr Dreibergs:** In the regional locations the best model for us that would suit our business would be, for instance, if you had the capacity for Serco to bring them either by air or by transportation by truck or however they bring them to that particular location; they manage them through the custody facility through the watch house; then they manage them through the courts and then they manage them out of the courts back through the custody and back into their truck.

**The CHAIRMAN:** A holistic approach.

**Mr Dreibergs:** A holistic approach but it depends on where you are at a point in time as to what that approach is. For instance, I think in Newman there is an approach where they obviously cannot work in the watch house with them, so we have to take them into the watch house and guard them while we are waiting for them to appear in court. Then they go into court, then they come back and we have them back in the watch house. They could be in the watch house for a considerable period of time, so they are a sentenced prisoner and not a WA Police prisoner; they are a sentenced prisoner from Corrective Services in our watch house. Effectively, during that period of time it becomes an issue for our care. So that is the current arrangement; that is just what the contract is. But there are other issues about other people working in our watch houses, so if they are going to be working in our watch houses there are legal requirements for those watch houses to be prescribed so that there are other people who work in there other than police.

**The CHAIRMAN:** Yes, and presumably extra training or whatever it might be to be in those things.

**Mr Dreibergs:** Yes.

**The CHAIRMAN:** In your submission to us, you say that greater efficiencies and higher standards in custodial transport can be achieved through resourcing a single agency to provide custodial transport services. Do you have any preference as to who that single agency might be to provide those services, whether it be DCS or whether it be Serco or any other company that might enter into that area?

**Dr O’Callaghan:** No. I think we are completely agnostic about that as long as they meet the terms of the contract.

**The CHAIRMAN:** “Agnostic”—that is a good term!

**Mr Bell:** Just going back to your other question, the contract is clear: it says who will do what in it at all different locations, but it changes by location, and what happens is that there is confusion because of that. There is then confusion because there is a lot of “hand over–hand back”. Even where it is clear, there is a handover when someone comes into custody through the airport:

they to us, they hand over to someone else and then hand back and back again. It could have five, six handovers. That is inefficient. So at the moment it comes to Corrective Services under that contract and it would be far better if it was one group managing it.

**Hon DARREN WEST:** In evidence earlier today, we heard that during those handover periods there is a requirement from both organisations to do their own sets of security. Do you have a similar process that you follow through when you take prisoners from, say, the airport? Do you need to screen them, pat down, whatever is required?

**Dr O'Callaghan:** Yes.

**Hon DARREN WEST:** And then have that duplicated by whoever it is that is taking them?

**Mr Bell:** Yes, it is repeated over and over. So, if someone comes from the airport, if they are taken from Corrective Services custody, Serco will then do it when they pick them up and give them to us. We will do it when we take them into the lockup. Serco will do it again when they come for the lockup to the court. We will do it again when they come back from the court to us. If they go back to the court, say, if they got bail and we are just holding them until the paperwork is done, they will do it again when they transport them back up to the court. So it can be five times.

**Hon DARREN WEST:** That is a thorough searching.

**The CHAIRMAN:** Is that necessary?

**Mr Bell:** It is a matter of degree, but it is still a risk assessment; people have to undergo some part of it. I am not saying they are stripsearched or anything like that, but they still have to go through a formality to make sure that they are looking at the attendant circumstances between that. So, you can have five of those hand over—hand backs in one simple transfer; that makes it inefficient and that is, I suppose, what we are referring to in our submission.

**Hon DARREN WEST:** Just on that—and I presume that a lot of these would be, say, remand prisoners at different times and there would be different sorts of levels—is any consideration given to the severity of what they might have been charged for as to how that search is conducted, or is there the blanket same search for everybody? Is there any sort of movement on that?

**Mr Bell:** Yes, it is done on the attendant circumstance, so a person who has been in custody is a lot different from the one that has come off the street; and that is generally what we are looking for, the circumstances, not so much the severity of what they are in for.

**Dr O'Callaghan:** The offence.

**Mr Bell:** It is their antecedents and all that, but we do look. If they have been in a chain of custody, particularly coming from a prison, it is a lot less than what we are going to do if we get someone off the street.

**The CHAIRMAN:** The director general's governance group that you are a part of and is yet to formally meet and, as was pointed out by my colleague earlier today, we are only 15 days away from a decision having to be made with regard to the renewal of the Serco contract, am I right in thinking, from what I am hearing from the agencies that have appeared today, that really this DG's governance group is something that is going to be ongoing, and regardless of what happens with this new contract or what happens in that space, you are still going to keep on meeting in a hope to then streamline some of these things to lead to greater efficiencies?

**Mr Bell:** Yes.

**Dr O'Callaghan:** There is a whole range of issues where the agencies interface, which go beyond just the striking of a new contract. So the idea of getting that group together was to sort out a whole range of issues to do with custody and some of the interfaces between the three agencies.

**The CHAIRMAN:** So, breaking down that silo mentality that has existed and let us look at it in a horizontal way?

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**Dr O'Callaghan:** Yes, just streamlining a whole series of processes.

[3.30 pm]

**Mr Bell:** There is probably also where the structure under the contract is very much about contract management and governance of that. This group is then a matter of looking at how we do things together between the three agencies, and so that is the different approach that this governance will provide as to the normal contractual obligations.

**The CHAIRMAN:** And that is really the most specific changes you would want to see in a future contract; it is this streamlining of responsibilities and there would be a delineation then of those?

**Dr O'Callaghan:** Yes. There is, I think, some room to expand the scope of the contract, particularly in regional WA, in terms of where it might go and what it might service in regional WA, because there are some black spots there for us. But apart from that, yes, it is about streamlining the whole process so you have got continuity and you do away with a lot of the bureaucracy that is handed over from one person to another; and every time you do that, as you said, there is a big bunch of paperwork to be done, searching, and so there is a lot of wasted time.

**The CHAIRMAN:** Ideally, I suppose, what you are saying is you want the frontline sworn officers to be out there doing the work they are supposed to be doing rather than having to deal with some of these issues, especially in regional areas where you could quite easily have Serco or another group, whoever it might be, dealing with those sorts of issues.

**Dr O'Callaghan:** I think that is a principle that we adhere to for all sorts of things in policing, that we want to free up police from doing some of those things and give them back to doing front-end work.

**The CHAIRMAN:** I am assuming that you are going to tell me that you are agnostic as well about the relative effectiveness of contractors compared to public sector provision of these services!

**Dr O'Callaghan:** Yes. I do not think we have an opinion about that again. It is all down to the contractor and how you hold the government agency or the contractor to account.

**Hon DARREN WEST:** Commissioner, as you would be aware, the decision on the future of that contract, whether it is to be re-ordered to Serco, will be made in 15 days. Have you had input into that decision?

**Dr O'Callaghan:** Not me personally, but we have had an ongoing dialogue with DCS over the renewal of that contract and an ongoing dialogue about what we would like to see in it. So we are very comfortable. We have had good consultation with the process.

**The CHAIRMAN:** As always, Commissioner, thank you very much for giving us your take on this; we appreciate it. Duane and Gary, it is much appreciated. Members of the gallery, that brings our public hearings to a close. The committee is continuing in session but not publicly. Thank you for your attendance today. We hope you found it interesting. Tell all your friends we have these hearings in public and you should all come along! We are on a drive to publicise committees and their important work!

**Hearing concluded at 3.33 pm**

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