

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

INQUIRY INTO THE TRANSPORT OF PERSONS IN CUSTODY IN WESTERN AUSTRALIA

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
TUESDAY, 10 NOVEMBER 2015**

Members

**Hon Liz Behjat (Chairman)
Hon Darren West (Deputy Chairman)
Hon Nigel Hallett
Hon Jacqui Boydell
Hon Sally Talbot**

Hearing commenced at 2.32 pm

Mr JAMES McMAHON

Commissioner, Department of Corrective Services, sworn and examined:

Mr ROD ALDERTON

Director, Contracted Services, Department of Corrective Services, sworn and examined:

Ms SUE HOLT

Manager, Court Security and Custodial Services Contract, Department of Corrective Services, sworn and examined:

Mr STUART CAMERON

Senior Assistant State Solicitor, State Solicitor's Office, sworn and examined:

The CHAIRMAN: Welcome. On behalf of the committee, for those of you who do not know, I am Hon Liz Behjat, the Chairman of the Standing Committee on Public Administration. I am the member for North Metropolitan Region. To my left is Hon Dr Sally Talbot, member for South West Region and Hon Jacqui Boydell, member for Mining and Pastoral Region. I have apologies from Hon Nigel Hallett from the South West Region who is unable to be here today. Unfortunately, my Deputy Chairman, Hon Darren West, member for Agricultural Region is at the mercy of the airlines and stuck in Geraldton. He was expecting to be on a 12 o'clock plane and that has been postponed until four o'clock, so, commissioner, my apologies. However, we have a quorum so we can continue. On behalf of the committee, I would like to welcome you to the meeting.

Before we begin, I will ask you all to take an oath or an affirmation.

[Witnesses took the oath.]

The CHAIRMAN: You will have all signed a document entitled the "Information for Witnesses". Have you read and understood that document?

The Witnesses: Yes.

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 documents you refer to during the course of this hearing for the record and please be aware of the microphone and try to speak into it. Ensure that you do not cover it with papers or make noise near it and try to speak in turn, but I know you do not speak on top of each other. 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 that that evidence be taken in closed session prior to commencing that evidence. 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, as always.

Insofar as an opening statement, commissioner, we provided you with a letter and attached questions that we are seeking answers to for this hearing. Did you want to table anything in response to that?

Mr McMahon: If I may I have four short paragraphs in response to the letter that you sent me.

The CHAIRMAN: Over to you.

Mr McMahon: The department is here today to discuss the EY review, which was pointed out in your letter, including the redacted material, to assist the committee in its inquiry into the transport of persons in custody. The clerk of the committee has previously confirmed that it is not the intention of the committee to publish the redacted EY review. Given the nature of the redacted material as commercial-in-confidence, I would ask the committee that any discussion of the redacted portions of the EY report be conducted in private. Public disclosure of the redacted material, including to potential tenderers, would allow those tenderers an advantage over the state or other potential tenderers in future negotiations. As you know, we have announced that we are tendering for the new CS and CS contract, so we are underway in that particular process and way down the track of going to tender on the CS and CS contract. Underneath that is that in those redacted materials there is a range of information that would be useful for a whole range of tenderers and would distort the process that we are trying to achieve.

The CHAIRMAN: In that case, with regard to the questions that we gave you attached to my letter of 14 October, and you will have prepared answers to that, is there any material there that you would need to provide to us that is from the redacted version of the report?

Mr McMahon: No. I have two copies of all those questions here with all the information you are after and I can table that.

The CHAIRMAN: Great, you can do that. I propose that we launch into these questions and then if at any stage you think that we are asking something that you request it to be in private, we will deal with that at that time.

I have just been reminded, too, in relation to your comment that you had an undertaking from the committee clerk that the committee had no intention of publishing the redacted copy, I think you will find that the question asked was: what status had it been given by the committee? At this point, it has been given a private status by the committee. We have not yet determined whether at any time in the future we may publish the redacted copy of that. Just so you are clear with that, there is no undertaking from us that we will not publish in the future.

[2.40 pm]

Mr McMahon: I understand.

The CHAIRMAN: That clarifies that for *Hansard*. We will run through it, as we have these questions there. *Hansard*, do you want us to restate the questions verbally or we have them in writing and you will put them into *Hansard*? So, if I do not say it, you cannot put it into *Hansard*. Bear with us, we have to go through these questions and we can read along and see if I have missed out anything.

We will refer to it as the EY review—that is, the Ernst and Young review, and from now it will be known as the EY review. Question 1.1 —

The EY Review states on page 19

We have not assessed the performance of the Contract management team, but have noted that the complexity of the Contract and the abatement regime, for example in managing the mitigation requests of the Contractor relating to late to court abatements, appear to have placed strain on the resources available.

And

We note from discussions with the Contract Management team that whilst they are able to request further information from the Contractor and Client Agencies as to what is driving demand, they do not see their role as being responsible for actively seeking ways in which this demand can be managed. [For example we understand

that the Contract management team have historically sought information from prisons to justify rationale for inter-prison transfer requests, however there is currently no specific obligation on the part of prisons to justify these transfers.]

Please advise what, if anything, DCS has done to address these issues.

Which you will answer.

Mr McMahon: Yes —

The Department acknowledges that the abatement regime is complex and resource intensive for both parties, as most service failures involve the provision and consideration of case-specific mitigation.

The Department intends to review the abatement regime as part of the re-tender of the CS&CS contract.

The contract management team provides advice to agencies on the most efficient and effective way to plan movements and minimise costs, and to take advantage of services available within the current volume bands.

The contract management team and the Co-ordination Centre work together to ensure that prisoner movements are conducted in the most efficient and cost effective manner and that the CS&CS contract terms are applied appropriately.

I will note here that the coordination centre is new and part of our structural review, and that gives us far greater oversight of the operational requirements of the CS and CS contract. Also new is what I am about to read out —

The recently established Senior Officer's Group, which comprises senior representatives from DCS, DotAG and WAPOL, also play a key role in identifying demand management strategies and opportunities to improve —

The overall —

co-ordination between the three agencies.

The CHAIRMAN: You say “recently established Senior Officer's Group”. When was that established?

Mr McMahon: The exact date, I cannot give you, unless someone in the —

Mr Alderton: I think the first meeting was either April or May earlier this year.

The CHAIRMAN: How many times since its establishment has it met?

Mr Alderton: It has met twice.

Hon SALLY TALBOT: Who exactly is on that group? Is it one representative from each agency?

Mr Alderton: Correct, yes. It is chaired by myself, and a member from WA Police and DOTAG.

The CHAIRMAN: So, there are just three of you.

Hon SALLY TALBOT: Was it set up in response to the EY comments about the need for some sort of demand management scrutiny or oversight?

Mr Alderton: Not specifically, as I understand it, but I was not actually here at the time it was originally established.

Hon SALLY TALBOT: Perhaps the commissioner can respond.

Mr McMahon: What I do know—I do not think it was. Part of it was the EY report, but also I think that cemented our thinking; it was also greater governance. The year before we had what we called a governance working group, which met three times a year. It was too senior and what was happening—that was at a very strategic level, so what we have now is the joint management group,

which is the three DGs, and then we have the senior officers' group, which is focused more on the day-to-day operations. I felt, from a governance perspective, that we were not delving down enough into the operational issues and that is why we now have two. The joint management group, which is a later question that is in your notes, is at the strategic level, where we think we can take things in the CS and CS contract. The senior officers' group is the day-to-day management and working between the three agencies. I will give you an example of that. If going to court is becoming late and we note that, then that information can come back from DOTAG and we can work out ways that we could move prisoners quicker from our big prisons. That is put in place so we can manage those operational requirements, and that is what we have done.

To answer your question specifically, I cannot recall whether it was EY or it was just we wanted to improve the operational governance. I believe it was a bit of both or that the EY report reinforced what we were thinking. The coordination centre, if I may say, was also put in place to give us greater oversight of when prisoners were moving, when and why. So the coordination centre is new—its date of actual operational—but that was part of our reform agenda. Up until that point, the department never had a 24/7 coordination centre. We now have that. It is growing and it is improving. Every quarter it improves in what it does, but it gives us oversight and a check about why we are moving certain types of prisoners, when and where.

The CHAIRMAN: We want to come back to that, so maybe we will leave that. We have some questions specifically on that that we will come back to.

Going back to the senior officers' group, my understanding of that governance working group, which this has now taken the place of, also had the Department of Treasury as a member of that group. In 2014, the governance group was established with DCS, DOTAG, WAPOL and the Department of Treasury. So, Treasury are no longer involved in that process—you saw no need for that?

Mr McMahon: Other than they see all our figures on the contract and what it is doing in a budgetary process. That is where they have oversight of the contract costs.

The CHAIRMAN: So, your senior officers' group has now met twice since May. Is it meeting quarterly? The governance working group, my understanding was that was meeting monthly, so you have changed.

Mr Alderton: It is meeting bimonthly currently.

The CHAIRMAN: Because monthly was just too much?

Mr Alderton: It is pretty busy.

The CHAIRMAN: No, I understand that; there is no point having meetings for meetings' sake. We are just trying to make sure that when we do our report that we have all the right information.

I will move on to the next question. Question 1.2 is with regard to abatements: the contract provides that a failure to provide a service which results in a major disruption to court attracts an abatement level of \$5 000 per incident. If there is a late delivery to court which results in a disruption to court and the contractor is charged an abatement of \$5 000 for the disruption, is the contractor also charged for the late delivery to court; and, if so, how much?

[2.50 pm]

Mr McMahon: The answer is no, the contractor is not abated for a major disruption to court as well as a late delivery to court for the same incident. The abatement amount is subject to an indexation factor and, hence, increases each year for each specific event. In 2013–14, the abatement amount for a major disruption to court was \$5 526 and in 2014–15 was \$5 696.50.

The CHAIRMAN: What is the abatement quantum for a late delivery to court if the late delivery is the fault of the contractor?

Mr McMahon: A late delivery to court attracts a minimum of one abatement point and up to a maximum of 10 abatement points depending on the impact of the late delivery. The actual dollar value of abatements for late to court is dependent on the monthly contract cost; the application of the multiplier for each incident; and the total number of points for each month.

The CHAIRMAN: So that maximum of 10 abatement points is per month?

Ms Holt: It is for each specific incident of late to court.

The CHAIRMAN: So it is for each specific incident; okay.

Question 1.4 is: please provide a breakdown, including quantum and the nature of the breach, for all abatements paid by the contractor for the 2013–14 year and the 2014–15 year. Your answer is that you have actually attached —

Mr McMahon: We did a table that is attached to our answers there. The first figure you will see is \$33 156. The last figure there is \$2 848.

The CHAIRMAN: Does anybody have any specific questions on that?

Hon SALLY TALBOT: Given that we have only just seen this information, using our average amount of intelligence and expertise are we going to be able to relate the table to the answer in question 1.3. Are we going to be able to see how the actual dollar value there is dependent on three dot points?

Mr McMahon: My view is that subject to the commerciality on how we do that—I have to think that through—we would be happy to show you that with a work diagram.

Hon SALLY TALBOT: Are you happy for that, Madam Chair? I think it might be useful.

The CHAIRMAN: Sure.

Mr McMahon: I understand the question: it makes it easier to understand 1.3. I might add, and I think it is worth in an open forum to let you know that there are abatements, but there are also other things. For example, with one particular incident we wanted an upgrade in handcuff mechanisms, which the contractor paid for and provided. They are substantial figures as well. That is the goodwill approach to promoting a safer community. I want to put that in there. You are seeing the straight abatements, but there are other things—the point to be made is that it is wider than just an abatement, and that is a goodwill.

Hon SALLY TALBOT: How would you quantify that? That is a judgement, is it not? You do not consult a table to look for the goodwill.

Mr McMahon: No, ultimately I suppose it is the principal of the contract. In any contractor relationship with the principal it is about whether you see issues that need to be fixed; it is the willingness to fix them for ultimately the safety of the community.

Hon SALLY TALBOT: So, for example, would the contractor make a submission to you that although the abatement was going to be X dollars, that they have actually spent Y dollars on a number of different mechanisms; therefore, they submit to you that that constitutes goodwill?

Mr McMahon: No, there is the straight abatement and then if there are things in the system that we think are things that improve the security particularly, we will put that forward, and on one or two occasions that has well and truly been taken in the right vein and picked up at no cost.

Hon SALLY TALBOT: It was initiated by the principal, not by the contractor.

Mr McMahon: Correct, and that is contract management.

The CHAIRMAN: Just explain for me—it might be abatements 101—that if we look at 2013–14 specified event abatements, at 10 September 2013 a person in custody escaped while on medical escort at Fremantle Hospital. The maximum abatement value of that was \$33 156, and that is what was charged. On 3 January 2014 two persons escaped from a secure vehicle while at

Geraldton Airport and the maximum abatement value there was \$110 520, and that is what was charged because they got away. How does it come about that one is worth \$33 000 and one is worth \$110 000?

Ms Holt: That is expressly specified in the contract. There are specific definitions for secure persons or unsecure locations, so where it refers to the maximum abatement value on the left, that is specified.

The CHAIRMAN: So Fremantle Hospital is considered an unsecure environment?

Ms Holt: That is correct.

The CHAIRMAN: And what was the secure environment at Geraldton Airport? Was it that the vehicle they were in was meant to be secure and it was not and they got out? Is that how we would read that?

Mr McMahon: That is correct; absolutely. They should have been locked in the back with the two doors closed.

The CHAIRMAN: Yes, we went through that some time ago with you giving us your lovely demonstration, being the hands-on commissioner that you are!

Mr McMahon: I don't know about that.

The CHAIRMAN: Luckily there was no media in attendance on that day!

Mr McMahon: Yes!

The CHAIRMAN: If members are happy with the abatement section we will move to the customer —

Hon JACQUI BOYDELL: I will be interested to read the workings further.

The CHAIRMAN: And you are going to provide us with the working diagram; is that correct?

Mr McMahon: Yes, to explain 1.3 in greater detail we will come back and use an example.

The CHAIRMAN: Do you want to do that now? Do you want a whiteboard? How do you want to do this?

Mr McMahon: No, I think for clarity we will go back and do that so that it is very clear and answers your questions.

The CHAIRMAN: For Hansard, that will be question on notice A1. You will provide to us an example of your working diagram as to how you arrive at your matrix or whatever you use.

[Supplementary Information No A1.]

Mr McMahon: It will show the workings, so it will clarify question 1.3, and we can use an example. We will write it in a way that is fictional so that hopefully we can take out some of the commerciality. It will just show you how it works.

The CHAIRMAN: That is fine.

Mr McMahon: That might get around the issue of commercial-in-confidence.

[3.00 pm]

The CHAIRMAN: Okay, that is question A1. Any questions that we put on notice, we will further write to you after this hearing today to say that these are things that we agreed would be provided.

The customer satisfaction survey is 1.5. You advised the committee in a hearing in June that, and I am quoting directly from the Hansard transcript here —

The customer satisfaction survey is completed by a range of persons from each client agency as identified by representatives of each agency. The survey is administered by DCS and has

been revised on a number of occasions following review and input from client agency representatives. In addition, DCS regularly reviews participation rates and advises client agency representatives. If response rates are less than desirable, DCS reminds client agencies of the importance and value of responding to the survey. DCS also regularly requests the participants' list to be reviewed to ensure relevant persons are included in the survey.

That is from page 13 of your transcript from 25 June 2015.

We would like you to provide further and better particulars in relation to the selection of the positions of persons who complete the customer satisfaction survey, and what are those positions/who those people are. In addition, please advise which representatives of each agency compile the survey participant list and which representatives of each agency review the survey participant list.

Mr McMahon: All agencies have nominated client agency representatives who have operational interactions with the service provider. The below table shows the nominated representatives for each agency. Is it best to read through that?

The CHAIRMAN: Can we incorporate tables into the Hansard transcript? We can. We will consider that to be a table that will be incorporated.

Mr McMahon: That table gives the person's name and their role.

Hon SALLY TALBOT: Three agencies by four quarters—which identifies it, I think.

Mr McMahon: Yes.

The CHAIRMAN: And you have no issues with that being put in Hansard.

Mr McMahon: The only one for me, because I do not know, is the names of the particular public servants. I seek advice about putting them in the Hansard transcript? The positions are fine because that shows the agencies, but if we could just take names out. I am just unsure; I apologise.

The CHAIRMAN: We will remove the personal identifiers of public servants from that, and the table will be reproduced with the position and the agency that they represent.

Mr McMahon: Furthermore, the selection of the survey participants is undertaken by the respective client agency representatives. Survey respondents are generally chosen based on their location and proximity to service delivery. Each quarter, the list of survey participants from the previous quarter is provided to nominate client agency representatives for review. The representative reviews the list and adds additional participants to receive the email notification survey or removes participants from receiving the survey—this usually occurs if the person is no longer in the role—and requests, for only the next survey, to remove or add a participant or any particular location. This occurs when someone is on leave and another person is performing that role for the period of the survey. A list of survey participants is attached.

Again, I do apologise, but there are a number of names on that, so I am not sure—maybe the best way to put that forward is by their positions. Actually, it has their positions. So maybe we will resubmit that. It has all their email addresses.

The CHAIRMAN: It has all their email addresses and then also —

Mr McMahon: We could resubmit that with the detail of their positions.

Hon SALLY TALBOT: Just on a point of clarification while we are looking at that table, these are clients as opposed to customers, are they? Customers cover three departments.

Mr McMahon: In the CS and CS contract, in a way, they are customers, because getting prisoners to court on time is something DOTAG does for the customer, and when we are removing prisoners from police lockups, police actually become our customer. In that sense, they are customers and

they need to let us know whether we are performing to the level of the contract required that satisfies their needs. These surveys are where they write back to us to say whether they are or they are not satisfied. In that regard they are our customers. Not that we are commercial, but they are the people that we service.

Hon SALLY TALBOT: I am trying to match what you have given us here with the EY report. Perhaps, Madam Chair, if you want to pursue some specific things about the list.

The CHAIRMAN: No, there is too much identifying information on that list for us to accept the list, I would have thought. I would rather that we have it resubmitted, rather than for us to keep it private. Could you undertake to resubmit it?

Mr McMahon: Thank you.

[Supplementary Information No A2.]

The CHAIRMAN: That is the resubmission of the list of participants receiving the customer satisfaction survey email in relation to question 1.5 without identifiers. That would be great.

Hon SALLY TALBOT: The EY report is quite critical about the customer satisfaction survey. I am sure I do not need to remind you of that. Do you want me to give you a page number? Page 21 talks about client satisfaction well below the target of 90 per cent—actual scores have been around 50 to 60. I wonder if you could tell us whether you have given that —

The CHAIRMAN: We have given that document private status at the moment, have we not?

Mr McMahon: I would not want that out there.

Hon SALLY TALBOT: Shall we leave references to the EY report and put those all together at the end?

The CHAIRMAN: I think that anything that we want to do about the EY, which is a private document at this stage, we will leave to one side rather than go in and out of private session, because that would be very confusing. We will bookmark that we are coming back to customer satisfaction at page 21, and we will move on with these ones.

Moving to proscribed police lockups at question 1.6. The regulations created under the act provide for some police lockups to be proscribed under the act. Under the current regulations these include Albany, Carnarvon and Kalgoorlie. The Office of the Inspector Custodial Services, OICS, in its submission stated that in the past Carnarvon, Kalgoorlie and Albany lockups were proscribed, however only Albany lockup is managed by Serco, and only on days when a court is scheduled. At the time when the original CS and CS contract was created, it was intended that the contractor would take over all the main regional lockups. This did not proceed. Please advise why Albany is the only police lockup managed by Serco?

[3.10 pm]

Mr McMahon: The contractor does not manage police lockups; the contractor only manages persons in custody in court cells that have a warrant to attend court, a warrant of commitment, or are in default of payment of a fine and are to be moved to a prison. The key distinction is a court cell versus a police cell. In the case of Albany Justice Complex and, more recently, the Kalgoorlie Justice Complex, these people are managed by the contractor within the one facility that is used as both court custody and police lockup. The contractor manages these people from the court cells on Monday to Friday from 8.00 am to 4.30 pm, and on Saturday depending on the number of people who are listed to attend court on the day. Times vary depending on court sitting times. At the commencement of the contract the Albany Justice Complex had been redesigned, and there was a clear understanding of the services required by the contractor to operate in the lockup and undertake custody and lockup services. On this basis, the Albany facility was prescribed for the purposes of the Court Security and Custodial Services Act, enabling court cell management to be

carried out by the contractor. Building development works had not commenced at Carnarvon and Kalgoorlie at the time the contract was being developed.

Hon SALLY TALBOT: So the contract has not been amended to take into account the new co-location?

Mr McMahon: No, our contract is the court security and custodial services contract; it does not run police cells, it runs court cells. So, actually, the contractor is performing in accordance with the contract for court cells. If I may, it is just that in some complexes, it becomes a court cell during the day and then it is a police cell at other times.

Hon SALLY TALBOT: So, just to be clear: are you saying that Serco does not manage the police lockup in Albany?

Mr McMahon: It manages the court cells within the police lockup when the courts are sitting.

Hon SALLY TALBOT: This is like the morning star and the evening star, is it not? It is always Venus. It is the same physical cell.

Mr McMahon: Correct.

Hon SALLY TALBOT: But it depends how it is designated at that moment.

Mr McMahon: If I may, to expand a little bit, there is a duty of care that police have from the moment of arrest to looking after a person in a cell. Then there is a different regime for a court cell, so if we confuse that, that can be problematic and that is something we need to be very conscious of as we go forward.

The CHAIRMAN: OICS gave us the impression that there was an intention that the contractor would take over, and I am assuming then that he was referring to once Carnarvon and Kalgoorlie did come online, which they now have, that the contract would be extended to them managing those court cells at that time, but that has not happened. Is that right?

Mr Alderton: It has for Kalgoorlie, which is running.

The CHAIRMAN: It has for Kalgoorlie?

Mr Alderton: Yes.

The CHAIRMAN: So when OICS in his evidence said this did not proceed, that might have been at a time prior to Kalgoorlie coming on —

Mr Alderton: It predated Kalgoorlie.

The CHAIRMAN: Okay.

Mr McMahon: And Carnarvon is up and running —

Mr Alderton: It is a different type of facility.

The CHAIRMAN: Carnarvon?

Mr McMahon: That is being rebuilt, so if we are running court cells there, then it is the same logic as Albany. I am not sure of that detail, I am just —

The CHAIRMAN: But Carnarvon is not yet open, is it?

Mr Alderton: Not the same type of services are being provided at Albany and Kalgoorlie, no.

Hon SALLY TALBOT: I am still a bit hazy about Kalgoorlie. I can see what you are saying about Albany, that you made sure that Albany was prescribed for the purposes of the act, but Kalgoorlie is not prescribed for the purposes of the act?

Ms Holt: Yes, it is prescribed.

Hon SALLY TALBOT: It is? Okay, so this answer here should say, “On this basis” —

The CHAIRMAN: It does. The contractor manages these people within the court cells in Kalgoorlie. In OICS's evidence, he says that Albany lockup is managed by Serco. These are his words —

... Albany lockup is managed by Serco (and only on days when a court is scheduled).

That would be because on the days when court is not on, they are police cells. That is a physical thing; they are police cells. Today is a court day, so today that is a court holding cell, so Serco is going to manage that. That has been prescribed to have it handled that way. Kalgoorlie is now operating, and the same thing there: on the days in Kalgoorlie when we have no court, they are police cells inside that complex, and on the days when court does sit in Kalgoorlie, it is a court cell managed by Serco under the CS and CS contract. Carnarvon is different, so it has not been prescribed because it is not yet finished. Am I right there?

Mr McMahon: The first two, my understanding—I am looking at my colleagues here—are right. The last one —

Mr Alderton: It is slightly complex.

Ms Holt: In Kalgoorlie, all the cells are being managed by police.

The CHAIRMAN: But on court days the cells are managed by Serco.

Ms Holt: No, on court days all individuals, regardless of whether they are due to appear for a court hearing at Carnarvon, in those cells are managed by police.

The CHAIRMAN: In Carnarvon?

Ms Holt: Sorry, in Carnarvon; I beg your pardon. In Carnarvon, by police. I apologise! They are all prescribed.

The CHAIRMAN: Carnarvon is prescribed in regulations under the act, but it is just not operating in that way at the moment.

Ms Holt: Yes, that is correct.

The CHAIRMAN: But it may do in the future or do you not think it will?

Ms Holt: I do not know that.

The CHAIRMAN: You do not know that; okay. Is everyone clear now?

Hon SALLY TALBOT: Just to make sure I understand, when OICS said, "However, only Albany lockup is managed by Serco", that is actually wrong. The lockup is not managed by Serco.

The CHAIRMAN: No, the lockup is not managed by Serco, but only on days when the court is sitting, those cells in particular are managed by Serco; otherwise, it is a police lockup and managed by police.

Hon SALLY TALBOT: When it is a lockup, it is not managed by Serco.

The CHAIRMAN: That is right.

Hon JACQUI BOYDELL: Is it helpful to have you prescribe the reasons why that is? Just reading that blankly seems a little complex, so the reasoning behind why, although all located within the one building, at 7.30 it is a police lockup and at 8.30 it is a court cell. Maybe if you explain that, that might make it a bit easier for reading purposes.

Ms Holt: Can I clarify a point? On a non-court day it is possible that someone may come to, for example, the Albany facility, and be in default of payment of a fine and therefore can be moved directly to a prison. At that time, they will go into a designated cell in that facility and they will be managed by the contractor, although the court may not be sitting on that day. So the people who attend that facility come from a prison with a warrant to attend court would be for a court sitting day.

Hon SALLY TALBOT: And they come managed by Serco.

Ms Holt: They would if they have come from a prison facility, yes.

Hon JACQUI BOYDELL: That makes sense.

Mr McMahon: If I may say, there is the distinction between they are still part of Corrective Services because they are on a warrant of commitment et cetera, or they have just been arrested and police have a duty of care. That is when it is a police cell versus it is actually Corrective Services are the principal eye responsible. That is because the three—a warrant to attend court, have a warrant of commitment or the fine example you just gave there, so it is a distinction. It does get confusing, I understand that, but the duty of care side for the police to look after people is really important. When people come into a police cell—I do not want to speak for the police commissioner—there is the searching, there is the investigating the offence, there is the interview, there is “are they going to charge”, whereas we are sort of at the other end. I am trying to clarify why we differentiate it. Under the contract, I look after the port side and the prisoner transport once they are in the DCS system, if those are the right words to use.

[3.20 pm]

The CHAIRMAN: Is everyone comfortable with that now?

Hon JACQUI BOYDELL: Yes.

The CHAIRMAN: Moving right along to question 1.7, “Request for updated information”: in supplementary information provided to the committee on 5 August 2015, DCS provided a graph from the CS and CS board report from July to December 2014 showing late to court information. Some information for December 2014 was “Yet to be classified”. Could you please provide that information? At that time we said it was only because of a bit of a time factor that it had not been classified. Have you now done that for us?

Mr McMahon: Yes, and there is a chart in there that you can refer to. I am looking at Stuart, my colleague here. Given we are going into negotiations with tenders, the availability times concern me a tad because again people can look at that in our performance way. It is something I have just picked up now, and I apologise again. You can look at the macro numbers there—the ones that are at the top of the columns—and it will give you the macro times, which is quite relevant, but, Stuart, I am just —

Mr Cameron: I agree. If there is anything, commissioner, that would allow an element of back calculation of —

Mr McMahon: Well, it is also telling a competitor what I need to achieve to be better, as well. I am sorry—that is an oversight; I just want to flag that now.

The CHAIRMAN: It has been provided previously to us, but not that latest information. The other stuff has already been made public.

Mr McMahon: Okay, the December figure would not be there, so maybe if you work through that.

The CHAIRMAN: You are happy for November 2014, but December 2014 should remain private?

Mr McMahon: If that is possible.

Hon SALLY TALBOT: Why just that month, if you have already given us the five months previous?

Mr McMahon: I think, anything not to give any advantage away to a potential tenderer is worthwhile, and that only drives a better result for the state. I am down really looking at every aspect to provide the best competitive environment, whatever that may be, for the future. It is one less piece of information a competitor potentially has—not competitor, I should say a tenderer.

Hon SALLY TALBOT: Is there something about the December figures? Is that what you are saying, or a just talking about the time factor?

The CHAIRMAN: Are you saying that we have got enough out there already, and you would prefer it to be limited?

Mr McMahon: That is a better way for me to say it. I am just trying to hold back any information that any potential tenderer can use.

The CHAIRMAN: When would the next CS and CS board report be published in the circumstances? There is one from July to December 2014, so presumably there would be one come out from January to June 2015, which would contain that December 2014 information, I would have thought.

Ms Holt: I think we have previously provided this information to the board, but internally. It does not get published externally.

Mr McMahon: It has not been published externally, no.

The CHAIRMAN: The board report does not get published; it is an internal document?

Ms Holt: That is correct.

Hon SALLY TALBOT: How much of this detail is in the annual report—none of it?

The CHAIRMAN: What we have had previously provided to us, if you refer to the one you have provided to us, is the red and the blue; we have already got that. We had one figure above that, where you have now got orange, light blue, purple and green.

Mr McMahon: Correct.

The CHAIRMAN: You are saying that publishing those specific percentages is going to—I cannot see that that is going to be a real issue for anyone else.

Question 1.8: one of the gaps in the contract identified by the Commissioner of Police was in situations where Serco officers stand down from duty after handing over persons in custody to the police, particularly at regional courts. WAPOL told the committee —

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.

What we would like to know is an update on that protocol and what is happening in that area.

Mr McMahon: A draft protocol has been developed, however further work is needed from all agencies and the contractor to ensure consistent practices at regional courts.

The CHAIRMAN: Is that something that, as a protocol, you would look at when you go to tender for this contract? By that stage would you have got your protocols worked out, and then work out whether or not that is going to form part of the new contract?

Mr McMahon: Absolutely.

Hon SALLY TALBOT: Is that the deadline that you have given yourself, because I would have thought that you could have put a protocol in place sooner than the end of the contract?

Mr McMahon: I think the senior officers' group are working their best to fix up the things they can fix up within the current bounds of the current contract, and the current system we have got under that current contract. Every day we work to get improvements on the ground at a localised level. That is what the senior officers' group was designed for, because we were missing that previously.

I am happy to say that, but, in a future contract, we will be looking very closely at how to make best use of the contract in that regard.

Hon SALLY TALBOT: So in your view the issue of the protocol is not one that can be fixed within the current contract?

Mr McMahon: My view is that the senior officers' group can do localised arrangements within the bounds of the current contract that can be worked through. We do not hand over tools and wait for a new contract. I think we can do that. However, as we go forward with the future contract, this particular item will get picked up.

The CHAIRMAN: My recollection is that South Hedland was the main issue, I seem to recall.

Mr McMahon: It is. Again, adding some context to these things: when you are running something in a region, a Serco officer goes there, it might seem from one perspective he is sitting there, but he might be getting the next flight back to go and pick up someone else to move somewhere else. I am just saying they need to be localised solutions.

[3.30 pm]

The CHAIRMAN: I understand that, but I think how it was put to us by WAPOL as well was that you have the Serco officers there and they know they are there to wait and to take that PIC back. The police officer that they are handed over to becomes the custody sergeant, if you like, and they then might, within half an hour, become the police officer in court giving evidence against that PIC or providing the evidence. It just seemed to be quite an unusual thing where you have a Serco officer sitting there and commonsense would have you say that Serco —

Mr McMahon: I agree. The here and now is let us fix what we can locally within the current bounds of the current contract, and I think the senior officers' group works through that.

Hon SALLY TALBOT: Have you been able to apply some of those localised solutions?

Mr Alderton: We have been working through the protocol with some success in some areas, I believe. It looks easy at face value; it is actually quite a difficult solution because the arrangements at each particular area can be quite different. There are some legal issues involved as well. We have not actually cracked it yet but we are getting a fair bit closer I would say. We will be in a much better position, come the next contract, to make a substantial move.

The CHAIRMAN: You are trying to make it a one-size-fits-all protocol rather than a location-by-location protocol?

Mr Alderton: You need a starting point which will be a statewide application to try to get some consistency across the state because there is a training regime that needs to be put in place for Serco officers as well because obviously it is a fairly contentious and sensitive area. If you do not have at least a consistent baseline to start from, it will be difficult to then implement localised solutions, if that makes sense.

Hon SALLY TALBOT: So you are working with the one size fits all at the moment?

Mr Alderton: We are trying to get our protocol together that will be applied across the state.

Hon SALLY TALBOT: Is there an existing protocol?

Mr Alderton: No.

Hon SALLY TALBOT: The contract is —

Mr Alderton: There is a draft at the moment. It is yet to be worked through and ratified.

Hon SALLY TALBOT: The existing contract does not contain a protocol for this particular part of the service?

Mr Alderton: No.

Hon JACQUI BOYDELL: I think the police commissioner noted that, or WAPOL noted that in their evidence.

The CHAIRMAN: That they are working through?

Hon JACQUI BOYDELL: Yes.

The CHAIRMAN: It is obviously more complex than we thought it would be.

Hon SALLY TALBOT: I am trying to tease out what a gap in the contract means. Sometimes it can mean somebody is not working and sometimes it can mean that the contract is —

The CHAIRMAN: I think we will ask question 1.9 anyway but I think we have basically covered that. So we have it all in one area: please advise how often and how frequently the following groups have met to date—the governance working group, the joint management group, and the directors general governance group?

Mr McMahon: The governance working group met on 26 May 2014, 16 June 2014 and 3 October 2014. The joint management group is known as the senior officers' group. The senior officers' group meets on a bimonthly basis and has met on 30 June 2015 and 26 August 2015. The directors general governance group meets three times a year and has met on 5 May 2015 and 15 September 2015.

The CHAIRMAN: The governance working group has not met since October 2014. From that we gather that it no longer meets?

Mr McMahon: Correct, and that has been superseded by the directors general governance group.

Hon SALLY TALBOT: Is that the senior officers' group?

Mr McMahon: No.

The CHAIRMAN: No; the directors general governance group.

Mr McMahon: The directors general governance group is the strategic one and underneath that is the senior officers' group, which focuses more on the operational, day-to-day issues. Obviously, the main constituents who make that up are Attorney General, police and Corrective Services.

The CHAIRMAN: There are only two groups now—the directors general governance group and the senior officers' group. They are the only two groups that currently exist and meet?

Mr McMahon: Correct.

The CHAIRMAN: I am presuming the DGs will get together very soon and meet again. If they are going to meet three times this year, they are probably going to meet either this month or next month, I would have thought.

Mr McMahon: You are right. Just additional to that, on justice issues we would be meeting these days on a monthly basis because the better we coordinate between each other, the better the justice system works. That is outside of those things.

The CHAIRMAN: We have been going for just over an hour. We might take a short break. I have some other questions here that relate to transport from the Perth watch house. We were going to talk about the coordination centre. We have some questions about that that you do not know about yet. We have not sprung them on you; it is just that things have come up since we wrote to you. I propose that we take a short break to allow people a comfort stop or a cup of tea or a glass of water. We will reconvene at 3.40 pm.

Proceedings suspended from 3.35 to 3.42 pm

The CHAIRMAN: We are now reconvening. We are still in public session.

Commissioner, this little group of questions comes about because two or three months ago the committee went on a field trip. We visited the Perth watch house. We also visited the Central Law

Courts and the Supreme Court, which was very helpful, I have to say, to be able to see these places as to how all this works. Just as when we go to prisons, we look to see how things work. We are finding that this is very helpful. We were given very good access to everything that was there. Hon Sally Talbot, unfortunately, at that time was not a member of the committee and so she did not join us on our magical mystery tour. We can arrange another time for her to see that. I have to say we were very impressed with the Perth watch house and that fabulous court that they have there, which is only used two days a week when really it could operate seven days a week, but that is a discussion for another time.

What arose out of that is we heard about this—they were calling it the command centre; I think you call it the coordination centre. We likened it then to *Star Trek* where you have got Captain James Kirk in control, or Tim Marney, when he was Under Treasurer, had his dashboard of control. I think it was put to us in a similar way. That is really where everyone was referring things back into and that seems a very sensible thing to have. But then there was a discussion amongst us when we came back as to how we had all perceived how the command centre or coordination centre was used and how you would change a decision made by the coordination centre. This is what these questions are really about.

Mr McMahon: Okay.

The CHAIRMAN: Could you explain the procedure that is used at the Perth watch house for assessing the security classification of a person in custody, if you are familiar with that process?

Mr McMahon: How we classify someone in the Perth watch house?

The CHAIRMAN: We used Hon Darren West, our Deputy Chair, as the guinea pig for the purposes of the procedure. We went to the Perth watch house and we stood where someone who has been arrested and brought to the watch house stood and the processes they actually go through. So we physically went through that. We saw, you should know too, some court movements that day; we were there early enough to see what was happening and we saw the Serco trucks arrive and take some of the PICs off to where they were going. We used Darren as the person there. He was then interviewed by the auxiliary officer who was sitting at the desk. There was a series of questions and our understanding is that that auxiliary officer is asking these questions. In the screens behind, there is a qualified medical person looking at that person at the time and doing their own assessment as to that person. Some of the questions that they ask are to obviously assess whether this person is going to be risk to themselves or to other officers where they might be. What we are wanting to know is: at what point is there a determination and who does make that determination that this person standing in front of them is not going to be able to be transported by Serco but is going to have to remain in the custody of the police to be transported by them?

Hon JACQUI BOYDELL: Can I just add a few things to that? I think where it came about is in Serco being able to meet their contract requirements to transport the prisoner. That is where the issue came in. What was explained to us in the sally port when we were outside was —

Mr McMahon: Sorry, where are you talking about right now?

The CHAIRMAN: We were at the watch house.

Mr McMahon: Okay.

Hon JACQUI BOYDELL: It was explained at the sally port that sometimes the person in custody cannot be taken by Serco because of some restrictions around the contract where the person might have been in custody previously —

Mr McMahon: Okay, that is a key piece.

Hon JACQUI BOYDELL: — and had a security risk or whatever level of assessment that Serco could not take them under the terms of their contract because they could not transport those prisoners. That is what it was about.

Mr McMahon: I am right with you.

The CHAIRMAN: So who can change that?

Mr McMahon: What you are referring to, and you are right, is for some of our high-end detainees at that point, prisoners who are going on remand depending on what level, and if they have come back into the system, we will know through the total offender management system who we are transporting. At that point there is a decision made. At one level, if the prisoner is very, very unruly, Serco at some point might say we might use the special operations group to move that particular prisoner. This is all about making sure that you have got the right qualified and trained person dealing with the right person. As you know, the special operations group—we used to call it the emergency response group; we have expanded it and its roles—is highly trained prison officers that can actually come and deal with that particular individual. There are a couple of key issues in there. One is if he is very unruly, as in he is violent and he does not want to get in the back of the vehicle. Okay? The other side of that is he is at a point where he is what I would call a high-security escort so there is potential of escape with people outside. So it is a transport but we have got to look out for—this would be an organised crime—that type of arrangement. We will put things in place for the escort of that particular individual. The other one, which you alluded to, is the medical. There is not one size does fit all. What Serco do, if I can give a very broad view, is they will move the one size fits all, but we cannot account for that. Our system needs to account for a whole variety of people.

[3.50 pm]

We did this before the co-ord centre—I am giving the broad picture, so please jump in after I have finished. The co-ord centre is one central point where liaison is going on between Serco and oversight of what is happening on a daily basis with 10 500 offenders and prisoners. They will double-check, oversee and coordinate decisions. What that means in some areas is that if they are seeing things on the ground that other people just are not picking up—stop, let us reassess and come back to you—or they will know, and they have a board there, and they actually know where some of the transports are et cetera. We are continuing to develop that capability, which potentially aspects of that will go into future contracts, but it is about us understanding where our population is and it is also allowing us to double-check decisions that are made with people on the ground. We did it before, as in before we did this reform; it was done sort of over the phone with, “What do you think?”—and we formalised that. It is not at its fullest capability yet, but it is moving that way, and it gets better every quarter. So that is how the co-ord centre works. I hope that answers your question, and please jump in.

The CHAIRMAN: One of the other questions that we had, if I am all right, Sally—so we know that Serco people have an iPad and they have all that information, and they can look up that so-and-so previously had a flag against him as being someone whom Serco should not be transporting and were not going to but circumstances have changed; maybe a flag was put there two years ago because this person was in a psychotic episode following, you know, crystal meth or something like that. Today he is not like that; he is perfectly okay. Police think there is no reason for that flag to be there, but Serco is saying, “Well, there is a flag there. We are not taking that person because there is a flag.” Can someone contact the coordination centre at that time to say, “Can you reassess that flag now to allow us to take that person?” or does that not happen?

Mr McMahon: One, we are not sophisticated enough for that at this stage—so right here and now—and, two, I would be very hesitant to remove a flag on the run.

The CHAIRMAN: That is what one of our main questions was in regard to that.

Mr McMahon: Can I tell you that I have had prisoners that start off very calm, but who want to self-harm with their seatbelt on the way back to prison. In this year alone, there have been many occasions in which Serco drivers have stopped, calmed down people from a potential death in

custody, and we never look at that. You know they do a good job in that regard, and that is why they have the cameras in the back et cetera, and the vehicles have been upgraded and there is CCTV. I am just making the point—my experience is very limited in two years, but I see just about everything that goes on—from where a person is calm there and then going into a small box, for some people it becomes too much. I can tell you now that that flag is not going anywhere. I would have to personally have a very, very good look at that as commissioner.

The CHAIRMAN: That is as far up as it would get; it would get to your level?

Mr McMahon: The co-ord centre is ultimately run by the head of operational support, so it is one of our four big divisions—adult justice, youth justice, operational support and corporate support. It is part of the reform. He oversees that. At any level the person running that who is a corrections expert, on the run he is not going to make that decisions. I know that.

The CHAIRMAN: I think that that clarifies the question, because it was put to us that it was built for that purpose; that it would be like this sort of on-the-run: yes, take that flag and put that flag up.

Mr McMahon: Could I give you another example of a hospital sit. In a hospital sit certain things are flagged and people always find this very intrusive, but we might use a certain regime with restraints. The Serco officer will have the reason for the extra regime, because someone might be calm at one point but the safety of the hospital staff and other members of the public are really important; so these are decisions we have to make every day.

The CHAIRMAN: We can appreciate that.

Mr McMahon: We try to balance the needs of the prisoner, but ultimately it is the safety of the community that will override that. Changing flags on the run is not a business I would be into.

The CHAIRMAN: You would be interested to know that on the day of our visit—there were probably six or seven of us in our group—we were with one of the assistant commissioners of police being shown around, and he said, “You have come at a great time because we are actually transporting some people now down to Central Law Courts.” He said to us that someone who was very well known to them was being transported and he said we would be interested to see what his behaviour would be like. As that person came around the corner and saw our group, he obviously realised that we were outside the norm, and then it started. It took eight officers to hold that person down and to then get them on the transport. I must say they did an amazing job, and a lot of that was obviously put on for the benefit of the people who were there, but it was interesting to see. They did a great job.

Mr McMahon: Not that I want to say it—and this is this different level of training—but there is a real skill in getting someone onto transport without hurting them.

Hon JACQUI BOYDELL: I think that was evident.

Mr McMahon: That is why sometimes you might need more there and less there.

The CHAIRMAN: I have to say mostly women auxiliary officers were holding him down, too, and they were doing a great job.

Hon SALLY TALBOT: Can I ask a couple of questions, as somebody who does not have the mental images of what the rest of the committee have seen. I note that in the preamble to the question, the key part of conveying the question to you was that the person already has a security classification because they have been in custody before. For somebody who does not have a security classification, at what point do they acquire that?

Mr McMahon: They acquire that once they go through our induction process, and our induction process occurs at Hakea; that is where we formally do it. We do all the screenings there—everything we need to do—but an assumption is made: we treat them at the highest level until we take them through that process.

Hon SALLY TALBOT: How does that work in terms of the contract? What happens at the Perth watch house with somebody who has not been in custody before? Are they treated at the highest level until they come outside the Serco contract?

Mr McMahon: Yes; so we have a whole range of intelligence. When someone goes through court, we will know a whole range of intelligence that may or may not be used; but we would treat someone at a level—not a high-security escort but at a level that is at its highest level within our system.

The CHAIRMAN: This is prior to their court appearance? This is someone whom, for instance, right at this moment is walking the streets of Northbridge and is going to get taken into custody tonight; they have never been in custody before; they are going to go through that process of questioning at the Perth watch house; and they will be held overnight and transported tomorrow to appear in court. Who looks at that person to assess whether or not Serco, under the terms of the contract, are qualified to carry that person to court tomorrow because they are not known to us in the system?

Mr McMahon: In a broad sense, we would treat that person at the highest level, both in terms of the appropriateness of what we put around him both in a security sense and in an actual, that particular offender—not an offender—or a detainee's medical treatment and care. We have to do that because that is our duty of care to that particular person. We have different levels, but it would be right up the top, we treat them that way. That does not mean that if you have handcuffed someone to another officer that is pretty hard to get out of that, if you know what I mean. We would do that for a whole range of levels, but due care would be given to security and due care given to medical at that point, because if we do not know, we have to make that assumption.

Hon SALLY TALBOT: So that person would not be transported by Serco?

Mr McMahon: No; they would be if we do not have any other information indicating his level.

Hon SALLY TALBOT: Are you not saying that you treat them as if they have been classified at the highest level?

Mr McMahon: Absolutely—not the highest level. We would have to put appropriate arrangements in that to treat them at a high level.

Hon SALLY TALBOT: I see. Where does the contract cut out? Is it only at the special ops level?

Mr McMahon: You can jump in. I can add to it.

Ms Holt: The default is that the person who has come in the scenario that you are indicating, that the person is otherwise unknown to the system, would be treated as a maximum-security prisoner, and all the security requirements therefore required. Because there is no other alert that they are for example a high-security escort, and there is no alert on the system that would give us that information—no other information from WA Police that raised any other concern—then that person would be moved by the contractor as a maximum-security prisoner needing secure movement.

[4.00 pm]

The CHAIRMAN: So here is another scenario then. You have got a person in front of you who you have never seen before and you are going to treat them as a maximum-security person. However, there is a little bit of intelligence surrounding this person that they might be involved in a bikie gang or something like that, but we are not sure because we have never seen this person before because he is new. Can WAPOL then at that point in time contact the coordination centre and say, “We are not comfortable because we think there is something there. Can you put a flag against this person now?” Can that happen?

Mr McMahon: Absolutely.

Ms Holt: And that contact does occur.

The CHAIRMAN: That does happen. Is that available 24 hours a day, seven days a week for that type of situation?

Mr McMahon: Absolutely.

The CHAIRMAN: All you need is for WAPOL or someone like that to give you that slight doubt and you will make that decision on the run.

Mr McMahon: We will make a decision on the run that is in the best practice and safety of the community, absolutely.

Hon SALLY TALBOT: So you grade up on the run, but you would not grade down.

Mr McMahon: We always grade up.

Hon SALLY TALBOT: And that would apply if somebody was perceived to be potentially suicidal?

Mr McMahon: Absolutely. I think you always grade up. Just so you know, when we move sentence there is a high-security escort and there are maxis and they have to come through a procedure to move out of the facility. We do not just move them with people at the lower level making those decisions. This is now your sentence and you are in the system; they have to go back to my deputy commissioner who personally will sign off their movement form. We never had that before; we now have that.

Hon SALLY TALBOT: The Chair's question related to WA Police contacting the command centre. Could the Serco worker contact the command centre and say —

Ms Holt: Yes, and they do.

Mr McMahon: Absolutely, and they do.

Ms Holt: Absolutely, on a regular basis.

Hon SALLY TALBOT: And that would be the same upgrade?

Ms Holt: Yes.

Mr McMahon: That co-ord centre is really the hub of movement. That is what it has become. It has obviously cost us more resource but it is important to have a more effective and efficient system. It is still growing and we are learning as we are growing, but having that and the senior officers' group has allowed us to learn more about how to better manage the contract. Ultimately, it is about moving people safely.

Hon SALLY TALBOT: Do you keep a record of the number of cases where the security classification is upgraded—if I can say it by way of shorthand—on the run?

Ms Holt: That would be treated more as a flag against that individual. My understanding from my liaison with the coordination centre is that they would be putting a note or a flag against that individual so that there is a continuum of care and management of that individual, regardless of who is managing them within the prison system.

Hon SALLY TALBOT: It would give us just an added degree of insight into the operations of the command centre if you could —

Mr McMahon: As I said, we do not change flags on the run, and I have made that point.

Hon SALLY TALBOT: But you upgrade on the run.

Mr McMahon: But you said “change of flag”, so that is why I was a bit confused.

Hon SALLY TALBOT: Sorry, I am running with your point that you only upgrade the flag on the run. So do you keep a record of the number of upgrades?

Mr McMahon: If there is someone we need to move outside of the normal system of the contract—for example, where we have to use the SOG that we do not know about—we may have a record of that. The co-ord centre may have that.

Hon SALLY TALBOT: Do we want to ask if it exists, could we have a look it?

The CHAIRMAN: If the data exists as to how many —

Hon SALLY TALBOT: You are not sure that the data exists are you? Do you think it might be kept by the command centre?

Mr McMahon: Correct. When we have received a call, do we want to upgrade or do we want to do something with this particular prisoner? They may have it, but as the commissioner I do not get down into that level. But do they actually get involved in the transport? Absolutely. Do they keep a record of every time they upgrade? I am not sure.

The CHAIRMAN: If the flag is put up and it was not there before, the special operations group are then going to be responsible for the transport of that person?

Mr McMahon: No.

The CHAIRMAN: Okay, so it explain it to us. We will go back to that scenario: the person came in off the street and has not been seen before. There is some intelligence that has been given that you did not have that this person is going to be dangerous for whatever reason, contacted the coordination centre; it could have been Serco that did that, it could have been the police that did that, it could have perhaps even been a tip-off from somebody else in custody who gave you that. But the decision has been made by the coordination centre that this person now has a flag that they did not have half an hour ago. This person needs to get down to court. Who is going to take that person?

Ms Holt: I think that decision is made on a case-by-case basis.

The CHAIRMAN: I understand that but who is going to take that person? Has it never happened?

Mr McMahon: Who is going to take the person to where? Police will do it or our special operations group will do it.

The CHAIRMAN: So there are two choices: either the police will transport that person or the special operations group, who are part of DCS —

Mr McMahon: Correct.

The CHAIRMAN: But not Serco.

Mr McMahon: No, if the threat is too high or there is a deeming of it too high. Serco will only transport a certain level of prisoner.

The CHAIRMAN: Who makes the decision that WAPOL will transport them or the special operations group will transport them? Who makes that decision?

Mr McMahon: That comes back to the co-ord centre and comes back to the running of the contract. Who specifically? Ultimately, it is me. I am the principal. Ultimately, it is me but I discharge these duties through the co-ord centre, the operational centre et cetera. Ultimately, it is me, but that is in line with the practice on the ground. If the level of the prisoner is outside what Serco deem as an acceptable risk for them based on their training et cetera, it will come back to us and we will make the decision how best to transport that particular individual.

The CHAIRMAN: And that is based on what—whether the decision is the police or special operations?

Mr McMahon: To be fair, the majority that I have seen have been special operations group, if they are that troublesome. But if there is a troublesome person in a vicinity and they need to be moved because they are upsetting other things and the police are there, the police will support us and help

us. We work together to do these things, and I think that is Sue's point—I do not want to put words in her mouth—when she meant it is case by case. There are things that will happen on the ground. A prisoner, as you know, can change like that, and I think you have seen it firsthand. I am making the point that on the ground they make those decisions, but the co-ord centre is giving us oversight of what is happening on the ground in a greater level of fidelity that we did not have before, and to make decisions as required and check decisions as well.

Hon SALLY TALBOT: I understood the Chair to be asking: what is the basis on which the decision is made? You are looking at a particular prisoner. The Chair was talking about somebody who might be violent and I was talking about someone who might suicidal and therefore a risk to themselves. They cannot be transported by Serco because it is outside their contract. Somebody is making the decision about whether it is the police or special ops. What are they taking into consideration?

Mr McMahon: Scenario 1 will be someone who we know about. We have all the intelligence on them and they are on our total offender management system. That decision is relatively easy because the flag will be there that this person is a high-security escort or he has been a maximum prisoner so we need to take the appropriate precautions. The other one is the volatile person you get where the person becomes that violent that Serco cannot move that person. Violence is one, when someone is unpredictable in their nature. The one about the suicidal tendencies: if that is picked up in the cells before the person is moved, we will actually make sure we discuss how it is best to move that person.

[4.10 pm]

I am doing the suicidal one, not the high-end violence. The suicidal one is that that might be a regime of where they make sure they stop the vehicle every X amount and actually check, or they make sure the cameras are working et cetera. If I may, Sue, I am going back to Sue's point about that case-by-case piece. So, the determination would be based on high-end violence outside the capability of Serco officers to manage that person with the appropriate care for the offender, the intelligence that was given from whatever source that is given at that point in time, and the medical requirements or health and wellness of that particular prisoner. So, there are four big key requirements that we would look at to go through that. Ultimately, that does not mean, if you really think about when it is all fused and put together well, there might be things where we learn things when the person is being transported and we get the SOG to interject. So, we can get to that system. We are not there yet, but we will build that system where we can do that. That would mean the police would not interject either, because we go, "Can you get there quicker than us?" There might be things we move, even while the person is being transported. That is how our intelligence world works. You would be surprised what comes out after court hearings and all those other things—and we do not need to go into that—but we are linking in to all those. We are building our intelligence centre to actually do that and, as you know, you have got linkages down into police now that are really quite solid. So I am trying to give you as much as I can to give you a sense of —

The CHAIRMAN: That is fine. That has clarified that for us very well.

Now we need to consider some of the things in the EY report. We have now decided that in order for us to canvass some of the questions that we have in relation to the EY report, we are going to move into private session. In order to do that I need to clear the room of any member of the public or media; basically, anyone who is not sworn in, needs to leave.

[The committee took evidence in private session]
