

STANDING COMMITTEE ON PUBLIC ADMINISTRATION

INQUIRY INTO STATUTORY OFFICE HOLDERS



**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
MONDAY, 7 MAY 2018**

SESSION ONE

Members

**Hon Adele Farina (Chair)
Hon Jacqui Boydell (Deputy Chair)
Hon Ken Baston
Hon Kyle McGinn
Hon Darren West**

Hearing commenced at 9.57 am

Mr ANDREW HARVEY

Acting Inspector of Custodial Services, sworn and examined:

Mr DARIAN FERGUSON

Deputy Inspector, Office of the Inspector of Custodial Services, sworn and examined:

Ms NATALIE GIBSON

Director, Operations, Office of the Inspector of Custodial Services, sworn and examined:

Ms ROWENA DAVIS

Director, Reviews, Office of the Inspector of Custodial Services, sworn and examined:

Mr DEREK SUMMERS

Manager, Corporate Governance, Office of the Inspector of Custodial Services, sworn and examined:

The CHAIR: On behalf of the committee, I would like to welcome you to the meeting this morning. I have to go through some formalities, so apologies for this. I need to ask you to take either the oath or the affirmation.

[Witnesses took the oath or affirmation.]

The CHAIR: You will have signed a document entitled “Information for Witnesses”. Have you read and understood that document?

The WITNESSES: Yes.

The CHAIR: These proceedings are being recorded by Hansard and a transcript of the evidence will be provided to you a few days after the hearing. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of the hearing. Also, be aware of the microphones. Try to speak up and talk into the microphones, and try not to cover them with papers or make noises near the microphones. I remind you that the 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 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.

Mr Harvey, I invite you to make an opening statement if you would like to.

Mr HARVEY: The only opening statement I would like to make is an explanation for the number of people I brought with me this morning. It is because of the absence of the inspector, Professor Morgan, who is presently on three-month long service leave. I am doing his job for three months and I thought it necessary to enable the committee to be fully informed that I bring my entire senior management team along.

The CHAIR: Thank you very much for that. I have a few general questions that I would like to ask. Have you encountered any difficulties in getting access to facilities or information for the purposes of conducting your work?

Mr HARVEY: We have not had any difficulties with gaining access to facilities. We have, at the time of the last financial year, had difficulties with gaining access to information and that is mentioned in the annual report. That situation has changed. Back in February 2017, the situation had got quite bad in terms of gaining access to computer systems and delays in seeking information. We wrote to the department at that time—to the commissioner. That did not result in significant improvement. I believe we wrote again in May 2017, and at that time with the new acting commissioner, Mr Tony Hassall, the situation was changed.

Rowena, do you want to explain how we are actually accessing information at the moment?

Ms DAVIS: At the moment, we are still doing what the department has wanted from us, so we have moved across to a different data source, which is cleaner data, and we now have access to that information. We are still retaining access to their raw information so when corrections officers enter information about certain things happening, we can see that directly from our desktop. They have now put in place, because it is quite ugly, a cleaning system and we now have access to that as well. The difficulty will be that the department is keen for us to only access the clean data so that we are both on the same page. We will need to negotiate that over the next year to make sure that we are doing the right thing for us, but also getting consistent information to who needs it.

The CHAIR: The term “clean data” raises a whole lot of questions in my mind. Can you just explain to me why access is being denied to raw data and what is happening to the raw data to make it clean?

Ms DAVIS: Because it is put in on the spur of the moment, it does require certain verification processes to go through. Because we are accessing it so quickly and the way the structure of the dataset sits means it is actually quite difficult to pull information back out. So that cleaning process is to verify the data to make sure it is actually accurate—that the person that was putting in the information has it verified by their senior management and that it sits in better tables that are clearer for people, to make sure they are pulling the right information from the right spot. We actually agree with what they are doing. We have been at them for several years about the messy nature of the raw information and we see this as a positive step. It is just how we transition through and make sure that we are not missing anything. The current management is very supportive of making sure that we are as comfortable as possible with that.

The CHAIR: So when we make reference to the term “clean data”, we are not talking about a desensitising of the data?

Ms DAVIS: No. To our knowledge, we are not, but that is why we are retaining access to both datasets at this point in time. We would want to be very, very sure.

Mr HARVEY: If I could also add, almost all of the office has access to the front end of the total offender management system—the department’s TOMS system. That is the same system that prison officers have access to and in which they enter the data. To look at each individual case can take a vast amount of time so we are extracting the data from the back end. If there has not been and there is not sufficient cleaning, then we have to do it ourselves. If we are cleaning the data and the department is cleaning the data, then there is going to be the very real risk that the data is not going to be directly compatible. It does make it difficult if we are saying, “This is what we have found” and the department comes back and says, “Actually, this is what we have found” using the

same sort of data extraction, but using it slightly differently. It makes it very difficult for us to agree on a common data argument.

The CHAIR: I understand that when you were denied access to the information, we were told that the access to the data needed to be made more secure. Has this actually happened or is access, as far as you are concerned, exactly the same as it was before you were denied access?

Ms DAVIS: The new data warehouse they have got, which is basically that clean data, will be more secure, is my understanding, so, yes, they are moving towards that.

The CHAIR: But have they not actually quite got there yet?

Ms DAVIS: They have. The access that Andrew is talking about is, by coming in the back end like we have been doing, like we have access to, means there are not many checks and balances. The checks and balances are in our office and the checks and balances are in the departments, and that is a risk that was pointed out to them by OAG. Really, people should not be playing around in the back end of this system. That is understandable. They have improved that by making an extra level up that people can come into and various things do occur so they know when certain things are being pulled off the data et cetera.

Mr HARVEY: As a result of finding out that one of their areas of concern, as we understood it from the department, was a belief that the Office of the Auditor General had complained about the laxity of controls, we did speak to the Deputy Auditor General. He said that—I am paraphrasing and it is from memory—at the very least, he would have expected the department to have spoken to us about their concerns and that never occurred. We have quite good controls. As I said, TOMS access for the front end is available for most of the operational staff in the office. Access to the back end is quite restricted within the office because with TOMS, the department monitors people logging in. With access to the back end, it is much more restricted because you run SQL tables and so forth. We restrict access to three staff members and the data is presently, and has been for most of the time we have been doing this, in a locked drive that is only accessible to the audit and review team. So it is a restricted area within the general restrictions of the office. Access to the warehouse is being rolled out to a lot more people because they are able to monitor it, as I understand it.

Ms DAVIS: Again, there will be two ways to access it. Most of the office will get what many people in the department can access, which is that easy access to build a report. We will still be able to come into the back of that data warehouse and say, “We want a completely different report” and we will build it ourselves, but that will only be our team.

The CHAIR: So you do not have any concerns about your access to information at the current time?

Ms DAVIS: It has significantly improved. We are still waiting for the finalisation of where the department wants to land, but we have significantly improved our relationship with them and there is a better understanding of what it is we require. Obviously, with the loss of that raw data, we just want to make sure that we are not missing anything—that everything is still available to us when we need it. We are still persevering to make sure that occurs.

Mr HARVEY: If I could just ask Natalie to comment about whether she is satisfied about the level of support and information being provided to our inspections function.

Ms GIBSON: Yes. My team does not access data in the same way as the review team. Ours tends to be much more operational, on a sort of day-to-day basis, rather than needing access to datasets. Rowena’s team will provide a lot of that to my staff. We were in sort of a similar situation where we were having significant difficulties accessing requested information around even operational areas and, more particularly, access to information that would explain and explore policy that led to changes in operational areas. But in the similar sort of time frames that Andrew spoke about, we

have found an improvement over the last 12 to 16 months around that. It is a much more cooperative relationship in terms of providing that information.

We had a long period where the preferred way of us requesting information from the department was funnelled through one person, basically—or one or two people. It caused a huge backlog. Things were not getting processed and it would take months and months and months to access information. That is not happening anymore. It has been opened up a bit more to allow various managers and different people with responsibilities for those operational and policy areas to be able to converse with us and provide that information themselves.

The CHAIR: I am sensing that there is still a fair bit of effort that is required to access information.

Ms GIBSON: We have an agreed process in place and that is working for us acceptably. We are getting things in a timely manner, which allows us to follow up issues and incidents within an acceptable time frame now.

The CHAIR: I understand there was consideration given to establishing an MOU. Where is that at?

Mr HARVEY: I will pass that across to Rowena to answer after I have given a bit of a lead-in. There are two memorandums of understanding. One is a general one which is about how we get information, how we will undertake our inspections and how we will provide copies of draft reports, and how we expect or hope that they will be responding in terms of recommendations so how they say whether it is supported or partially supported or supported in principle and what those terms mean. We have been attempting to get that particular MOU changed since 2014. We have provided them with at least three copies of our draft, and then every time we do that, the department makes a start and then reorganises and then they have completely forgotten about the MOU. That is now at a stage where this office is considering moving to a statement of expectations. It will exactly follow the proposed draft MOU. We are not extending or pulling back from that, but what we are going to be saying is, “This is how we are, how we expect ourselves to seek information and provide you with draft reports and so forth and this is how we expect your response, including time frames.” But there is also a second MOU, which is referred to as per your question, which relates to that access to the data.

[10.15 am]

Ms DAVIS: That one has suffered a similar fate. There is a flurry of activity and then not. Where we are at the moment is a written agreement from the department that says none of our access will be changed or reduced until that MOU has been finalised and every party is happy. So, that is that raw access; we will not lose it until that MOU is finalised. From our perspective, if it takes a little while, it takes a little while.

The CHAIR: Would you be able to table a copy of that agreement with the department?

Ms DAVIS: It is a letter, but yes.

The CHAIR: We will take that as question on notice 1. Also would you be able to table the draft MOU that has never been finalised, which will form the statement of intent. I will take that as question on notice 2.

Mr HARVEY: If I could say, that revised MOU did need to be revised because it did not take into account or cover the new review function that came in with the act in 2012.

The CHAIR: Are there any aspects of the legislation that in your experience and your view should be changed to enable you to be able to fulfil your duties and functions under the legislation?

The CHAIR: You can take that one on notice, if you like.

Mr HARVEY: I think that would be best.

The CHAIR: We will take that on notice as question 3.

Mr HARVEY: I would say with the introduction of the Tasmanian inspector's legislation, which sits under the Ombudsman, and also with the ACT's, that there are now different ways of phrasing legislation as examples that reflect practice that has been developed in WA and in New South Wales.

The CHAIR: Now, I am just curious. You produce quite a number of reports each year, so you are a hardworking crew. What sort of response do you get from government to the reports? Do you get a formal response from government to the recommendations in the reports?

Mr HARVEY: We get the response from the department, which, so long as it does not require additional significant amounts of money, is often a commitment to address what we have sought. In terms of a response from government, I think the only one reason is with the directed review into the Banksia riot where the government did respond to the allegations in two parts via a statement in Parliament.

The CHAIR: But there is not a formal process by which the government is required to respond to your reports or to the recommendations in the reports?

Mr HARVEY: No, there is not.

The CHAIR: How does your office monitor the implementation of recommendations made in your reports, because it is great to have a report with recommendations, but if they are being ignored, it raises a few questions about whether there is any benefit in the process.

Mr HARVEY: Yes. We used to, up until possibly, six months or nine months ago, include a table in the back of the report that says that these were the recommendations in the three years before in the last inspection and this is how well we feel they have been implemented. That has been discontinued because it was a very subjective process, and, basically, it had some validity and the entire inspection team sat around at the end and came up with views as to how successful we thought the department had been. What we will do now is before the team goes in, it looks—did you want to talk, Nat, about how allocations are made and responsibilities?

Ms GIBSON: In regards to addressing the question, within a report we will make formal recommendations and then there will also be other issues raised within the text that are not quite elevated to recommendations. We have a process of liaison and monitoring. Each staff member is responsible, basically, for an ongoing monitoring of progress against the issues raised in each report. They will visit each facility usually three to six times a year depending on the size, complexity and what risk we assess that facility to be presenting. They will have constant ongoing discussions and monitoring of how the different issues that we have identified are being progressed. That means that we do not just sort of turn up on the doorstep every three years and assess at that stage. It is a process of, I suppose, discussion and talking about the steps that each facility is trying to go through to achieve the same outcomes that we sort of share, I guess, in terms of improving the service delivery. There is a constant ongoing assessment.

Then at the stage of the next formal inspection, each team member within the inspection team would be given responsibility for looking at the different service delivery areas. They will take into account what the recommendation was at the last inspection, and part of their role then in that inspection is to provide an assessment of whether they feel there has been progress. They may find that that issue is not relevant to that facility anymore because maybe they have changed profile, they may have changed the way they are delivering service—that service is not offered at that prison anymore and it has moved somewhere else—or they will look at changes the facility has made in order to improve that service, and there will generally be a statement then within the inspection

report in terms of that assessment. In a worst-case scenario where we feel there has been no progress or sometimes, unfortunately, even a further degradation of that service, we will make another recommendation. We can elevate issues then even further to possibly direct correspondence and negotiation with higher management within the department itself outside of the facility. I guess even in a worst-case scenario, as the inspector meets with the minister regularly, if it is something of such grave concern, we have a process where we can elevate those sorts of—and they would be more strategic, system-wide issues usually, rather than something specific to a facility, but if there is such a level of concern, we can graduate it that way as well.

Mr HARVEY: In terms of repeating the recommendations, it can, in fact, end up being repeated in multiple inspections. One example I am fairly sure of is Boronia women's prison where we have been concerned about the lack of analysis as to the success or otherwise of that particular prison in terms of reducing recidivism. So, we have repeated that recommendation a number of times. We can then escalate that in terms of the inspector's overview and into the press release, which we have done on occasion.

The CHAIR: Can you just clarify: when did you stop providing the report at the back end of the reports about implementation of recommendations? You can take that request a question on notice if you cannot remember.

Mr HARVEY: Yes, if we could.

The CHAIR: That will be question on notice 4. Since that time, has there been any review of that decision as to whether you should go back to including a report on the implementation of recommendations?

Mr HARVEY: There has not been a review as yet. It has been a fairly recent—I am guessing nine months. As I said, we will provide an answer. I think I can commit the new deputy inspector to looking at that 12 months after the initial decision.

The CHAIR: I have a few other questions. In relation to Banksia Hill, you recommended that the government consider smaller facilities across the state and this would allow better separation and better targeted programs for youth in conflict with the law and an ability to keep young people closer to home, and the report attracted considerable public attention and support and the Premier announced the government would examine options from detaining young people from the Pilbara, Kimberley and the goldfields in their local region, rather than at Banksia Hill. It will also examine alternatives for young women and girls. Has there been any progress in relation to this commitment and in terms of developing smaller facilities across the state?

Mr HARVEY: We have not received anything formal from the department and we are not aware of what their thinking might be.

The CHAIR: We are all aware about the double-bunking in cells in prisons across the state. The fact that cell-sharing conditions in some prisons are inhumane and that some do not even meet the International Committee of the Red Cross standards for developing countries is disturbing. What is the department doing to address this that you are aware of?

Mr HARVEY: I am not aware of what they are doing to address the specific concerns about the cells that have been double-bunked. I understand from a verbal briefing received from the department that the new cells going in are of a larger size and are not double-bunking. You have two beds but they are not in a bunk situation. But I am aware of the precise cell sizes. Yes, the department is making changes, but not to the older ones, the older cells.

The CHAIR: Is there any program in place to actually stop that practice and actually start winding it back?

Ms GIBSON: No, in fact, they are installing more bunks in quite a number of the facilities and cells that do not have bunks. There is actually a program that I think is almost completed now where they have placed additional beds in some existing single cells.

Mr HARVEY: So there are very few single cells getting left.

The CHAIR: We have read in all of your reports about the increase in prisoners at most of the prisons and the fact that that the department needs to make full use of its undervalued assets. I think the undervalued assets have been identified as work camps in Roebourne, Warburton and Wyndham and the 37-bed minimum-security unit at the Bunbury Regional Prison. Are there any current plans to build a large new metropolitan prison to address these overcrowding issues?

Mr HARVEY: I am not aware of any and I suspect not.

The CHAIR: You have indicated in your reports that you either need to build a new metropolitan prison or you need to look at pegging or reducing the prisoner population. Has any work been done in relation to the latter?

Mr HARVEY: Have you had any briefings, Nat?

Ms GIBSON: I have not had a briefing, but I understand there was a resource within Attorney General's being dedicated to that and my understanding is that the project is supposed to be completed by the end of the financial year. I would suspect closer to the time that the inspector would be given a briefing about that. I do know that there has been some work around looking at reducing prisoners.

[10.30 am]

The CHAIR: In your reports you also indicate that Aboriginal and Torres Strait Islander people make up three per cent of the Western Australian population, but 38 per cent of our prison population, and Western Australia continues to imprison more Aboriginal people per head of the Aboriginal population than any other state or territory. Have you seen any evidence of any action being done to address this appalling stat?

Mr HARVEY: I have not, no.

Ms GIBSON: No.

The CHAIR: Does your office engage with the department at that level to try to address this statistic?

Ms DAVIS: The department has less control over who comes into their facility. They have control over what they do when people are in there, and that will be obviously where the focus is of reviews and inspections, but it is multi-agency.

Ms GIBSON: I do know internally when they have looked at recently, with the restructuring and retendering of a lot of their contracts, they have put some provision around wanting some specifics around how those contractors would intend to specifically address issues related to Aboriginal prisoner reintegration programs, supports and those sorts of things. A lot of that is very new, so, I guess, moving forward it will be interesting for us to see how they engage differently with the Aboriginal, for want of a better phrase, client base—unwilling clients! I think for the office one of the major issues we have had in terms of probably trying to address some of those issues is around looking specifically at treatment programs that would more specifically and appropriately address the needs of Aboriginal people—remote Aboriginal people, Aboriginal women and Aboriginal young people—such a diverse different range of services and programs that would be needed. Historically, we have been concerned about the lack of appropriateness of a lot of the programs for those different groups, and I know there is a raised awareness and consciousness around that now. I suppose the difficulty is that we have some concern about just the level of programs available

generally, so then it is about those discrete groups within that getting access to what they need as well. It is very complex.

Hon KYLE McGINN: Just in regard to the work camps being reopened and on country et cetera, is there some way of it being measured on the success rate of that and whether that is going to reflect reducing numbers in incarceration?

Ms GIBSON: Possibly. There are very strict guidelines and rules around who can access and who they will place in some of these facilities. With recent history, it has been a very risk averse attitude towards placing prisoners in some of those facilities. There have been occasions when we have felt that some of the prisoners they are sending to the work camps probably will succeed regardless of whether they got access to the work camps, because they are often highly skilled people who have had employment in the community and have supportive families and so forth. A lot of people who reach that high bar around the prerequisites to reach the work camps have a fairly high chance of success anyway. It is a lot of those people who probably need the higher level of support need better access to a lot of the opportunities that they may get through the camps who do not manage to get there, and unfortunately a lot of those are Aboriginal people, because the risk factors that the department considers when deciding if it is appropriate to send somebody to a work camp tend to immediately discount them, so it is very difficult. They are probably not accessing it at the rate that they should, even in some of the regions where you would expect that they would—in the far north and Kalgoorlie and places like that.

Hon JACQUI BOYDELL: This is probably not directly in your remit, but just in this conversation, given that the department and therefore you guys have an oversight over the lack of programs and the needs—the treatment programs that should be required—is there any sharing of the information that you are aware of from the department to other agencies so that they can incorporate what is left at the back end, which is what the prison population is dealing with, to instigate programs in the front end to stop people getting there in the first place? Where you are talking about treatment programs, they could be health related, they could be psychologically related or they could be family related. Given that the department knows that, because that is what they are tailoring the treatment programs around, is there any sharing of that information to other agencies —

Ms GIBSON: Back out in the community?

Hon JACQUI BOYDELL: Yes.

Is there any sharing of that information with other agencies to deal with those issues and stop them happening in the front end? So, sharing information with the Department for Child Protection and Family Support, for example, about issues that a prisoner now may be facing as a result of their experience?

The CHAIR: That may be beyond the scope of the office.

Hon JACQUI BOYDELL: Yes, it may be.

Mr HARVEY: There have been positives and negatives at Banksia, the remand facility—the Telethon Kids Institute going in there and looking at and testing for FASD and other neurological disorders for kids. That information has been fed back out into the wider community. One of the things that I am really unhappy with, where it is not occurring, is in education at Banksia, because the education at Banksia is being run by the department and they do not talk, and I suspect, cannot talk to the Department of Education, and yet what they should be doing is that as soon as the kid comes in, they should be linking to the school where the kid in theory was being educated, pooling all of the information that the school has about the kid and actually using it. Then when the child returns to

the area, feeding that information back to the school so it is seamless. That is not occurring at the moment.

Hon JACQUI BOYDELL: If I go back to Rowena's comment that it is multi-agency, that is exactly where I am trying to get to—that is, that that is falling down, but we are aware of it. Thank you, that is what I was really asking.

The CHAIR: The annual report says that people on remand must be a priority in government planning of future prison construction and they must also be given more support services, both in prison and on release. Do you want to just expand on what the problem is and what the deficiencies are in terms of prisoners on remand?

Mr HARVEY: Prisoners on remand, from a human rights perspective, have not been found guilty of any crime. They have appeared before a court, so the magistrate has felt that it is probably better that they are actually in jail, but they have not been found guilty in the first place, so they have certain additional rights and there are certain things that are never really being implemented and we do not expect they will, such as the fact that they are entitled to wear their own clothes. That was built into the Melaleuca contract and has never been—was implemented for a couple of weeks?

Ms GIBSON: It started out that they were and it quickly became too difficult to manage and it was eliminated.

Mr HARVEY: But, more importantly, there is a significant number of remandees who come in for a very short time frame, and it has been established academically that if you manage to come into prison for one or two weeks and you are released back out into the community, it has not necessarily significantly affected your ongoing relationship with work, but if you are in there for slightly longer than that, it actually does start affecting your ability to return to the community. People coming in, which people in remand are, have a greater need, because, in the case of women, they have kids who they are responsible for, they could have pets, they have houses and they have got cars. So, there is an additional service that needs to be provided to those people to ensure that as much as possible that temporary stay in prison for a lot of them has minimised the effect on their ongoing life, otherwise their life can collapse. But you also have to provide them with the opportunity to access legal advice. In terms of running non-complex cases, which, I will grant, most remand prisoners are, they can quite happily leave their lawyer to deal with their defence for them, but in some cases the lawyer does need to be able to provide the evidence that the police has, such as the CCTV, which in some prisons has proved highly problematic. They have been unable to bring laptops in. They can now bring laptops in, but they cannot show the video in some prisons. That makes things expensive for the state, because the lawyer could say, "Look, that's you, isn't it?" And the person could look at it and say, "Yes, that's me. That's it; right, I'll plead guilty", rather than trying to defend. Alternatively the person could say, "That's not me, because at that precise time I was here." So, it is actually affecting the ability to run a good and robust defence. They also do not have the opportunity to do programs, because they are still thought about as coming in for a short term. As I said, a lot of them do, but some of them are in there for over 12 months, during which time, if they have an alcohol or drug issue, it would make a lot of sense to be able to provide them with short-term programs and that is not occurring either. They are entitled to more visits from family, I think it is —

Ms GIBSON: Daily.

Mr HARVEY: — daily, and additional phone calls. Remand prisons are set up for that. It is only recently that Casuarina has been set up as our long-term maximum-security prison for convicted people and it has now got 25 per cent or higher for remand prisoners, but it has taken a long while for them to catch up with that, and they have done remarkably well. But remand prisoners require

additional and different facilities, resources and programs than convicted prisoners, and are not getting that as well as they should be.

The CHAIR: Is there any action being taken in that space to try to address those issues?

Mr HARVEY: I understand from the verbal briefing we have received in relation to the upgrade to Casuarina Prison that they are putting in additional units and they will be upgrading certain facilities as well, which includes the video facilities.

Ms DAVIS: Certainly in regard to programs, if we go back to what Natalie said earlier, we have a general concern about people accessing programs. We would like to see more programs for Aboriginal people, we would like to see more programs for women, we would like to see programs for remand people, because they are going to end up back in the community and we may or may not see them again. So, the concern for us is that the line has been getting greyer over the years between what a remand person and what a sentenced person actually looks like, but the resources that you can divert to them has still got quite a few limitations.

Mr HARVEY: Providing activities in industry for them: there is an expectation that has been expressed to me at times from senior officers in the department that they are only there for a short term, so providing them with activities such as industry or the ability to work in industry is simply not worth it. It is very difficult for the department and the VSO, who is the tradesperson responsible for supervising people, to have a high turnover, which is what you get in remand, but in certain industries you can do that. They need to be configured for remand prisoners—talking about laundry and suchlike, which does require training but is a lot easier to churn people through than it is in cabinet making or metalwork.

[10.45 am]

The CHAIR: The annual report indicates that there has been a 45 per cent increase in female prisoners, which is shocking. Is there some reason for this that you have identified?

Ms DAVIS: The short answer is no. It is happening everywhere.

Ms GIBSON: As across the board with a lot of the imprisonment, we have seen a very sharp rise with remand prisoners and that does make up a significant proportion of that increase, which continues to be shown even through just the establishment of Melaleuca, which was supposed take all remand prisoners. Originally, the commitment was to take only up to a certain number of women on remand in terms of its split function. Even since it has opened in December, they have had to bump that number up continuously because the remand population continues to swell. That seems to be one of the key drivers. The other is, I think, some of the longer term sentences as well. Some women who are going are staying longer than they have historically as well, but across the board, when you try to pick through why there has been such a large increase in prisoner numbers, it is very, very complex.

Ms DAVIS: It is a national issue; it is a worldwide issue. For some reason, the number of women is increasing. I guess our office chose to focus on what that actually means for corrective services.

The CHAIR: Can you tell us what that means?

Ms DAVIS: It means quite a few things. Women are often more unwell. Their mental health needs are higher and the department needs to address that. Obviously, males and females are different; they have different clothing requirements and all those sorts of things, which is also more expensive. They are quite a small cohort. Even though they are rising, the cost to incarcerate a woman is actually higher than a male because to run a program for 10 people actually costs more than to run a program for 100 people. All those factors the department needs to take into consideration—

where they will be physically located, whether they will be placed within facilities that also have men in them and how to then separate them. Quite often, obviously, they come in with high victims-of-crime issues so they are bringing that into the mix also. A lot of them will be mothers keeping in contact with their children, just dealing with the legal aspects of keeping in contact with children and how that is to be maintained.

Mr HARVEY: We are finding now, which was also covered in *The Sunday Times*, I think last weekend, was the increase in the number of women prisoners presenting as pregnant when they come in. The fact that we reported in our last report that at Bandyup they had eight beds in the nursery and they were all full. There was a waiting queue and even if a mother does have a child and is allowed to keep the baby, there is that stress. Until the time you have had the baby and the prison comes around and says, “Yes you are allowed to keep it”, it can be highly stressful for some mothers. If they do not have family in the state, then they could be looking at losing that child to the state temporarily.

The CHAIR: What is the wait time, that you referred to, to access one of the beds in the nursery? Do we have a time period on that?

Ms GIBSON: That can vary depending on how many pregnant women you have in the facility at any time. There used to be a policy where, when women in the state got to 20 weeks of pregnancy, they were required to be transferred to Perth. The department felt it was too high risk to hold them in some of the regional metro prisons, especially if they did not have a hospital facility that had obstetrics there. I am making an assumption because we have not had any evidence of there being a different risk assessment done, but they are not even doing that anymore because there is no room for them down in Perth. If the women are coming into prison in Perth, it used to be that they had to be kept in a separate unit. Now there are so many pregnant women that they cannot fit them into that unit. Even up to very, very late into their pregnancy, they are being kept in general accommodation units with everyone else where sometimes it can be quite distressing. You are sharing a cell often with random people you do not know. There is no room to separate them, so when there is this accumulation of different women who have these needs for their own health, safety and psychological wellbeing as they are leading up to giving birth, they cannot be placed in a relatively calm, safe environment. Once the baby is born, if there is no room in those designated houses—you can understand to some extent that the prison want to protect the baby as well as possible because it can be an unpredictable environment, so they want to be able to accommodate the baby in a safe environment. That comes up then against the wellbeing of the baby being with the mother. So it is being able to provide appropriate facilities in an appropriate area where the baby and the mother can be together in as safe an environment as possible within the prison.

The CHAIR: Do we have any numbers on how many babies are being separated from their mothers because of the inability of the state to accommodate the children?

Ms GIBSON: We do not have the statistics on that. We know anecdotally from times when we visit when we are told someone had to leave their baby with the grandparents, aunties or whatnot. We have not kept figures on that.

Mr HARVEY: Unfortunately, I do not think we can get them easily.

The CHAIR: Why not? Surely, the department would have that information, but they may not have it in a form that is easy to pull out of a system.

Ms GIBSON: They would have records of how many women had put in a request and how many had to be refused. They would have that over a period.

Ms DAVIS: It would be a much lower number, though, because some will make an assumption. An awful lot will make an assumption, so you would be able to find out how many had children. It would be an interesting one to try to unpick.

The CHAIR: So women are not being told definitely they can keep their child until very close to the time of birth. Is that what you have found?

Ms GIBSON: In recent times, with the very high numbers, there have been a number of occasions that we are aware of when women have been told, even right up to when they are going in to give birth, that, “We don’t think you’re going to be able to bring the baby back with you”, or it will be unknown. It will be like, “Yes, you’re the next person on the list. If so-and-so is released before then, yes, you can, but if they’re not, you can’t.” It is not knowing and not being able to plan that causes quite a lot of stress for a lot of the women.

The CHAIR: In a situation where a female prisoner has been told they cannot keep their child because there are no available beds in the nursery and a bed becomes available, does that female prisoner who has had a child get first priority to the bed or if another female prisoner is about to give birth, does that female prisoner get priority because the other child has already been placed? Do you know how they address that problem?

Ms GIBSON: No. I could not tell you. I have heard different circumstances, so I am not really sure how internally the prison makes that decision.

Mr HARVEY: It is also complicated slightly by Family Protection often being involved and not making a decision until quite late in the process.

The CHAIR: In a number of your reports, you talk about the fact that too many mentally unwell people are being held in prison or youth detention rather than in dedicated mental health facilities and this creates a whole lot of risks in the prison environment and often leaves the mental health issues unaddressed. Has there been any improvement in terms of services and treatment in prisons for people with mental health problems?

Ms DAVIS: We are currently in the process of doing a review. We are focusing on the transport of people to Graylands, mainly based on a couple of critical incidents that we have picked up. Within that, we wanted to focus on what happened to them just before they went, what happened to them when they returned. These are the very, very unwell end of the scale. The review itself has morphed a little bit into talking about the problems with mental health in general in custody. There have been some improvements certainly around identifying people. There is now a new process for prioritising people in health services, so they have a better understanding of the number of people they are dealing with who have serious mental health issues who require support, which is a very large positive step forward in analysing the data. It also then becomes abundantly clear that they are nowhere near the level of service delivery that would be required for that. A lot of people are not making it to the Frankland Centre at all. If you remain in custody, the limitations of what can be provided is poor. It generally centres on making sure that they do not physically harm themselves any more with a little bit of treatment, which is the exact opposite of what these people actually need.

Mr HARVEY: That report is, what, two and a half to three and a half months away from being released?

Ms DAVIS: Yes.

The CHAIR: In your annual report you indicated you were facing a 3.5 per cent budget cut in 2017–18. Did that eventuate? Was it that size or any larger or smaller?

Mr SUMMERS: Yes, that definitely occurred. Having said that, the idea behind that cut was to do less with less. In fact, we have been able to become more efficient in what we do. If you look at 2016, we were still able to post a surplus of \$119 000. We anticipate this year that we may post a surplus of \$20 000, but against that what is happening is that at 1 July there is a \$65 000 cut coming from the VTSS program.

The CHAIR: The VTSS is?

Mr SUMMERS: The volunteer targeted separation scheme. So, we cannot achieve any more efficiencies in my opinion. We are down to the bones now. Next year will be a real crunch year in my opinion. Say we do post \$20 000 but are then losing \$65 000. It is not a lot of money in the grand scheme of things, but the question in my mind is: where do we go from there? The effect is likely to be that we will start to do less in an environment where you have a rising prison population; incidents at Banksia Hill; the commencement of monitoring at Melaleuca, which was commissioned last year. It is an interesting sort of mix—there is a collision coming!

Mr HARVEY: If I could say that Derek's team of three has borne the brunt of that 3.5 per cent saving and has been operating as basically two for all this financial year. It has required some highly innovative thinking on his part to make those savings. To date, we have managed to fence around the operational side of the office. But from the management perspective, I think it has been very positive that staff in operations and review have been very creative in terms of suggesting ways in which the office can make savings, but they do generally require a drop-off in service. One of the things we were looking at was the discontinuation of all printing of reports. We would like to continue printing for as long as possible because Parliament, some of the NGOs —

Ms GIBSON: Prisoners cannot access them because they do not have internet. If they do not have a printed copy of a report, they do not get to see them.

[11.00 am]

Mr HARVEY: But what we are looking at is that if we are unable to operate within budget, we need to start looking at dropping back in some of the services. Some of the areas we were looking at were with the liaison visits.

Mr SUMMERS: That is right. The current target for liaison visits is 90.

The CHAIR: Just explain what a liaison visit is.

Ms GIBSON: It is part of the ongoing and consistent monitoring around the performance and implementation of recommendations. Each operational staff member will have usually around three facilities that they are responsible for visiting a number of times a year.

The CHAIR: Derek, I am sorry. I interrupted you.

Mr SUMMERS: No worries. Our target has been 90 but we typically achieve 102 and 101. They are the numbers we have been sitting at. We produce nine reports a year. The minimum is nine, I should say; that is our target. Independent visits is 150. We are meeting all those targets and we will meet all those targets this financial year, but —

The CHAIR: You may need to review them?

Mr SUMMERS: That is right. The idea behind that 3.5 per cent cut, from the whole-of-government perspective, was to do less with less. We have managed to become more efficient or streamline things. We are sort of hanging in there, but I think that next year we will have to review, I suppose.

Ms GIBSON: Our issue is that we have certain core functions that are non-negotiable because they are legislated. We do not have an option but to do the inspections and we have to do them because

the legislation requires us to. We are restricted to some extent around when we do those and what we do, but we do have flexibility around how we do them, and whether it then impacts on the —

The CHAIR: Quality.

Ms GIBSON: — quality of those, ultimately, if there have to be cuts in some areas. In the past we have talked about reducing liaison visits, but that can sometimes be a false economy because we would not be as familiar with what is happening at a place, so our inspection would have to be longer. Where we would save money there, we would actually have to spend more on the inspection because we would need that time to investigate more thoroughly and further than what we do. It is weighing up where the savings can come from.

Mr HARVEY: On the positive side, with the establishment of the New South Wales inspector's office—which has been going for about four or five years now—and Tasmania and the new function in South Australia looking at the juveniles, there are alternative models and ways of presenting data. It is giving us the opportunity to see how other states are doing it, being aware that other states are looking at WA as being the model of the way to do it if you have the resources. They are cutting corners and they are cutting quality. It gives us the opportunity to say, "This is how they do it and this is the consequence." So it is not simply a matter of us making things up in the future.

The CHAIR: Just moving along, you have raised a concern about access to funerals and compassionate leave in a number of the reports and also the annual report. Has there been any improvement or any measures taken in relation to addressing that problem?

Ms DAVIS: No. That is the one area with Reviews that we actually did a follow-up review because we were expecting that we would see some improvement. In actual fact, what we reported was that it got worse. If I were to do a review again next week, I daresay I would be saying exactly the same. The thing is from our perspective of why we do not necessarily jump back there is because the issue is identical, so the recommendations that we make still stand. It is just getting lower and lower on the priority list for the department.

The CHAIR: Could you briefly, for the record, indicate what the problems are? Is it just funding issues with the department, they just do not have the resources?

Ms DAVIS: Usually, yes. The main reason is funding. It is logistics, quite often, of moving people around. Funding is linked in very closely with having the staff available to actually transfer people to a funeral. Some of that is resolved through the contracts that they have for transporting people around. The contracts are designed to make sure you are predominantly getting people to court and to medical appointments and to all these other things that are going to trump trying to get somebody off to a funeral. The importance of attending becomes less important than the logistics of actually physically getting people there. In defence of the department, they are trying to do their best to make it as fair as possible. Where some facilities have been a bit innovative and tried to help people get to funerals, they have actually lowered the bar to make it even instead of raising the bar to make it better. That is the frustration that we are also seeing. It is more equitable because no-one or very few people are going, but that is not what we were aiming for.

Ms GIBSON: The expense has increased as prisons have become more crowded and more people are being held away from where they would naturally be accommodated. For a prisoner whose home is in Derby—there is no room for them so they are being held in Perth—the cost of getting them to a funeral of a loved one is going to be infinitely more because you have to transfer them from Perth to get there, not just from Derby to get there. It is a compounding issue as well.

The CHAIR: The annual report talks about the lack of transparency and accountability in the department in relation to the costs it incurs to manage and support prisons. Can you expand on that a little bit and advise us whether there has been any improvement in that area?

Mr HARVEY: I am not aware of any, I think. In terms of Melaleuca, we are not anticipating —

Ms GIBSON: We have just completed the first inspection of Melaleuca and the indications from that are that it continues to be similar. In Melaleuca they received a lot of different support in the start-up than we had seen previously with the other contracts. We could not find any proper accounting for a number of aspects of support that the department provided in that. It is a similar position to what it has been historically in terms of accounting those costs into the true cost and value of a placement at a private facility versus a public facility.

Ms DAVIS: Some of those comments were also made in relation to difficulties we were getting in accessing information. We would ask a question and get an answer that was not related to what we were asking. That happened a lot.

Hon JACQUI BOYDELL: Welcome to our world!

The CHAIR: We understand that experience.

Ms DAVIS: That has significantly improved in the last six months. Generally, even if the answer is ugly, we are getting an answer. But there are still problems with the way that data is recorded—information in general. Some of the most obvious things you would expect to be there simply are not. It will be an ongoing issue, I think, that we will keep pushing through with the department.

The CHAIR: Do you get the Office of the Auditor General involved? I would have thought that some of these issues about accountability and transparency in relation to costs actually fall within the Auditor General's purview.

Mr HARVEY: We have done it in two ways. We can pass a matter across to the Office of the Auditor General. If we become aware or concerned about the department's accounting practices or lack of accounting practices, we can pass a matter across to the Auditor General, who may make the decision on whether to include it or not as part of their annual audit. The other way is that we have been using ex-Auditor General staff. We are presently using one of the past Deputy Auditor Generals in terms of assessing the new transport contracts under the CS and CS—court custody and transport contracts. We have also used them to try to pull apart the Melaleuca contract and that type of area. We also were supremely lucky to have an Auditor General member on secondment for a total of at least two years—over two periods. Unfortunately, they gave her a promotion that she could not turn down. We do liaise with them. Being two separate accountability agencies, we are also very much aware of the politics involved and the fact that our legislation at times prevents us from passing information backwards and forwards. With the Banksia-directed review, we were operating separately. The Auditor General was in there looking at how they had handled the build. We were looking at everything else. We did not talk to each other until the drafts were complete and we swapped briefings. On our part we issued a big sigh of relief when we found out that they were actually saying the same things.

The CHAIR: I am turning to page 25 of the annual report, which refers to key effectiveness indicators. There is one that states the extent to which the Department of Justice and, where relevant, other agencies accept the recommendations contained in the report. I found the word “accept” rather than “implement” interesting. I also found the fact that that level has been set at 80 per cent. Do you want to comment on that?

Mr HARVEY: In terms of “accept” or “implement”, implement might be better but the issue is that you would have to wait for three years—that is part of that question on notice that we have to go

away and provide some feedback to you on—whereas with “accept”, you can say that we have given the draft to the department and these are the ones they have accepted. In terms of—I am sorry, what was the other part of the question?

The CHAIR: Why it is set at 80 per cent, which seems to be a bit low, although I am sure that the department argues a lot over the recommendations that you make?

Mr HARVEY: I believe that Professor Morgan and myself feel that 80 per cent is a more honest target than the Ombudsman’s 100 per cent, which implies that perhaps you do not make a recommendation if you know that it is not going to be accepted. We, on the other hand, have been known to make a recommendation—more than one recommendation on occasion—knowing that they will not be accepted but knowing that it is the right thing to do and what the department or the government should do. It is a matter of balancing. The way we structure our recommendations is always a balancing act between putting too many in so that the important ones become lost, and putting too few in so that you then have to roll a whole series of matters into one recommendation and you do not actually know what the department should be prioritising within that.

I had to do some analysis over the last 12 months in terms of our recommendations and we are getting an average of about 16 per report over the last three years, but the numbers vary between seven and 28. That reflects how we feel that prison is travelling. Seven is often for a prison farm or minimum-security facility, which generally are travelling a lot better than the maximum-security facilities. It was Hakea, I think, that triggered the maximum. Before Hakea, Bandyup had set a temporary record.

Ms GIBSON: I have been with the office for quite a long time. The recommendations in the KPIs are a curious and interesting beast in terms of it being the number of recommendations the department accepts. That is not something that we are in control of. If they wanted to, they could say no to all of them or they could say yes to all of them but do nothing. So often we find that they do not agree with a recommendation, yet we will find that they actually have addressed the issue that has been raised. Over the years it has been interesting—Andrew referred to the number of recommendations—the periods where we have had higher numbers versus lower numbers in some ways reflects the type of relationship that the office has had with the department. We find that when we have really good communication, and a very responsive and an open relationship, the number of recommendations tends to go down because we can be very strategic and outcome focused. The department is willing to engage and is, for want of a better term, genuine about understanding where we are coming from and what are the outcomes we are hoping for them to be able to achieve.

[11.15 am]

Periods where we find there are lots and lots of recommendations in the reports will tend to be when we have been through a period where, as an office, we are possibly getting frustrated in terms of not getting appropriate responses in terms of match-ups. So we will make a recommendation and the response we receive seems to not relate in any way to the outcome that you are focusing on throughout the text, and it becomes an exercise in being very specific, and you feel more like you are micromanaging, which is not the direction that, as an office, we like to take. Our whole purpose is to be more strategic and outcome focused.

Recommendations are a bit unusual for us. I know when the office was created, there was a lot of thought put into whether we could compel the department to implement recommendations. On the one hand, that might be a wonderful thing, but, at the end of the day, we would then be inspecting ourselves, because we may as well be running the department in that case. The logical decision was that we cannot. I guess it is just where you escalate that to, and how you negotiate

that moving forward, and, from my perspective, I just think it has always been a case of the office and the department should always have a healthy tension, but it is always about working hand-in-hand, because it should all be wanting to have a common outcome and goal at the end. We might disagree about how you get there, but that is not necessarily our business all the time.

Mr HARVEY: Taking it back, I personally do not think that is necessarily a good key effectiveness indicator, but the issue with actually saying implementation recommendations means that we are talking about something always three years before, which is no longer a good indicator of what we actually achieved in the previous year.

The CHAIR: That is a fair comment.

Can I now take us to the Broome prison, which was identified for closure back in 2001, and which, to my horror, still continues to operate to this day. In 2001, it was described as WA's worst jail. It was chronically overcrowded and needed replacing, and the decision was made that we would build a new prison in Derby and that, while Broome received \$12.2 million in refurbishments, it was still intended that it would close by, at the latest, 2015. The previous government did not close the prison in 2015, and we find that it is still open. I understand that the intention is that it will continue to remain open for the foreseeable future, and I think another \$2.7 million has been allocated for upgrades. Given that it has been considered to be a really inhumane prison, have those upgrades gone any way towards actually improving the conditions at Broome prison, given that it was identified that the only thing you could do with it was close it?

Mr HARVEY: I am not aware of any actual money getting spent as yet.

Ms GIBSON: They have done some work on, I believe, the admin area, the health centre and the kitchen. Possibly, I suppose speaking personally, the area that concerned us was the maximum-security area, which, because Broome was mainly being used as a remand facility and as a sort of transport holding facility, that maximum-security area was being overused for what it was designed for and, to my mind, even if you only put one person in any cell up there, it is disgusting and is not fit for purpose. Even the work they are planning on doing there does not address the fundamental issues that it is not an appropriate place to be holding people, to my mind.

Mr HARVEY: What they had achieved quite quickly after we put the report out was a reduction in the number of prisoners being held in the maximum-security facility, because they had actually managed to finish their double-bunking actions in West Kimberley Regional Prison. They had also identified a certain number of beds at West Kimberley that could only be used by Broome, so Broome could actually move prisoners out to beds at West Kimberley, but at this stage the major improvements have not been made.

The CHAIR: So, in the view of the office, is the Broome prison still unfit for purpose?

Ms GIBSON: The maximum-security section, yes.

The CHAIR: How many prisoners are currently located at the Broome prison?

Ms GIBSON: Seventy, I think.

The CHAIR: Is that all up, or just in the maximum-security area?

Ms GIBSON: In Broome I have got 71—three in the female section, and eight in the maximum area, and they have got 13 medium, so they would be in there as well—around 20, which is too many in that space.

The CHAIR: Are staffing levels at the Broome prison still too low to manage the prison population, which was a finding in your 2017 report 112?

Ms GIBSON: We have had two staff come back just over the weekend. I do believe—I would probably feel more comfortable taking that on notice—that they have increased it, but I am not sure.

The CHAIR: That will be question on notice 5.

Are work education programs and skills development courses still limited or non-existent at Broome? You can take that as a question on notice.

Ms GIBSON: Yes, I will take that on notice.

The CHAIR: That will be question on notice 6.

Why are there no rehabilitation programs or voluntary programs on offer at Broome, which I found really disturbing in report 112?

Ms GIBSON: At the time, it was just always the excuse that they were shutting it down, so everything got wound back and they basically had skeleton staffing and services there generally, across a whole range of areas. At the time of that last report, it was the case.

Mr HARVEY: There was a lack of staff to do that, but there was also a lack of room to do that, because the education rooms had been taken over by admin, because the admin facility was in community.

Ms GIBSON: The other issue is that the department, across the board, had wound back a lot of those sorts of programs, because they were retendering. They were re-looking at the model of how they were doing that. For us, as an office, it took way too long, which led to very extended periods of time with no service delivery at all, especially in some of the regional areas where you had the small organisations coming in and providing some of those programs, and Broome was one where the external provider contract finished, and nothing got picked up in the interim to try and fill that gap.

The CHAIR: Does that situation continue to this day?

Ms GIBSON: No, the new contracts have been let, so there are new providers going into Broome now. I am not 100 per cent sure of the exact nature of the programs and transition supports being offered, but there is a contract up there now.

The CHAIR: Would you be able to seek that information and provide it to the committee, and we will take that as question on notice 7?

Also, at the time of report 112, the office indicated that the support services offered to prisoners due for release at Broome were very poor or limited, and really needed improvement. Again, can you give us an indication of whether that has improved at all since that report? We will take that as question on notice 8.

The report actually made 17 recommendations in relation to the Broome prison. Would you be able to give the committee any feedback on the implementation of any of those recommendations?

Ms GIBSON: Yes, the staff will come back with that.

The CHAIR: That will be question on notice 9.

In view of the fact that we have the court in Broome, is it your view that the decision to not have a prison in Broome, and to locate one in West Kimberley was a mistake, and that there should have always been a plan to have a prison of some sort in Broome?

Mr HARVEY: In hindsight, I would have to say yes.

Ms GIBSON: The original plan was that there would be a West and an East Kimberley prison, because of the court but also medical services. The hospital in Broome was equipped with the level of

services that were required for a prison. There always will need to be a facility, whether that is a fully functioning prison or whether you provide some sort of better mid-term-stay facility that could accommodate somebody for four or five days if they had a longer trial or something like that. Obviously, that is an issue for the government and the departments, but there will always need to be some sort of facility there just from that sort of functional reason.

The CHAIR: Back in 2001, the intention was to have an East and a West Kimberley prison, but only the West Kimberley prison was built. Now, let us turn to the West Kimberley prison. Your report 113 says that it needs a clear, long-term custodial plan. How do we have a prison without a clear, long-term custodial plan, and what is the effect of that?

Mr HARVEY: When it was established, there was a clear picture of what it was going to be, which was an Aboriginal prison. That was reflected in its design and the staff that were brought in, so they had an Aboriginal superintendent. As a consequence of the need to jam more people into cells, at the time of doing the inspection, there were more beds going in, and there were prisoners temporarily sleeping—I will say temporarily sleeping on the floor, because the bunks were in the process of going in, and they were upgrading some of the cooking facilities. But it was no longer known what the purpose was, because they were being used to house people from outside that particular area. They had a new superintendent, and you also had the department running a different process and having gone through at least one reorganisation, or in the process of one. It does take time, unfortunately, to bed down and actually work out what is the new direction and what is the role. It requires a superintendent who feels that they have the confidence and support of head office, and if you do not know what head office is thinking, if you are a superintendent, you would be a little bit loath to say, “Well, this is what we’re going to be doing”, because the next time someone from head office comes out, they can say, “No, you’re not.” It does need to be a joint effort, although, having said that, at Albany prison, where we did the inspection earlier this year, they have been starting to do a business plan and strategic document saying, “This is what the purpose of the prison is.” Also, for Wooroloo, the superintendent, who has been there for six years now, has a better understanding of where the department is coming from, and where it is going to and saying, “This is our role within that.” For West Kimberley, it was a little bit uncertain at that time as to, “Where do we fit within the department?”

The CHAIR: Is overcrowding still a problem at the West Kimberley Regional Prison?

[11.30 am]

Mr HARVEY: I have not heard anything.

The CHAIR: You can take that as a question on notice if you like.

Mr HARVEY: Yes, we will take that on notice.

The CHAIR: Also, as part of that, are prisoners still sleeping on mattresses on the floor? We will take that as question on notice 10.

My next question is: have the staff shortages at the prison been addressed? I will take that as question on notice 11.

In report 113, you also make the comment that the department must finalise its planning for the closure of the Broome prison. Is that still the office’s position?

Mr HARVEY: No. I would have to say what we would like the department to do is finalise and get government permission and support for a new prison in Broome.

The CHAIR: Okay; I am glad I asked that question.

In report 113, you also talk about the need for a regional plan for the whole of the Kimberley region, and that the department has been dragging its feet on finalising a plan. Since you wrote the report, has there been any progress?

Ms GIBSON: No, not to our knowledge.

The CHAIR: The other thing I wanted to touch on was the escort vehicle because in your report you raise concerns about the prison escort vehicle. I am curious to know how old is this vehicle?

Ms GIBSON: The one from up north, sorry?

The CHAIR: Yes, the West Kimberley one, where the fit-out has been —

Ms GIBSON: Yes, it is still of concern to us; it is the same vehicle. It is the vehicle that was brought over from the previous contractor. I could not give you an exact—it is from the previous fleet. Can I put that on notice, because one of my staff sent me some specific concerns relating to the vehicle just recently?

The CHAIR: We will take that as question on notice 12. I am curious how old the vehicle is and what is being done to address the fit-out problems with the vehicle? The report identifies a number of fit-out problems and we have had issues with escort vehicles in the past and we certainly do not want to sit back and be complacent if there are problems identified with the fit-out of escort vehicles currently.

I was also curious to find out about the self-contained houses that do not have a second exit to facilitate evacuation. Is this normal in our prisons that when we build houses, we do not ensure that they have a second exit?

Mr HARVEY: We do not often build houses; we build the units with wings, so it was unusual in that respect. What we also had some concerns about was that they were relying on the portable angle grinder to be able to cut an exit. To some extent, concerns may have been relieved by the way that the Banksia youth actually used their portable angle grinder to cut people out of cells! That is the second time that particular recommendation has been made—that we thought they actually did need to provide an additional exit for the women from their houses.

The CHAIR: Has that not been addressed?

Mr HARVEY: No. I think the only way we would actually be able to have any form of traction on that would be to get a fire expert in. They may say that it is actually adequate but, in our view, it was not and it remains inadequate.

The CHAIR: I think a fire expert would clear that up really fast, from my experience with dealing with fire experts.

The other aspect of the report which surprised me was that the report states that too much prison infrastructure had not been built to tropical standards and was failing too often. Could you just expand on that and advise whether this has been addressed? It is just beyond belief that we would build infrastructure in the tropics and not make sure that it was actually built for purpose.

Mr HARVEY: I think there were two areas of concern. One was the actual buildings—a unit office that was minus a ceiling because water had got in and it just collapsed. The other was the actual security system with the fence line, which we always thought was a little bit ridiculous being built on an iron surface with an electrified fence in an area with high thunderstorm activity. There is also the fact that it is such a long way from Perth when they need to fly a technician up to fix it.

Ms GIBSON: That continues to be the case.

Mr HARVEY: Yes.

Hon KEN BASTON: It continues to what, sorry?

Ms GIBSON: It continues to be the case; they still have outages.

Hon KEN BASTON: On the electric fence?

Ms GIBSON: Yes.

Hon KEN BASTON: Is no-one local able to fix that?

Mr HARVEY: No.

Hon KEN BASTON: I find that interesting. I have been through the prison about three times, so I am well aware of it and when it was first built. It was certainly state-of-the-art when it was built, but its purpose has been totally different to what was there in any other prison.

The CHAIR: Just noting the time and that I have been giving you a grilling for long enough, I am going to try and wrap things up. I have comments on all the reports but I will now move a bit closer to home given that time is coming up when we need to conclude.

I will go to Bunbury Regional Prison, which is in report 115. You indicated in that report that there were some inconsistencies among staff and prisoners in their understanding of the drug management strategy and its sanctions. There have been general reports that that has actually produced some very good results, so I would be interested to understand in a little bit more detail what your concerns are.

Mr HARVEY: The concerns related to the fact that the prisoners were not being given support to come off the drugs. It was a punitive strategy. It was intensive, so it did involve a lot of testing and, as a consequence of that, if you failed the testing, then you were put onto quite a strict supervision plan, but it did not address the underlying concerns. Yes, they did have meetings where the support staff came in and the prisoner came in and it appeared from what the prisoners were saying that they would nod and just agree with whatever the superintendent or whoever was talking about, knowing that it was not going to make any difference and if they appeared pliable and agreeing, they could then move on to the next stage. Part of it was a general concern about the lack of programs. What was happening at Bunbury was not going to assist the prisoner to cope with their alcohol or drug problem when they moved back into the community. If they had been identified with drugs and they had agreed to go into a program and that program was intensive and worked with the prisoners, we felt that would have been a much better solution for the general community.

The CHAIR: There is massive overcrowding at Bunbury prison. What is the ratio of prison officers to prisoners at the prison and is that within acceptable requirements?

Ms GIBSON: They do not have any role in lockdowns and things so they are managing to maintain the required ratios for whatever local agreement they would have with the union down there. It would usually be one to eight—what is it?

Mr FERGUSON: There is not a particular ratio. It is just whether or not they are able to maintain their essential posts without compromising other services.

Ms GIBSON: Generally, on the whole, there would be occasions where if they are short-staffed, they would redeploy and shut down a certain service provision area, but it is not as much an issue at Bunbury as it is in a lot of other facilities where they are having to do that.

The CHAIR: What will be the impact of reopening unit 5 at the prison?

Ms GIBSON: That is a minimum-security area. I think there is the expectation that they will screen prisoners quite closely as to whom they put out there and a lot of those prisoners will probably be

engaged in community-based work and activities at any rate. They will need additional staff but it will not be significant.

Mr HARVEY: What we do not know is how they are going to structure the management team. It is a continuing issue for us at Bunbury that we have long advocated that you should actually have a separate superintendent for the PRU—the prerelease unit. If you add in another group of minimum-security prisoners, then that probably does start strengthening our argument that you should have a dedicated team responsible for dealing with minimum-security prisoners that are separate from your maximum and medium-security prisoners. There is a difference in the philosophy. There is a difference in the way you actually treat the prisoners. It can be quite difficult for some officers moving from a maximum-security facility to turn up in a minimum-security facility and have to actually swap their whole way of dealing with prisoners, especially if they are then rotated back again. Apparently in Bunbury, they have been able to take officers who have put their hand up to move to the PRU, so it is not simply rotating everyone through. How they are going to staff and manage the new minimum-security facility, we do not know yet.

Ms GIBSON: The issue there is that they are actually building new units within the medium-security prison as well. They are adding another unit, which I think is 128 prisoners.

Mr HARVEY: Yes, that is the standard number.

Ms GIBSON: So the main medium-security facility is expanding as well. That will be an additional issue and stress in terms of needing significant additional staff, both uniformed and, as an office, we would hope other ancillary support service staff as well, in order to accommodate that number of prisoners that will end up down there.

The CHAIR: The report also identifies that Bunbury prison treatment assessments are not being done on time and therefore prisoners are missing out on programs. Has that improved at all since the report was handed out?

Mr HARVEY: I cannot comment about Bunbury but I know that it has not improved because we have picked up that problem in Albany and in other prisons.

Ms GIBSON: It is happening across the board.

The CHAIR: Can we take that as question on notice 13, because I would like to know specifically in relation to Bunbury. Can you explain to me why this is a problem and what additional resources the prisoners need to make sure that those treatment assessments are done in a timely manner?

Ms GIBSON: When a prisoner is sentenced, depending on the length of their sentence, if it is over an effective sentence of six months, then they should be assessed for a management plan. Part of that would be an assessment around what their therapeutic program needs would be. These are the programs that the review board would take into account in terms of addressing their offending behaviour. As the prison population has expanded, the resources of those staff that do these assessments has not necessarily increased commensurately, so there can be a big backlog in some facilities as prisoners are being sent to facilities without always having these assessments done. Bunbury, as a regional prison, would have their own team that would do these assessments of the local prisoners. It just means that they would need additional program assessors to determine whether each prisoner would qualify within the parameters of what programs are available. They would schedule them for when they can do them because the other issue is that they get on the list to do the programs but there are not always necessarily enough programs for prisoners to access them before their eligibility for parole comes up.

[11.45 am]

The later they do the assessment—they will generally try to slot them in in order of when their eligibility is due, but it is very difficult now. A lot of prisoners are not accessing programs before their eligibility dates, which obviously means potentially they are in prison longer than they need to be, hence contributing to the overpopulation.

The CHAIR: The report also indicates that the access to health services and to GP services have declined at the prison. I am just wanting to know how to get an update on that. Has there been any improvement since the report was released?

Ms GIBSON: No, there has not. Again, it is an issue across the facilities. I cannot tell you the exact situation at Bunbury. I can get more debatable detail about that, but to my knowledge it is still the same.

The CHAIR: We will take that as question on notice 14.

My last question is: there were 14 recommendations to report 113. Can you give me and the committee an update on the implementation of those 14 recommendations since the report was delivered?

Ms GIBSON: I will take that on notice. I can print off the last report Lauren did.

The CHAIR: That is question on notice 15.

The committee requests that you provide your answers to the questions taken on notice when you return the uncorrected transcript of evidence. So, we will provide you with the uncorrected transcript of evidence, provide you with an opportunity to make any corrections that you believe are necessary to that and if you could just provide the answers to the questions taken on notice within that time frame. Obviously, if you need additional time, just let the committee know and I am sure that can be accommodated. If you want to provide additional information or elaborate on any points that you made or provide supplementary evidence to the committee, again please do that when you return your uncorrected transcript of evidence.

Mr HARVEY: And if it turns out we do not hold the information?

The CHAIR: Just tell you us that and we will look elsewhere for it. Thank you very much for attending today and thank you very much for answering the questions of the committee.

Hearing concluded at 11.47 am
