Inquiry into the Transportation of Detained Persons

Western Australia Police Submission to the Standing Committee on Environment and Public Affairs

May 2010
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1.0 Introduction

This submission is provided in response to the written invitation of the Chairman of the Standing Committee on Environment and Public Affairs, the Honourable Brian Ellis MLC, received in April 2010.

The Western Australia Police (WAPOL) submission provides information relating to matters referred to in the following terms of reference:

1) progress in relation to the implementation of the Coroner’s Findings in relation to the death of Mr Ward;
2) the feasibility of air transport or video conferencing instead of long haul vehicle transport;
3) the scope and efficacy of government action to reduce indigenous incarceration and recidivism rates to prevent further indigenous deaths in custody;
4) whether the Coroner’s Act 1996 (WA) should be amended to require the Government respond to coronial recommendations within a set timeframe; and
5) any other relevant matter.

Since the 2009 Coronial Inquest into the death of Aboriginal elder Mr Ian Ward, WAPOL has conducted significant reviews of its internal policies and procedures in relation to the transportation of detained persons. WAPOL also continues to work in a collaborative and proactive manner with external stakeholders, including the Department of the Attorney General and the Department of Corrective Services, to review custodial transport in Western Australia. The priority has been the identification and implementation of strategies aimed at reducing overall levels of custodial transport required and eliminating the need for long-haul vehicle transport to occur where other solutions such as video-conferencing or air transport are available.

WAPOL continues to maintain the position that greater efficiencies in and higher standards of custodial transport can be achieved through Government resourcing a single agency to provide custodial transport services, rather than resourcing multiple agencies to carry out similar, often overlapping, custodial transport functions.
2.0 Progress in relation to the implementation of the Coroner’s Findings in relation to the death of Mr Ward.

2.1 Improvements to WAPOL Protocols for the Long Distance Transport of Persons in Custody

Following the 2009 Coronial Inquiry into the death of Mr Ward and associated recommendations (Annexure 1), WAPOL conducted a comprehensive review and risk assessment of its custodial transport policies, procedures and practices. The outcome of this review was the development of the WAPOL Transport of Persons in Custody Manual (the Manual – Annexure 2). The Manual applies protocols for the long-distance transport of adult and juvenile remand prisoners, mental patients and unlawful citizens by various methods. The Manual includes a risk analysis matrix, prisoner escort check-list and commercial aircraft security advice. In addition, it imposes the following: limitations on the duration of custodial transport by road; compulsory rest breaks after no longer than 2.5 hours; use of air transportation for journeys of more than five hours in duration; replacement of caged vehicles in Regional Western Australia with varley pods (see Section 6 below); compulsory risk assessment for every escort required.

The revised procedures and policies encompassed in the Manual impose a considerable increase in the costs incurred by WAPOL in performing custodial transports, primarily via increased use of air transport and changes to the WAPOL vehicle fleet. Both the effectiveness of the policies and procedures contained within the Manual, as well as the success of proposed alternate solutions and strategies outlined in section 3 below, will depend heavily on appropriate government budgetary and resourcing allocations being made to WAPOL, DCS and other stakeholders.

3.0 The feasibility of air transport or video conferencing instead of long haul vehicle transport.

WAPOL is approaching this issue in conjunction with the Department of the Attorney General and the Department of Corrective Services (DCS) via the two following initiatives:

3.1 Transportation of Juveniles within Regional Western Australia – Hub Model – Western Australia Police and Department of Corrective Services.

The Commissioner DCS has responsibility for the transportation of juvenile offenders between custodial places in regional areas under the Court Security and Custodial Services Act 1999 (the Act). Prior to the enactment of the Act, WA Police assisted the State by providing various court and custodial transportation services, including the transportation of juvenile offenders in regional areas.

In 2000, following the contracting out of a number of court security and custodial services to a private service provider under the Act, it was agreed that WA Police would continue to provide transportation services for juvenile offenders within regional areas.
In August 2004, the Juvenile Custodial Services Branch within the Department of Corrective Services (DCS) assumed responsibility for the transportation services of juvenile offenders within the metropolitan area (previously out-sourced to the private contractor). Responsibility for the transportation of juvenile offenders in regional Western Australia was not part of the original contract and has always been provided by WA Police.

The existing Court Security and Custodial Services (CS&CS) contract expires in 2011. WA Police and DCS are currently engaged in discussions as to the preferred arrangements for juvenile offender transportation. WA Police have indicated the intention to reassign regional juvenile transportation responsibilities to the CEO of DCS, in accordance with the Act. This will allow WA Police to focus on core policing responsibilities.

Following intensive discussions, WAPOL and DCS have developed a “Hub” model as the preferred in-house service delivery model for juvenile offender transportation. Under the Hub model, WA Police will provide initial transport to an agreed regional hub, with DCS Juvenile Custodial Officers providing the remainder of the escort by road or air.

All police stations within a 4-hour drive of Perth will be considered hubs. In Regional Western Australia, hubs will be those centres with appropriate holding, transport and air strip facilities. The use of air transport will be maximised to and from regional Western Australia. Further, WA Police have also stated that they will provide priority access to the Police Air Wing for transportation services required by air, giving consideration to operational pressures and priorities. This supports a significantly more cost effective cross-government model. There are further opportunities to collaborate with DCS on broader issues of prisoner air transport to attain significant budgetary savings across agencies. This matter is subject to a separate ongoing scope of work.

Hubs will be serviced within agreed timeframes, varying dependent on location, but a key driver for service delivery will be to minimise the amount of time juveniles will be held in custody. It is also proposed that further initiatives may be implemented in the future which would also see a reduction in the transportation levels required including:

1. development of further bail hostels in regional areas; and
2. increase in the usage of audio visual facilities in court proceedings.

Outcomes:

Adoption of the Hub Model will ensure that the officers managing the transportation of juveniles would be specially trained with the necessary skills to be able to deal with juvenile offender issues. As only JCS Officers would be employed to conduct the juvenile transportation services, the issues arising with adult offenders travelling in the same vehicles as juveniles is eliminated (which would have been an issue should a private contractor be employed to conduct the service). Therefore the level of through care to the offender would be far greater than that applied where a private contractor provides the services.

This proposal will demonstrate the preparedness of the Western Australia Government to consider the escort of juveniles in custody as a priority concern, particularly in light of the Ward
Inquiry. It will be a demonstrated commitment to the optimal application of government resources to what is a challenging inter-department activity.

**3.2 Expansion of Regional Video-Conferencing Facilities in the Justice Sector - Joint Capital Works Business Case, Department of the Attorney General, Department of Corrective Services, WA Police.**

This Joint Business Case has been developed through the Transport of Persons in Custody Working Group. This working group is chaired by the Chief Justice with members including Police, Corrective Services, Aboriginal Legal Services, Department of the Attorney General, Judicial officers, Office of the Inspector of Custodial Services, Legal Aid, Child Protection and a Barrister.

The purpose of the working group is to develop and implement strategies to reduce the amount of prisoner transport in Western Australia. The Joint Business Case supports the implementation of arrangements which will enable bail decisions to be made by a Magistrate before a prisoner is transported any significant distance, wherever practicable. This procedure will require that in cases in which WAPOL refuses bail, attempts will be made to bring the matter before the nearest regional Magistrate (during business hours) or the Perth based Magistrate after hours by audio visual communication, as soon as possible and before the prisoner is transported.

An analysis of escorts conducted in June 2008 in the Goldfields-Esperance District shows that 45 adult escorts were conducted, 29 (64%) of which had the potential to be resolved via audio visual means. During the same period 12 juvenile escorts were conducted, 10 (83%) of which had the potential to be resolved via audio visual means.

The Joint Business Case addresses the funding requirements for the following three key components to this proposal:

1. Additional AV facilities in Prisons
2. Additional AV facilities in Police Stations
3. Additional Magistrate to deal with cases outside of office hours

**Outcomes:**

- Reduced long haul prisoner transport in Western Australia.
- Reduced risk to physical, emotional and psychological health of persons in custody.
- Reduced risk to security and transportation staff.
- Reduced risk of logistical issues impeding/compounding transportation issues (for example, transportation during conditions of extreme heat, rainfall causing flooding etc).
- Reduced cost of transport of detained persons (vehicle maintenance, staff costs etc).

**Current Status:** The Joint Business Case has been submitted for consideration of funding within the current budget allocation. No advice regarding the provision of funding has been received to date.
4.0 The scope and efficacy of government action to reduce indigenous incarceration and recidivism rates to prevent further indigenous deaths in custody.

WAPOL submits that the two most pressing issues impeding the efficacy of government action to reduce indigenous incarceration and recidivism rates are the absence of adequate resources and the lack of an enabling multi-agency cooperative ethos. The latter precludes the leverage of inter-agency capacities/capabilities to effectively address the causal factors of indigenous incarceration and recidivism.

5.0 Whether the Coroner’s Act 1996 (WA) should be amended to require the Government to respond to coronial recommendations within a set timeframe.

WAPOL submits that should time imposts be imposed for response/compliance with coronial recommendations, any appropriate budgetary/resourcing allocations and legislative amendments should be provided concomitantly.

6.0 Any other relevant matter.

6.1 WA Police Vehicle Fleet Re-alignment

WAPOL continues to progress re-alignment of its vehicle fleet to ensure that all vehicles used in the transportation of detained persons are fit for purpose. In Regional Western Australia, at the instruction of the Commissioner of Police, all caged vehicles are being replaced by varley pods as part of the normal fleet replacement cycle.

Current Status: 20% complete - progressing in accordance with the Agency Vehicle Replacement Cycle as dictated by standard budgetary allocation constraints.
Annexure 1 – Annotated List of Recommendations – Coronal Inquiry into the Death of Mr Ian Ward

Recommendation No. 1 (p.133)
I recommend that a statutory system be put in place which would enable the Inspector of Custodial Services to issue the Department of Corrective Services with a “Show Cause” Notice in cases where the Inspector is aware of issues relating to the human rights and safety of persons in custody.

WAPOL Comment: Not for WAPOL action.

Recommendation No. 2 (p.134)
I recommend that the terms of section 34 and 39 of the Terrorism (Preventative Detention) Act 2006 be inserted in relevant legislation dealing with the Inspectors powers so that those protections be extended to all persons in custody and to all areas of the Inspector’s jurisdiction.

WAPOL Comment: Not for WAPOL action.

Recommendation No. 3 (136)
I recommend that WA Police review its training procedures to ensure that police officers have a better understanding of the Bail Act 1982.

WAPOL Comment: Implemented.

Recommendation No. 4 (p.137)
I recommend that the Department of the Attorney General not delegate to police officers the powers of a Deputy Registrar of the Magistrates Court of Western Australia under section 26 of the Magistrates Court Act 2004 unless the Department can be satisfied that those police officers do have an understanding of the powers and responsibilities of a Deputy Registrar.

WAPOL Comment: Implemented.

Recommendation No. 5 (p.139)
I recommend that the Department of Attorney General review the use of Justices of the Peace, particularly in remote locations, to ensure that Justices performing court duties have received training in their duties and responsibilities and have successfully completed assessments after such training.

WAPOL Comment: Not for WAPOL action.

Recommendation No. 6 (p.140)
I recommend that the Department of the Attorney General ensures that JPs who perform court duties are monitored regularly to ensure that they are performing their duties appropriately.

WAPOL Comment: Not for WAPOL action.

Recommendation No. 7 (p.141)
I recommend that the Department of the Attorney General review present procedures to extend the availability of video conferencing and, in the absence of available video conferencing, give consideration to increased use of telephone conferencing so that decisions, particularly those relating to the liberty of the subject, can be wherever possible made by qualified magistrates.

WAPOL Comment: Working in conjunction with the Department of Corrective Services to expand and enhance the use of audio-visual communication in lieu of prisoner transportation.
Recommendation No. 8 (p.142)
I recommend that the Department of the Attorney General review current court procedures with a view to limiting unnecessary transportation of accused persons over long distances.
WAPOL Comment: Working in conjunction with the Department of Corrective Services and the Attorney General’s Office to reduce prisoner transportation requirements.

Recommendation No. 9 (p.143)
I recommend that the Department of Corrective Services replace the current fleet of prisoner transportation vehicles with vehicles which are both safe and humane.
WAPOL Comment: WA Police Vehicle Fleet Re-alignment addresses the requirement for WA Police vehicles used in prisoner transport are fit for purpose.

Recommendation No. 10 (p.143)
I recommend that the Department of Corrective Services ensure that there is in place a replacement strategy and budget to ensure that in future vehicles are replaced on a regular basis and there are no old or unsafe vehicles in use.
WAPOL Comment: Not for WAPOL action.

Recommendation No. 11 (p.144)
I recommend that the Department of Corrective Services conduct ongoing review of all G4S policies and procedures relating to the welfare of detainees and duty of care to ensure that procedures in place are sufficiently comprehensive and address the known risks.
WAPOL Comment: Not for WAPOL action.

Recommendation No. 12 (p.145)
I recommend that the Department of Corrective Services ensure that there are sufficient contract monitors to regularly review operations in regional locations so as to ensure that the prisoner transportation fleet is maintained in a safe manner and that G4S staff are complying with the company’s policies and procedures.
WAPOL Comment: Not for WAPOL action.

Recommendation No. 13 (p.146)
I recommend that all G4S staff should be provided with appropriately detailed practical training in respect of duty of care obligations and that such training be refreshed on a regular basis for all staff.
WAPOL Comment: Not for WAPOL action.

Recommendation No. 14 (p.146)
I recommend that G4S arrange training specific to the role of site supervisors in regional locations in respect of management skills and duties in particular in respect of monitoring staff compliance with policies and procedures relating to the welfare of detainees and duty of care.
WAPOL Comment: Not for WAPOL action.