

**STANDING COMMITTEE ON PUBLIC ADMINISTRATION**

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

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

**SESSION SIX**

**Members**

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

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**Hearing commenced at 1.07 pm****Mr MARK NEWHOUSE****Chairperson, Deaths in Custody Watch Committee WA, sworn and examined:****Ms ARLIA FLEMING****Board member, Deaths in Custody Watch Committee WA, sword and examined:**

**The CHAIRMAN:** My name is Liz Behjat; I am the chairman of the committee and I represent North Metropolitan Region. My colleague Hon Amber-Jade Sanderson is from East Metropolitan Region. The deputy chair of this committee, Hon Darren West, is from Agricultural Region. Dr Julia Lawrinson is our advisory officer. My colleague Hon Nigel Hallett is from South West Region, and my colleague Hon Jacqui Boydell is from Mining and Pastoral Region.

First of all, I would like to welcome you and ask if you want to take an oath or an affirmation?

[Witnesses took the affirmation.]

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

**The Witnesses:** Yes.

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

That is the formalities out of the way. We have from you a joint submission that came along with the Community and Public Sector Union–Civil Service Association of WA and Serco Watch. We have the recommendations of that submission. There was not much information other than that. You have heard the line of questioning that we were asking Toni Walkington. Is there anything that you feel needs to be added that she did not canvass in her submission on behalf of the three parties?

[1.10 pm]

**Mr Newhouse:** Sure. Look, there are a number of things.

**The CHAIRMAN:** Bearing in mind that it is restricted to transport of prisoners and the Serco contract.

**Mr Newhouse:** Yes, absolutely.

**The CHAIRMAN:** We cannot stray outside those.

**Mr Newhouse:** By way of opening, the watch committee had a pivotal role in highlighting the chain of events that led to Mr Ward’s death in 2008. Amongst other things, his death really

provided clear evidence of institutional and systemic failures by the corrective and custodial systems, in particular as they relate to Aboriginal people in the system. Whilst what happened to him appeared to be invisible to the department and the other people involved, it was blatantly clear and visible to the family and the community, the problems that had occurred. The key point I want to make there is that it was a litany of errors. There is always a flow-on effect from those errors. For example, when we look at transport now, if a prisoner, the detained person, arrives late to a bail application or a court hearing due to factors outside of their control, which we understand—that is, the private contractor that has transported them there—that then has a flow-on effect, which may have dire consequences for some people. So we are really quite concerned. We do not have the capacity to really go into a lot of detail because of the nature of our organisation, but we do get community reports consistently. Having read the other submissions to the inquiry, we are quite concerned, to be honest, about some of the gaps that have been identified and those flow-on effects. The critical point for us, really, is that, in short, the government—in the case of Mr Ward—and its contractors did not place duty of care as paramount. We understand that community safety is —

**The CHAIRMAN:** Are you talking about the circumstances surrounding the death of Mr Ward?

**Mr Newhouse:** Yes.

**The CHAIRMAN:** But we have moved on from those days.

**Mr Newhouse:** I hope we have, yes.

**The CHAIRMAN:** The contractor has changed. That was the whole reason behind everything that happened.

**Mr Newhouse:** Yes.

**The CHAIRMAN:** Everything has changed since that date. This inquiry at the moment is trying to look at the existing contract and issues that might be occurring today as a result of the way that contract is being managed between Serco and the prison system itself.

**Mr Newhouse:** Thank you for that clarification. In our view, the transportation of detained people should under no circumstances be delivered by any organisation as a profit motive. It is immoral and wrong, and we are very firm that we believe the transportation of detained people should remain with the Department of Corrective Services with proper measures in place.

**Hon AMBER-JADE SANDERSON:** Can you just expand on why you think the department can do it better? And where are those gaps you have identified in your submissions?

**Mr Newhouse:** Sure. It raises for us a lot of issues around accountability, transparency and public interest. For example, we know that private contractors—whoever they might be—are not subject to FOI legislation as far as I am aware. That is a major hurdle and a problem because we do not know what we do not know in the wider community. Having it run by public servants, there is a whole range of measures in place around accountability and transparency, and I think that is the proper place, basically, where it belongs. As we know from Mr Ward's case, a government cannot delegate out those duty of care responsibilities and obligations.

**Hon AMBER-JADE SANDERSON:** You said that having read some of the other submissions, you have identified some concerning gaps in the current contract regarding duty of care. What are they?

**Mr Newhouse:** There is a raft of them. I am quite disturbed really. As I mentioned before, when a person is not transported in enough time to get them access to lawyers, to get advice and give instructions, that is pretty fundamental when you are on that side of the fence, through to reports about detained people not having access to meals. I think one of the submissions highlighted that and I think Arlia has some more concrete examples of that, which is very, very disturbing.

**The CHAIRMAN:** You have more evidence surrounding that?

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**Mr Newhouse:** Yes.

**The CHAIRMAN:** Do you want to give us that evidence? That is what you are here for; to provide to us as much information as you can that is evidence rather than anecdotal.

**Mr Newhouse:** Sure.

**Ms Fleming:** The comments that we have heard are mainly from women. They range from comments being made by officers which are perceived as being derogatory, racist and sexist in nature.

**The CHAIRMAN:** These are Serco officers, not prison officers, making these comments?

**Ms Fleming:** Yes.

**The CHAIRMAN:** Right.

**Ms Fleming:** We have also heard reports of inmates not being provided with water when requested. We have heard stories of 10 to 12 hour trips for women being transported from Perth, Bandyup Women's Prison, down to Bunbury.

**The CHAIRMAN:** Do you have any dates and times and places of this that we can put to—because we will be interviewing people later on in that department and the company themselves. This information is the sort of information that we need, but to say that this is what we have heard, they are going to say, “Well, we have not heard that.” Anyone would expect that. Do you have anything that you can provide?

**Ms Fleming:** No, unfortunately we do not. These are things that have been reported to us. I would imagine though that with a trip from Perth to Bunbury that takes that long that would be a matter of record somewhere along the track. I guess that is the crux of our concern—that it takes an enormous amount of effort to get to the bottom of these things when it is a private provider. If it was services provided by the public sector, these things would be much more easily investigated. Answers come more quickly from the public service than they do from a private provider. We have also had disturbing reports of pregnant women who are being transported to hospital to give birth being shackled. They are then shackled when they are in hospital, and I cannot express to you how much distress that must cause a woman who is about to give birth. They certainly would not be provided with the support and comfort that a woman at that time should be given.

**Hon AMBER-JADE SANDERSON:** And that is by Serco officers, not the department?

**Ms Fleming:** That is my understanding. Again, these are reports we have heard. They are certainly not something —

**The CHAIRMAN:** So when women are transported by the prison officers themselves, they are not shackled; when they are transported by Serco, they are shackled. There is a definite difference between the two?

**Ms Fleming:** That is the information I have received and the comment that was made to me is that the Serco officers have very little knowledge and understanding of the DSC policies and, therefore, are less accountable. It was reported to me that it was a woman who had to speak up to the Serco officers and say, “This is not okay. You are not supposed to be shackling me. I am pregnant.”

**Hon JACQUI BOYDELL:** In looking at the transparency process and duty of care, when you are receiving these reports, what does your organisation do with those reports? Have you tried to seek clarification on those, because they are quite disturbing claims you are making, and I would assume that your organisation would not just hear them and not do anything with them.

[1.20 pm]

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**Ms Fleming:** Of course. When we receive reports from individuals we would encourage complaints to be made. Obviously that is not a matter for the individual. Women who have been in prison are incredibly vulnerable citizens. It is a huge decision for somebody to make to decide to speak up.

**Hon JACQUI BOYDELL:** Your organisation in particular does not take steps to assist or try —

**Ms Fleming:** We do, yes. We would.

**Hon JACQUI BOYDELL:** That is what I am asking you. I understand that from the prisoner's perspective; I am asking what your organisation does with that information that you get in.

**Ms Fleming:** We come to hearings like this. We have reports back to the Inspector of Custodial Services on a regular basis. But as I was saying, it is a very big thing, especially for a woman who has been treated like that at that stage of her pregnancy and has then given birth, and is obviously then concentrating on being a mother, for her to follow those complaints through. I have contact with many women who simply do not want to pursue that kind of thing. They would rather move on and try to put that incident in the past.

**Mr Newhouse:** If we were a funded organisation, we might be able to do more than individual advocacy, but at this point we tend to focus on the systemic advocacy, so we do raise those issues on a regular basis with relevant ministers and the Premier.

**The CHAIRMAN:** So you are a self-funded organisation?

**Mr Newhouse:** Yes, that is correct.

**Ms Fleming:** Yes, we rely on volunteers.

**Mr Newhouse:** The other thing that is really quite puzzling for us, and I assume that it is linked to the breach of the contract around the escapes that were well publicised, is that there seems to have been a clamp-down on when people are transported and those measures. I would need to get the person's authorisation relating to another example, but I can supply the committee with the detail of the case of a detained person from a metropolitan prison who ended up at, I think, RPH and was in a coma for two weeks, shackled to the bed. I just do not get that: how is that even possible? As a result of that there are wounds and scars associated with having been shackled for basically 24/7. I can supply details of that.

**The CHAIRMAN:** You can supply details of that case in particular? Can you take that on notice and provide those details to us? That will be D1 for the record.

**Hon AMBER-JADE SANDERSON:** That is concerning, but it is not in relation to transport, which is the focus of this inquiry, so we need to focus on evidence relating to incidents related to the transport of prisoners.

**Mr Newhouse:** Sorry, I would have thought that it is not the actual physical act of transporting, but when the person is there, Serco is contracted to do the bed sit.

**Hon AMBER-JADE SANDERSON:** My understanding is that DSC staff, rather than Serco staff, do those longer term hospital sits, but certainly if it is the contractor that is involved —

**The CHAIRMAN:** If you could provide us in that information we have asked for the hospital where it took place and the time it was, because as my colleague said, there is a determination there that the hospital sit would have been undertaken by the Department of Corrective Services. It would not have mattered whether Serco or the Department of Corrective Services had the contract, if that is standard procedure that a person in a hospital bed is shackled—but certainly the report of the injuries is interesting to the committee.

We actually have no further questions for you at this point, unless there is something else there.

**Mr Newhouse:** Just one other point that I think might fall into a similar category, depending on how you define it. The transport of detained people and access to medical care and assessment —

**The CHAIRMAN:** While they are being transported?

**Mr Newhouse:** If necessary, yes. One of the lessons from Mr Ward's death was that there was a 10-point, tick-a-box checklist to go through to certify that the person was in good enough health to be transported. Clearly that was not the case with Mr Ward, as we now know. We are not sure of the current situation and how it currently operates, but it is something that we would urge the committee to look at, if you have not already, about that question about being fit to travel, particularly on long-haul trips, just to see if there is anything there that is of concern.

**Hon AMBER-JADE SANDERSON:** So transparency around the determination around someone's fitness to travel?

**Mr Newhouse:** Yes, particularly given what we know in relation to Aboriginal people and the health statistics. We believe there should be particular consideration given to that, and also to the transport needs of women and juveniles, which may be quite different to men.

**The CHAIRMAN:** I think the Inspector of Custodial Services has a report in relation to that as well.

**Mr Newhouse:** And obviously funerals, which has already been mentioned. I have received a report over the past few days that a short approval had been given for a detained person to attend a funeral of a family member. It was not a long distance, however, allegedly, because of inadequate staffing levels in Serco, that did not take place.

**The CHAIRMAN:** Which prison was that from?

**Mr Newhouse:** I will find out for you.

**The CHAIRMAN:** If you could take that question on notice as well; that is, the prison at which it was approved and the circumstances surrounding their not being able to travel to the funeral. That is D2.

**Mr Newhouse:** Where is Northampton?

**The CHAIRMAN:** Northampton is north, just near Geraldton.

**Mr Newhouse:** That is it; it must be Greenough and Northampton.

**The CHAIRMAN:** We will write to you with those questions we have put on notice so you can be reminded of what it is that we actually do need, but we thank you for coming in today to give us your evidence.

**Mr Newhouse:** Just through the Chair, can I ask a question?

**The CHAIRMAN:** Sure.

**Mr Newhouse:** I do not know whether you have already considered trying to establish what the Department of Corrective Services spends on transporting people using its staff and what that amounts to. I think that if we are trying to establish what the overall figure is, that is probably an important bit of information to look at. We do not know what that is.

**The CHAIRMAN:** Those figures are available. They would be available through budgetary processes.

**Mr Newhouse:** Okay, thank you.

**The CHAIRMAN:** Thank you very much for coming in.

**Hearing concluded at 1.29 pm**

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