

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 FIVE

Members

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

Hearing commenced at 12.42 pm**Ms TONI WALKINGTON****Branch Secretary, Community and Public Sector Union–Civil Service Association of WA, sworn and examined:****The CHAIRMAN:** On behalf of the committee, I would like to welcome you to the meeting and ask you to take an oath or affirmation for us, please.

[Witness took the affirmation.]

The CHAIRMAN: You will have signed a document entitled “Information for Witnesses”. Have you read and understood that document?**Ms Walkington:** I have, yes.**The CHAIRMAN:** These proceedings are being recorded by Hansard and a transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record and please be aware of the microphone and try to speak into it and ensure that you do not cover it with paper or make too much noise near it. 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.

We are referring to the joint submission that you put into the inquiry together with Serco and the Deaths in Custody Watch Committee. Is there any particular opening statement that you would like to make with regard to your submission or should we just ask you some questions?

Ms Walkington: I do have a short opening statement just to advise the committee of our coverage and therefore membership, which is quite diverse within the corrective services and the offender management system. We have all staff within the juvenile detention centre. We have staff within the adult prison system, which includes superintendents, assistant superintendents and managerial positions such as business managers. As well we also have treatment programs, education officers, psychologists and health services as well as within adult prison services such as sentence management, which manages things like transport to funerals as well as people who are on the parole board and who participate in the decisions made by the parole board.**The CHAIRMAN:** Can you just clarify there with the health services, because it was a discussion I was having with my colleagues: is that just allied health services that you cover or presumably the nurses and people who are employed still come under the nurses’ union?**Ms Walkington:** They formally come under the nurses—well, they are members of the nurses’ union often but they are also often members of ours. They will get paid by instruments that we are party to and along with the doctors as well. They will often hold dual membership of two unions —**The CHAIRMAN:** So you really have coverage over everyone who is not a member of the Prison Officers’ Union?

Ms Walkington: Yes. We also have members who are involved in courts, in the Legal Aid Commission, bail hostels, parole, probation—the range of services. We also have members who are employed at Serco-run facilities such as Wandoo and Acacia. We represent a diverse range and therefore have, if you like, a range of different points of interest—or our members have—in terms of the provision of prisoner transport. Some of the issues that our members have identified that—we have basically taken in our written submission a global-type of commentary around it, but I felt I should just provide some specifics to give you the flavour of what sits behind those.

One of the issues that our members have identified is that it is at times difficult to find who is responsible for what in a contracted, outsourced situation. One of the major issues that occurred was the responsibility for maintenance of transport vans. In the original contract with the first private provider they were to maintain. They received the property of the vans and they were to maintain the vans. However, they identified that they could not make a profit in that situation so the vans were returned to the government of the day. However, the vans at that stage had been run-down and in many cases air conditioning did not work or they broke down and things like that. The department made a number of submissions—I think four in total—to successive governments for funding to replace the vans and it was only after the death of Mr Ward that a solution to the maintenance of the vans was found. The problem there was the transfer of ownership and responsibility of the maintenance and how that then impacted on the private provider's profitability. Also the contract management is often seen as the weakness in the process and whilst there may be a failure or a deficiency in the private contract provision, it is often then identified that if the terms of the contract had only been improved or were better, then that would not have happened, and it is a question of how well you contract. Our experiences, of course, through the public sector are contract management and we have found that often the issues are not identified until the mistake or error is made, and then there is an attempt to renegotiate the contract that then adds further cost to the contracting arrangement. In theory, successive contracts are then supposed to, through that process, improve. In our experience the world moves on and things change. We are dealing a lot with human services such as prisoner transport, so it is not always possible; in fact, it is quite often impossible to try to work out the myriad different situations you have to address in the terms of a contract and work out how you then put penalty into the contract or remedy into the contract. It comes to the system completely—an exercise in not quite futility but a long process of trying to evolve contracts and trying to use a crystal ball to foresee what is going to happen.

[12.50 pm]

It is also then identified often that it is in fact the deficit of skills in the public sector. There is a term often used within contract management areas in the public sector called “skin in the game”. It often means that in order to understand service delivery and what you need in a contract, you actually have to be doing it—you have to have “skin in the game” to do it. But if you remove the process from the public sector, you no longer have “skin in the game”. This has resulted in jurisdictions such as the United Kingdom having a bizarre situation where they are now talking about a prime provider so that in the case of like corrective services you would then have someone who you contract to become the prime provider who then on-contracts and subcontracts because the department no longer has sufficient skills and knowledge retained within it, which seems to be a ludicrous situation when you could have maintained those skills and knowledge. We are doing a body of work around that at the moment—that is being done by the Centre for Policy Development in their effective government program—and if it is available within the time frame of this inquiry and the research has concluded, I propose that we provide it.

The CHAIRMAN: That probably does not fit with the terms of reference of this inquiry. It is quite broad I would think from what you are saying, but continue.

Ms Walkington: So moving to that process then ends up with, again, another problem of not having the ability to manage contracts. The other point in our submission was that if, indeed, there

is to be a renewal of the contract for prison transport, it should include an open-book clause and it should also include provision to be able to act on any matter identified through the open book clause, such as if there are overpayments or invalid payments—it should also include that.

We are also concerned that there is a lack of public accountability because the public sector comparator is not available. We are also concerned that there is a capacity to vary the transport contract without reference to a tender process. The example we provide is, recently, the contract was varied to include juvenile detention and juvenile offender transport. That was done because of the inadequate staffing levels at the juvenile detention centre and that then freed up a number of juvenile custodial officers to work within the centre rather than in the prisoner transport. We were advised it would be a stopgap measure to address the inadequate staffing in the centre for six months. That has subsequently been rolled over, and we are now advised that it will probably be a permanent feature of the arrangements. That seems to us that there was a variation made without recourse to any public scrutiny or accountability. That certainly would not have been included in the public sector comparator we think. One of the problems we have, of course, is access to the basis of the comparator, which we say ought to occur if the government is going to contract out.

The monitoring of the contract is an issue of large concern for us and that is because the department has cut the number of jobs in its monitoring unit by 50 per cent, so it has a reduced capacity to monitor all contracts.

Hon AMBER-JADE SANDERSON: Since when?

Ms Walkington: Since March this year.

Hon AMBER-JADE SANDERSON: Just in the DSC?

Ms Walkington: Yes, the Department of Corrective Services monitoring unit has been cut by 50 per cent as a requirement to make the savings. That applies to all contracts that the department is a party to, in particular, this matter, the prison transport and court security contract.

The CHAIRMAN: We can get some details on that from DCS when they come in tomorrow.

Ms Walkington: As I understand it the management of the contracts is now being placed out into various service delivery areas. Our members in the service delivery areas advise us that they have no capacity due to staff cuts and their own workloads and, secondly, they do not have the skills in contract management, so it impacts in terms of those sorts of decisions.

Our members' observations support the observations of the Legal Aid Commission about the transport of prisoners who are then not provided with meals. They have also observed that when a contract changed hands, their process for transportation also changed. So rather than prisoners coming into the court process—this is from our members in the courts—timely with their court hearing, they came in all in the morning and are all taken out in the afternoon and the circuit was done and that resulted then in this lack of meals. It also meant that the courts who had not been aware that this change of practice was going to happen, but then had to address the change of practice, had to engage more staff for the holding cells. So that cost will show against that department's increased cost, not with the private contractor. They are concerned that then is not actually accounted for into the cost of the privatisation, if you like, of the service, but is held as an increased cost in the public sector when the cause is in fact a practice that results from the privatisations.

The CHAIRMAN: Is there much more to go for your opening statement? We do have specific questions that we need to ask.

Ms Walkington: There are just three more points.

Our members have also observed that they have needed to step in to do a range of different tasks —

The CHAIRMAN: Okay, if I can interrupt you there, these are observations that you are making on behalf of your members and I appreciate that, none of which is in the submission that you have given to the committee, instead of recommendations that we need to look at. We have some specific areas that we might like to look at and then we can perhaps ask for the specifics of what it is, given the time frame that we have today. If members are happy that we do it that way?

It is clear from your submission and from what you have just been saying that your organisation opposes for-profit providers delivering services, but we would like you to elaborate on the specific concerns you have in relation to the transport of persons in custody, which is the parameters of this inquiry. As you appreciate, it is really just looking at that contract. Where did the concerns arise as to what is happening at the moment?

Ms Walkington: Okay, one is that we have no way of knowing whether that is a more cost-effective, more efficient and more effective overall quality and standard way of delivering that particular service. Our members are concerned that the private sector is delivering a service that they may well be able to do as efficiently and as effectively. The costs to do with transporting prisoners to funerals, for instance, are significantly higher than what they can obtain in quotes et cetera, and they are done by prisoners. So the people in the sentence management area are particularly concerned because they see people being denied access to funerals because of the costs that are associated now with providing that access. The issue is with the resultant skill base being diminished, so the lack of capacity to monitor and manage those contracts and to negotiate those contracts because there is no knowledge of how you do it. We have seen that in successive contract management, where organisations that are well versed at this are able to negotiate better terms and favour, whereas the public sector with reduced skills is then vulnerable to agreeing to contract terms that see an escalation of costs. We are also concerned about the general lack of public accountability and scrutiny of the contracts. The information that we have sought is often not provided on the basis of commercial-in-confidence exclusions, which is why we want an open-book clause. Our members who work in offender management believe that it is an integrated system and needs to be integrated and not fragmented. It is a challenging area and if you then add in agreement of a service provider that is limited by particular service provision terms, you then lose some of that capacity for an integration of the service and a greater fragmentation.

[1.00 pm]

The CHAIRMAN: You identify cost savings and the quality of service as two aspects of private service provision of public service over which there are serious doubts. What kinds of indicators would give your organisation reassurance in terms of the effectiveness or efficiency of the current arrangements?

Ms Walkington: We are currently—I am sorry I am not quite sure what you mean by what indicators?

The CHAIRMAN: For instance, I suppose you said in one term that there needs to be transparency in relation to the contract, but what other indicators in terms of how it is going to be better provided by public servants rather than the current contract? How would it be different?

Ms Walkington: Perhaps I can do that by way of an example. One of the important issues or elements of a person's capacity to rehabilitate is often family linkages, and an ongoing presence of the family in their lives. For Aboriginal people, the ability to go to a funeral is often essential in their way of life, and because of the cost of the contract and the different arrangements in the contract make it then that the department has had to reduce the number of access to funerals and also as a response to the increasing costs of transportation to funerals it has changed its policy twice. First it changed it to a 200-kilometre rule. That then was found and identified to be indirectly discriminatory against Aboriginal people who often find themselves in Acacia or Wooroloo or somewhere, but far, far, far away from their communities in the north west. So, the department has changed that now to an immediate family rule, but that also is indirectly discriminatory in our view,

because Aboriginal people's definition of family is not the same as the anglicised definition of family, which is the one adopted by the department. So, an indicator for us would be that we often see it more in a holistic system indicator of how many people are actually then diverted from offending behaviour, are rehabilitated, and recidivism drops as such, so we tend not to see it necessarily as a simple immediate cost per prisoner type arrangement, although we believe the department could do that at a much more cost-effective basis than the contract provides.

The CHAIRMAN: One of your recommendations here, in particular at recommendation 7 in your submission, that there be a creation of an independent citizen-led advocacy service for those concerned about the transportation and/or treatment of people in custody. Independent visitors currently visit prisons regularly, as an external scrutiny to the prison system, and prisoners can speak to visitors about any concerns they have about transport issues. Do you think that it is necessary to have a secondary service other than that one that is available at the moment?

Ms Walkington: The Aboriginal visitor scheme is limited to Aboriginal people, so therefore —

The CHAIRMAN: It is the independent visitors scheme, it is not the Aboriginal—sorry, independent.

Ms Walkington: Our understanding is that the scheme has visitation rights, but not necessarily a statutory obligation to report or a statutory provision to recommend change or to oversight change, so that is why we have sought that particular, if you like—that power.

Hon JACQUI BOYDELL: I just want to talk about the funeral costs a bit, because obviously, being mining and pastoral, that affects a lot of my constituents and people I represent. I think I wholeheartedly agree, that the review of the process inclusive of immediate family member is probably fairer, at the moment, than the previous 200 kilometre ruling, but I am certainly aware that with Indigenous people there is a different definition of family for sure. Do you think that could be addressed by a contractual arrangement, or is it your view that the department or the public sector would deliver that in a better manner?

Ms Walkington: The policy positions adopted by the department came about because of the increased cost, and because the cost, in comparison when they seek for the current provider to make those arrangements, the cost has come back as prohibitive, and therefore they felt that they would need then to change. If they were to do just some of those transports, they would actually need to limit the overall transportation for funerals. If the department wants to do it and did it and I believe they would be doing it at a lower cost than what has been quoted by the private provider—and they have done that at times, because if the private provider is prohibitive, then they have at times done it themselves—then there would be more transportation then—more events of transport.

The CHAIRMAN: Thank you. That is all of our questions for you today. Toni, I appreciate you coming in today. You will get a transcript of your evidence in due course.

Hearing concluded at 1.06 pm
