



Government of Western Australia
Department of Corrective Services

ANNUAL REPORT 2009/2010

CBD Courts Project Services Agreement

This Report covers the operation of the CBD Courts Project Services Agreement as it pertains to Court Security and Custodial Services.

30 September 2010



Government of Western Australia
Department of Corrective Services

CBD Courts Project Services Agreement

Annual Report 2009/2010

Hon Christian Porter BA (Hons) BEc LLB MSc MLA
Minister for Corrective Services

In accordance with section 45 of the *Court Security and Custodial Services Act 1999*, I hereby submit for your information and presentation to Parliament the 2009/10 Annual Report of the CBD Courts Project Services Agreement. This report pertains to the provision of court security and custodial services under the CBD Courts Project Public Private Partnership with Western Liberty Group Pty Ltd (Western Liberty Group).

Under section 45 of the Act, the Chief Executive Officer of the agency principally assisting the Minister for Corrective Services is required to prepare a report on services provided by the Contractor for the 12 months ending 30 September each year.

This report presents an overview of services provided under the CBD Courts Project Services Agreement by Western Liberty Group through their contractor G4S Custodial Services Pty Ltd (G4S). While G4S perform the services, the State's contract is with Western Liberty Group. This is reflected in the Annual Report through reference to Western Liberty Group in the main, with such references to be read as including G4S.

Compliance information and statistical information in the report are presented for the period 1 August 2009 to 31 July 2010.


Ian Johnson
COMMISSIONER
DEPARTMENT OF CORRECTIVE SERVICES

30 September 2010

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1. FOREWORD AND COMMISSIONER'S MESSAGE

The court security and custodial services provided under the CBD Courts Project Services Agreement include services provided at both the District Court Building and the Central Law Courts. These two sites represent the bulk of court security and court custodial workload in the Perth metropolitan area. These services are part of a broader range of services provided by Western Liberty Group to the Department of the Attorney General as part of the CBD Courts Project Public Private Partnership. I have delegated all the functions under the *Court Security and Custodial Services Act 1999* in relation to the relevant sections of the CBD Courts Project Services Agreement to the Executive Director Court and Tribunal Services of the Department of the Attorney General.

The CBD Courts Project represents a unique model for the procurement and provision of court security and custodial services for the State of Western Australia through the amalgamation of service provision with the design, construction, maintenance and operation of the facilities in which the services are provided. To date, the project has resulted in the provision of high quality court custody and security facilities in the District Court Building and Central Law Courts. This was reflected in a report from the Inspector of Custodial Services in May 2010 which was generally positive and optimistic about the quality of court security and custodial services provided under the Public Private Partnership.

The Public Private Partnership has now been in operation for more than two years. During the first year of operation a number of services delivery problems were encountered. Many of these initial difficulties resulted from the initial learning and transition to the new facilities. I am pleased to report that the majority of these difficulties have now been resolved and the level of service provided in the 2009-10 reporting period was much improved. This has been achieved, in part, through the application of detailed performance linked indicators that provide comprehensive coverage of the standard of services to be provided by the contractor. It has also been achieved through ongoing relationship building between the State and Western Liberty Group.

The improvement in service delivery to date and the continued relationship building between the State and Western Liberty Group stand the partnership in good stead for continued success into the future.

Ian Johnson
COMMISSIONER
DEPARTMENT OF CORRECTIVE SERVICES

2. EXECUTIVE SUMMARY

The provision of services under the CBD Courts Project Services Agreement commenced on 3 June 2008. The 2009-10 year was the second year of full operation under the Services Agreement with Western Liberty Group for the provision of court security and custodial services at the District Court Building and the Central Law Courts. It was a year in which both the Department of the Attorney General and Western Liberty Group became more familiar with the operations of the new facilities and the Services Agreement. This culminated in substantial improvements in service delivery compared to the 2008-09 reporting period.

The Principal of the Services Agreement is the Commissioner of the Department of Corrective Services. Pursuant to Section 20(1) of the Act, the Commissioner delegated contract management responsibilities to the Executive Director Court and Tribunal Services of the Department of the Attorney General.

In managing the Services Agreement, the Department of the Attorney General actively monitored, managed and reported on Western Liberty Group's performance during 2009-10 while also endeavouring to foster a long term cooperative relationship to ensure the partnership is a success for both the State and Western Liberty Group. Representatives from the Department of the Attorney General met or were in contact with Western Liberty Group on a daily basis to deal with contractual and operational issues as they arose. The contract governance and management arrangements provided further channels for the management of the contract and relationship at the executive level.

Western Liberty Group's performance in 2009-10 was significantly improved from 2008-09. During the 2009-10 reporting period Western Liberty Group incurred financial abatements of \$332,048. This is compared to \$809,275 in financial abatements during 2008-09. While this demonstrates a marked improvement, there were still a number of performance issues in 2009-10. These related mostly to the failure to provide gallery guards to courts during February and March 2010, and the failure to respond to the activation of duress alarms in the District Court Building and Central Law Courts in a timely manner.

In assessing service delivery failures and the application of abatements during 2009-10, the Department of the Attorney General gave consideration to the impact on court operations, the level of operational risk involved and the need to provide a commercial incentive for Western Liberty Group to improve performance. This meant that abatements were not applied to a considerable number of non-critical service failures in recognition of the need to balance financial penalties with relationship building.

A total of 59,755 court custody hours were serviced under the contract, which was 4.1% below the contractual lower band estimate of 62,326. This was primarily the result of improvement in the processing of persons in custody as reflected by the average court custody duration of 5.2 hours per person, compared to the 2004 model average of 5.4 hours per person.

The gross service cost of \$5,900,413 (ex GST) was largely in line with the Department of the Attorney General's budget allocation for this service. This was to be expected given the predominately fixed nature of the services payments.

In May 2010 the Inspector of Custodial Services issued Report 64 - Report of an Inspection of Court Security and Custodial Services under the District Court Building Services Contract. This report was based on an inspection undertaken between March and June 2009. The report was generally positive about the provision of court security and custodial services being provided at the District Court Building and the Central Law Courts.

A major challenge going into 2010-11 includes the finalisation of negotiations on a commercial submission made by Western Liberty Group in respect of court security and custodial services. The submission sought consideration of an increase in price for these services. Following negotiations with Western Liberty Group, the Department has offered a limited increase in price for these services with effect from 1 July 2010. It is anticipated that the final resolution of the issue will occur during 2010-11, following further discussions and negotiations between Western Liberty Group and the Department of the Attorney General.

Another challenge for 2010-11 will be the commencement of the negotiations for the benchmarking (or repricing) of court security and custodial services in June 2011. In the lead up to this process the Department of the Attorney General anticipates working collaboratively with Western Liberty Group to renegotiate the price it pays for these services.

3. BACKGROUND

In June 2005, the State entered into a 27 year Public Private Partnership with Western Liberty Group for the provision of facilities and services associated with the operation of courts in the Perth Central Business District (CBD). This initiative is referred to as the CBD Courts Project. The contract with Western Liberty Group is comprised of two major and separate components, namely the Facilities Agreement and the Services Agreement.

The Facilities Agreement requires Western Liberty Group to design, construct and maintain the following:

- District Court Building and pedestrian tunnel under Hay Street to the Central Law Courts (Stage 1);
- Custodial areas of the Central Law Courts (Stage 2); and
- Security Systems in the Central Law Courts (Stage 3).

Construction of the District Court Building and the Central Law Courts custodial area was completed during 2008. Construction of the Central Law Courts security systems was completed in April 2010.

The Services Agreement requires Western Liberty Group to provide the following services:

- custody services within the District Court and Central Law Courts;
- user management and court security services within the District Court and Central Law Courts;
- court recording and transcription services and court booking services within the District Court Building only;
- hard and soft facility management services for the District Court Building and Central Law Courts custodial area and security systems; and
- courtroom booking services.

Services provision under the Services Agreement began on 3 June 2008 following completion of the District Court Building. Performance of the court security and custodial services is subject to the requirements of the *Court Security and Custodial Services Act 1999* (the Act) and is subcontracted to G4S Custodial Services Pty Ltd (G4S). While G4S perform the services, the State's contract is with Western Liberty Group Pty Ltd. This is reflected in this report through reference to Western Liberty Group in the main, with such references to be read as including G4S.

This report is submitted in accordance with Section 45 of the Act for the period 1 August 2009 to 31 July 2010.

4. ACHIEVEMENTS AND ACTIVITIES

A. Contract Governance

The governance arrangements for the Services Agreement consist of a committee structure as contemplated by the Services Agreement, management delegations from the Principal of the Services Agreement and documented roles and responsibilities for individual executive and management positions within the Department of the Attorney General.

The committee structure is outlined below:

Title	Chairperson	Focus
Management Board	Director General (DotAG)	Contract strategic direction, governance and performance (meets quarterly)
Management User Group	Chief Judge (District Court)	Operational service delivery requirements and standards (meets monthly)
Working Committee	CBD Courts Project Contract Administrator (DotAG)	Contract management and service provision (meets every two months)

The Principal of the Services Agreement is the Commissioner of the Department of Corrective Services. The Commissioner has delegated contract management responsibilities to the Department of the Attorney General Executive Director, Court and Tribunal Services, pursuant to Section 20(1) of the Act.

B. Contract Management

Contract management associated with the Services Agreement is undertaken by the Court and Tribunal Services division of the Department of the Attorney General. The contract management team actively monitors, manages and reports Western Liberty Group's performance at the contractual level while also endeavouring to foster a long term cooperative relationship to ensure the partnership is a success for both the State and Western Liberty Group. Members of this team meet or are in contact with Western Liberty Group on a daily basis to deal with contractual and operational issues as they arise and develop strategies for improvement.

The contract management team has developed a comprehensive contract management plan. The core processes addressed by the contract management plan and associated working documents relate to:

- performance reporting and monitoring;
- relationship management, dispute resolution and issue management;
- governance, probity and compliance;
- knowledge and information management;
- change management;
- contingency planning; and
- ongoing review.

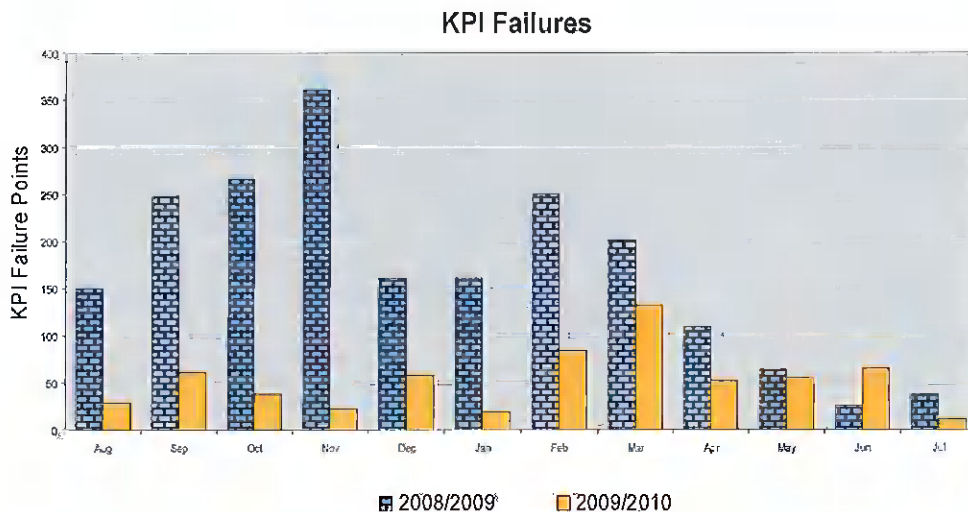
In undertaking specific monitoring of the services provided under the Act, the contract management team uses information from a range of sources. This includes:

- data on custody hours, movements and incidents from the Custodial Services Support System;
- self reported information on incidents and operations from Western Liberty Group and G4S; and
- direct observations made by contract management staff.

This information forms the basis for regular discussions on service delivery issues with Western Liberty Group. This information is also used by the contract management team in the assessment and application of contractual abatements.

C. Contractor Performance

Performance against the Key Performance Indicators (KPI) improved on an overall basis from the previous year. This is demonstrated by the reduction in the total number of contractual KPI failure points incurred by Western Liberty Group in delivering all its services under the contract (which includes court security and custodial services). A comparison of performance in the 2009-10 reporting period against 2008-09 is provided in the following graph.



It is particularly pleasing to note Western Liberty Group significantly improved performance in delivering persons in custody to court. Only a relatively small number of court proceedings were delayed in the 2009-10 reporting period due to the failure by Western Liberty Group to deliver persons in custody to court on time. This is a significant improvement from 2008-09 where late deliveries were a major performance issue.

While significant improvement in service delivery was achieved in 2009-10, some performance issues remain. A significant court security performance issue in 2009-10 was the failure to provide gallery guards and court orderlies on 131 occasions. The bulk of these failures occurred in February and March 2010. During these months Western Liberty Group did not have sufficient staff or equipment resources available to meet the service demands. Resource levels within Western Liberty Group have

since been increased and these types of failures reduced significantly from March 2010 onwards.

During 2009-10 Western Liberty Group also encountered persistent problems in responding to duress alarm activations in a timely manner in the District Court Building and the Central Law Courts. These alarms are fixed at key points throughout the facilities for use by staff or court users in a duress situation. While the majority of the alarms in 2009-10 were false, the demonstrated lack of capacity to mobilise a timely response to these alarms is a continuing performance issue. Western Liberty Group and the contract management team are continuing to discuss potential solutions to improve performance in this area.

D. Reviews

(i) Office of the Inspector of Custodial Services (OICS) Custody Centre Review

In May 2010 the Inspector of Custodial Services issued Report 64 - Report of an Inspection of Court Security and Custodial Services under the District Court Building Services Contract. This report was based on an inspection undertaken between March and June 2009.

The report was generally positive about the provision of court security and custodial services being provided at the District Court Building and the Central Law Courts. The report noted there were no fundamental flaws in the way the services were delivered and there were many areas of good practice.

The report identified some areas where improvements could be made to maximise efficiency, security and the quality of service. To date, the Department of the Attorney General and Western Liberty Group have made progress towards acting on many of the recommendations in the report.

E. Contract Variations

During 2009-10 the Department of the Attorney General received and approved a proposed variation from Western Liberty Group for the removal of custodial services at the Supreme Court building from the Services Agreement. This variation reflected the decision made between the Department of Corrective Services and the Department of the Attorney General to continue with the provision of custodial services at the Supreme Court Building under the Contract for the Provision of Court Security and Custodial Services managed separately by the Department of Corrective Services. The variation resulted in a cost reduction under the contract with Western Liberty Group of \$75,058 per annum commencing 1 July 2009.

F. Contractual Disputes and Payment Issues

The Contract Management Team and Western Liberty Group worked cooperatively to resolve all payment issues without referring them to arbitration. There were no major contractual disputes regarding payment for court security and custodial services in 2009-10. This is in contrast to a number of disputes which were raised and resolved in 2008-09. Moving into operating year three of the contract, both the Department of the Attorney General and Western Liberty Group have a greater level of shared understanding and agreement on the interpretation of the payment mechanism, reducing the potential for disputes.

5. CONTRACT COMPLIANCE

A. Key Performance Indicators and Abatements

The contractor is required to meet certain Key Performance Indicators (KPI) in the provision of services and is required to monitor and report its performance on a daily and monthly basis. The contract management team also conducts targeted monitoring to verify the contractors self reporting in this regard.

Failure to meet KPI standards can result in payment abatements being imposed against Western Liberty Group with the value of the abatements determined through the application of specified formulae contained in the Services Agreement. In determining the extent to which abatements would be enforced, consideration was given to the impact on court operations, the level of operational risk involved and the need to provide a commercial incentive for Western Liberty Group to improve performance. This meant that abatements were not applied to a considerable number of non-critical service failures in recognition of the need to balance punitive actions with relationship building.

The following table provides a summary of KPI failures and associated abatements applied in 2009-10.

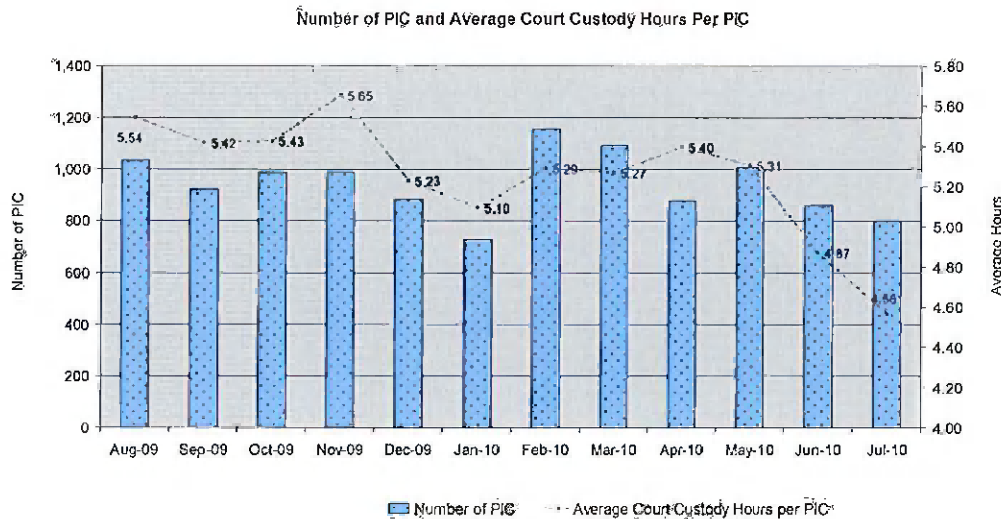
Service Failures against Court Security and Custodial Service KPI

	Key Performance Indicator	Failure Incidents	Abatement
Court Security Services	34 Responding to duress alarms	25	\$152,327
	35 Attending to safety and security incidents	0	0
	36 No unauthorised access	1	\$10,192
	37 No unauthorised articles	0	0
	38 Report safety and security incidents	0	0
	40 Comply with User Management and Court Security Operating Plan and the Service Specifications	133	\$88,956
	65 Comply with Policy and Procedures Manual and Operating Manuals	3	\$3,918
Custodial Services	41 Death in custody	0	0
	42 Serious injury to Person in Custody	0	0
	43 Completed escapes from custody	0	0
	44 Unlawful release from custody	1	\$2,567
	45 Assault upon a court user by a Person in Custody	0	0
	46 Persons in Custody are delivered to court on schedule	8	\$21,574
	47 Report custodial incidents	3	\$3,974
	48 Comply with Custodial Services Operating Plan and Service Specifications	16	\$6,558
	65 Comply with Policy and Procedures Manual and Operating Manuals	28	\$41,982
Total		218	\$332,048

B. Service Provision

Service demand and payment for the custodial services component of the contract is based on a fixed annual price for an anticipated band of court custody hours, with allowance for adjustment on an hourly rate basis should the actual custody hours fall outside of the set band. The band was established based on court custody data analysis and modelling performed in 2004 as part of the planning for the CBD Courts Project.

The actual custody hours of 59,755 were 4.1% below the lower band limit of 62,326 for the reporting period. This was primarily the result of improvement in the processing of persons in custody (PIC) through the courts as reflected by the average court custody duration of 5.2 hours per person, compared to the 2004 model average of 5.4 hours per person. This was an improvement on the prior reporting period which averaged 5.9 hours per PIC.



Payment for the court security component of the contract is based on a fixed annual price for base building security and user management services plus a volume based adjustment for variable demand services such as gallery guards and court orderlies. Approximately 85% of the court security and custodial services received under the contract are subject to a fixed annual payment irrespective of the resources engaged by Western Liberty Group to provide the services. Apart from the variable, volume based costs for gallery guards and court orderlies the Department does not actively monitor or verify the resource hours utilised by Western Liberty Group. Western Liberty Group does however provide this data on a monthly basis and it is presented below for general information purposes in the broader context of court security and custodial services provided to the State elsewhere under separate contract. In the absence of verification and demonstrated operational efficiencies, the resource data provided can not be relied upon as an indicator of service demand.

Service Delivery Resource Hours Reported by Western Liberty Group

Activity	Resource Hours*
User Management and Court Security Services	113,162
Custodial Services	115,570
Administration	1,908
Total	230,640

* Figures not verified and not to be taken as an indicator of service demand or cost. Figures are for the period 1 August 2009 to 31 July 2010.

C. Cost of Service

Total Contract Cost (1 August 2009 – 31 July 2010)	
User Management, Court Security and Custodial Services	\$ 5,900,413
Less Abatements	-\$ 332,048
Subtotal (exclusive of GST)	\$ 5,568,365
GST	\$ 556,836
Total (inclusive of GST)	\$ 6,125,201

The gross service cost of \$5,900,413 (ex GST) was largely in line with the Department of the Attorney General's budget allocation for this service. This was to be expected given the predominately fixed nature of the services payments.

6. MAJOR CHALLENGES FOR 2010/11

A. G4S Commercial Position

In January 2010 Western Liberty Group made a submission to the Department of the Attorney General regarding commercial difficulties it faces in providing court security and custodial services according to the requirements of the Services Agreement. The submission sought consideration of an increase in price for these services. In recognition of these difficulties and as an act of good faith, the Department of the Attorney General undertook a comprehensive assessment of the submission. Following negotiations with Western Liberty Group, the Department has offered a limited increase in price for these services with effect from 1 July 2010. It is anticipated that the final resolution of the issue will occur during 2010-11, following further discussions and negotiations between Western Liberty Group and the Department of the Attorney General.

B. Benchmarking Process

Services provided under the contract are scheduled to be benchmarked (or repriced) from June 2012 onwards. As part of the negotiation process, Western Liberty Group will make its offer for the continued provision of court security and custodial services in June 2011. In the lead up to this process the Department of the Attorney General anticipates working collaboratively with Western Liberty Group to renegotiate the price it pays for these services.