

Inquiry into the transport of persons in custody in Western Australia

Prepared by the WA Police Union

March 2015

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Introduction and inquiry scope

The WA Police Union (WAPU) welcomes the opportunity to make a submission to this very important inquiry. Whilst WA Police does not occupy a contract management role like the Department of Corrective Services, it is a large and important client agency which makes use of the custody movement services provided under the Court Security and Custodial Services Contract¹. The provision of persons in custody movement services includes the transportation of such individuals between police lock-ups, courts and court custody centres². Consequently, WA police officers and police auxiliary officers (PAOs), WAPU's Members, are involved with and affected by the delivery of these services by the current contractor, Serco.

Police officers and PAOs interact with Serco staff daily: they see firsthand the state of the Serco fleet; the way in which Serco conduct their business; and are the first to be called to assist with incidents involving persons in custody, such as an escape. Whilst not every aspect of the Court Security and Custodial Services Contract affects our Members, there are a number of outstanding issues that impact police officers that this submission aims to address.

The five terms of reference, as outlined by the Standing Committee on Public Administration, are addressed as follows within this submission:

1. The oversight and management of the Court Security and Custodial Services Contract, including sub-contractors, by the Department of Corrective Services;
2. Whether the current scope of the Contract adequately meets service demand;
3. The interaction between stakeholders in the performance of the Contract;
4. Implications for the Department of Corrective Services on regional transportation of prisoners and contract scope; and
5. Other matters of interest.

Our submission has been informed by feedback from our Membership. WAPU ran a survey of its Members from 10 March 2015 to 18 March 2015 in order to ascertain information about juvenile escorts, the fulfilment of the contractual obligations stipulated by the Court Security and Custodial

¹ This is acknowledged within the Department of Corrective Services' Annual Report for the Contract for the Provision of Court Security and Custodial Services (most recently, that of the Annual Report 2013-2014, issued 30 September 2014).

² As noted by the description of service in the Annual Report for the Contract for the Provision of Court Security and Custodial Services 2013-2014, p. 4.

Services Contract, experiences with Serco staff, service demands and current arrangements between Serco and WA Police. The data that was obtained from both sworn police officers and PAOs has informed WAPU's position on the five terms of reference.

Survey overview

WAPU received 339 responses to its survey. Generally, the respondent demographics can be broken down as follows:

- Approximately 62 per cent of respondents were from the metropolitan region;
 - The majority of metropolitan officers were from Central Metropolitan (approximately 36 per cent);
 - Most of the respondents worked in Crime, Local Policing Teams or Response Teams;
- Approximately 28 per cent of respondents were from regional WA;
 - The majority of regional WA officers were from the Kimberley district (approximately 18 per cent);
 - The majority of respondents worked in General Duties (more than 85 per cent);
- The majority of respondents were Sergeants (almost 30 per cent) and Senior Constables (approximately 28 per cent); and
- Approximately 35 per cent had been employed by WA Police for more than 20 years.

Approximately 75 per cent of respondents had a lock-up attached to their current workplace and more than 96 per cent of those respondents worked with a fully operational lock-up.

The oversight and management of the Court Security and Custodial Services Contract, including sub-contractors, by the Department of Corrective Services

The Court Security and Custodial Services Contract (the Contract) is a dense document that outlines a number of obligations on the part of the Government and the Contractor (Serco), from risk management, to training, to audit, to insurance, most of which does not affect our Members. However, the management and delivery of several clauses within the Contract greatly impacts how our Members perform their duties.

Service outcomes

At 4.3 of the Contract, four overarching service outcomes are noted as required by the Contract. They are:

1. To facilitate safe, humane and secure services for persons in custody;
2. To contribute to the smooth running of courts;
3. To ensure compliance with the *Court Security and Custodial Services Act 1999*;
4. To contribute to the timely and efficient processing of persons in custody³.

Our Members were asked how they felt Serco performed on these four outcomes, and the following was observed:

- Respondents felt that Serco facilitated a safe, humane and secure service for persons in custody *all of the time* (26.18 per cent) or *most of the time* (40.84 per cent);
- Respondents felt that Serco contributed to the smooth running of courts *most of the time* (36.65 per cent), *some of the time* (23.04 per cent) or *rarely/never* (18.84 per cent);
- Respondents felt that Serco complies with the Court Security and Custodial Services Act *most of the time* (40.64 per cent) or *some of the time* (17.65 per cent); and
- Respondents felt that Serco contributed to the timely and efficient processing of persons in custody *some of the time* (30.37 per cent) or *rarely/never* (26.70 per cent).

Memorandum of Understanding

WAPU is of the understanding that over the years, a number of Memorandum's of Understanding (MOUs) regarding the transport of persons in custody have been signed between WA Police and DCS

³ Court Security and Custodial Services Contract, p. 31.

or Serco. However, there is confusion as to whether these MOUs are variations of one another, reference different matters, or are still in operation. WAPU has been made aware of the following:

- The provision of court security and custody at regional circuit courts is currently managed by WA Police, arrangements of which were made under an MOU signed in 2000 between the then Ministry of Justice and WA Police⁴. WAPU understands this MOU has expired⁵ and it appears the relevant agencies are still in discussion about the terms and scope of the MOU;
- A thematic review of court security and custodial services, undertaken by the OICS in May 2010 referred to an MOU between the former Ministry of Justice and WA Police which made the Contractor responsible for all transport services for adults from police lock-ups and courts at every known police and court facility in country WA. The review noted that the Commissioner of Police advised the Corrective Services Commissioner in 2009 that police would be withdrawing from this MOU (no reason is provided in the review)⁶;
- WAPU understands that “it was agreed that WA Police would continue to provide transportation services for juvenile offenders within regional areas” but is not certain if this arrangement has been enshrined in an MOU⁷; and
- The Albany lock-up is treated uniquely by the Court Security and Custodial Services Act, Regulations and Contract but there is no formal MOU between Albany Police and Serco outlining the details of this relationship⁸. An old local service arrangement stands but there appears to be differences in interpretations of this arrangement⁹.

This begs WAPU to ask: Which MOUs are still in existence? Who is party to these MOUs? Are any available to view outside of the noted agencies? Are these MOUs reviewed and if so, are they reviewed regularly? Why has there been such a delay in arranging a new MOU following the expiration or withdrawal from previous MOUs?

⁴ As per the Government response to the Community Development and Justice Standing Committee’s “In Safe Custody: Inquiry into the Custodial Arrangements in Police Lock-ups” report and recommendations.

⁵ The aforementioned Government response indicates this occurred in 2011.

⁶ Office of the Inspector of Custodial Services, *Thematic Review of Court Security and Custodial Services in Western Australia*, report no. 65, May 2010, p. 25.

⁷ WA Police submission to the Standing Committee on Environment and Public Affairs’ *Inquiry into the Transportation of Detained Persons*, May 2010, p. 4.

⁸ Office of the Inspector of Custodial Services, *2012-13 Court Custody Centres’ Inspection*, No. 87, December 2013, p. 38.

⁹ *Ibid.*

Members were asked about their awareness of any MOUs between WA Police and DCS and/or Serco. More than 70 per cent of respondents were not aware of the existence of any MOU. Those who were aware of the existence of an MOU were asked to clarify what they knew and the following was generally noted:

- That an MOU exists but Members were unsure as to the detail or content of the MOU;
- That the MOU stipulated timeframes for clearances, procedures for hospital sits and the conveyance of persons in custody to prisons;
- That the MOU outlined operating procedures for court security; and
- Only one respondent was aware of the arrangements (albeit in verbal form than a written MOU) at Albany Police Station.

Access to information: audits and reviews

In researching for this submission, there were no real difficulties accessing information from the Office of the Inspector of Custodial Services (OICS) or from the Department of Corrective Services (DCS) with respect to the Contract and associated audits and reviews.

However, there was one recent independent review noted in the Contract for the Provision of Annual Court Security and Custodial Services Annual Report 2013-2014 that could not be freely accessed by WAPU. In his foreword, Commissioner James McMahon stated that the DCS

“has taken the opportunity to look at the management of the contract and requested an independent review by the Department of Finance. The review found that the Contract is fit for purpose but that more focus could be placed on performance improvement activities”¹⁰.

Reference was made to the Department of Finance review during Parliamentary Assembly on Thursday, 22 May 2014 where Member Roger Cook questioned Member Joe Francis, the Minister for Corrective Services, about the scope of the review and terms of reference. The response was that the terms of reference for this independent review were to:

1. “Examine the appropriateness of the existing contract mechanisms contained within the Contract;
2. Examine the effectiveness of the contract management practices of the [DCS] and identify opportunities for improvements;
3. Identify options to enable benchmarking of costs of services provided through the Contract, including regional transport; and

¹⁰ As noted in the Annual Report 2013-2014, p. 1.

4. Identify and recommend improvements to the structure of the Contract moving forward”¹¹.

Mr Cook went on to ask Mr Francis about the terms of reference for the subsequent review of the Contract, to which Mr Francis replied that the terms of reference for the mid-term review had not been developed at that time but would be informed by the Department of Finance’s review. This mid-term evaluation is noted within the DCS’s Annual Report 2013-2014 as occurring in late 2014 “to consider options in relation to renewal of the Contract with Serco”, with a focus on “whether or not the Contract has delivered value for money for the State and met the needs of the three client agencies”¹².

The Government’s response to the Community Development and Justice Standing Committee’s “In Safe Custody: Inquiry into the Custodial Arrangements in Police Lock-ups” report and recommendations refers to this Department of Finance review in its reply to Recommendation 16¹³:

“An internal review of the Court Security and Custodial Services Contract is currently being undertaken by the Department of Finance. It will identify opportunities to improve the form, operation and management of the Contract. As part of the process it will examine the issues raised in Recommendation 16”.

The aforementioned terms of reference in part mirror the terms of reference of this inquiry. The Department of Finance’s review will clearly shape the outcomes of the Contract and its management decisions. WAPU cannot understand why the Department of Finance’s review is not publicly available as this information would not only assist in shaping our understanding of the Contract management for the purpose of this submission, but is likely to have recommended courses of action with the potential to impact our Members in the long term. Furthermore, if the Government response to the “In Safe Custody” Inquiry references this internal review, there is no doubt it should be made publicly available.

¹¹ Parliament of Western Australia, *Extract from Hansard: Assembly – Thursday, 22 May 2014*, p. [1].

¹² Department of Corrective Services Annual Report 2013-2014, p. 30.

¹³ Recommendation 16 (on page xvi) of the Community Development and Justice Standing Committee’s “In Safe Custody: Inquiry into the Custodial Arrangements in Police Lock-ups” report states:

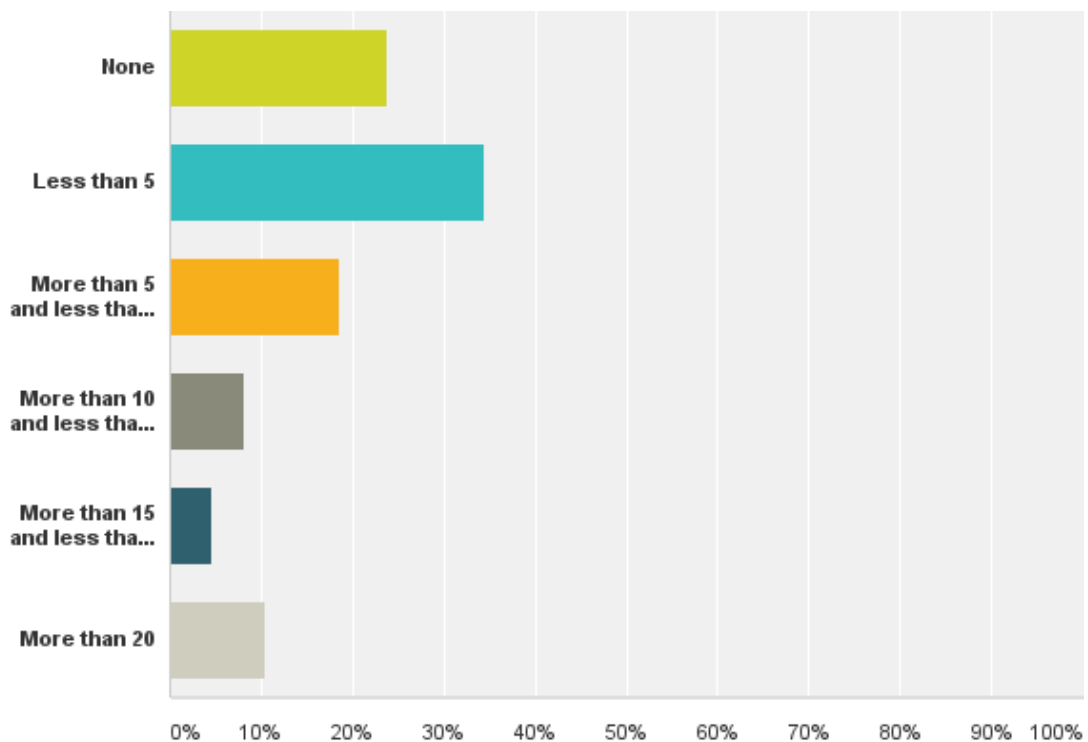
“That the Minister for Corrective Services reviews the Court Security and Custodial Services contract between Serco and the Department of Corrective Services, with attention to:

- Collection of people in custody by Serco from police lock-ups that are not hubs;
- Provision of custodial care by Serco for people in custody before, during and after their court appearances;
- Variation of the requirement for Serco to collect people in custody from police lock-ups within a 24 hour period, so that detainees are collected in the early of that period rather than the latter part”.

Does the current scope of the Contract adequately meet service demand?

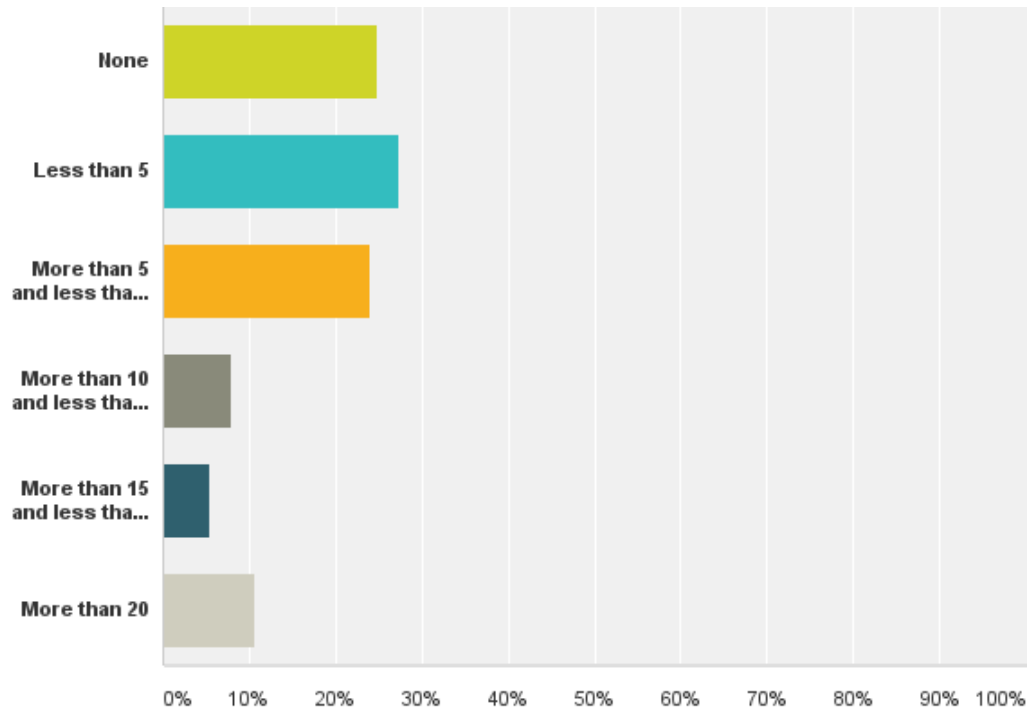
Time spent performing custodial care duties

Within the WAPU survey, respondents were canvassed about their time spent performing custodial care duties. The chart below outlines, on average, how many hours a week respondents spend performing custodial care duties.



Answer Choices	Responses
None	23.84% 77
Less than 5	34.37% 111
More than 5 and less than 10	18.58% 60
More than 10 and less than 15	8.05% 26
More than 15 and less than 20	4.64% 15
More than 20	10.53% 34
Total	323

Respondents were then asked of the time they spend performing custodial care duties, how many of these hours in a week did they feel Serco could be assisting their station or section. The chart below illustrates their responses.



Answer Choices	Responses
None	24.79% 60
Less than 5	27.27% 66
More than 5 and less than 10	23.97% 58
More than 10 and less than 15	7.85% 19
More than 15 and less than 20	5.37% 13
More than 20	10.74% 26
Total	242

Timeliness and the ability for the Contract to incorporate flexibility

Members were asked if the services rendered by Serco (for example, escorts, collections and security) were provided for in a timely manner. Whilst 33.85 per cent were unsure, 44.27 per cent said services were *not* provided for in a timely manner.

Members were also asked if they believed current Serco operations allowed for flexibility in service delivery. Whilst 26.56 per cent were unsure, more than 63 per cent of respondents believe there was little scope for flexibility in Serco's service delivery.

The lack of timeliness and inflexibility by Serco was explained by Members as follows:

- "They have stringent cut-off times and refuse to be flexible";
- "They don't do escorts or accept prisoners after a certain time, meaning that sentenced prisoners have to be conveyed by tasking staff from Northam to Perth Watch House, placing a burden on station staffing levels and forcing staff to incur overtime";
- "When contacted, supervisor [frequently says] vehicles are not available for collecting prisoners/detainees as the vehicles had finished for the day";
- Serco "don't travel past [certain regional stations] which means, for example, Eucla police have to travel seven hours to do a halfway meet with Norseman police, taking four officers and two frontline police vehicles off the road for seven to nine hours as Serco only travel to [certain hubs, being] Norseman";
- "They ALWAYS refuse to pick up any remands from Southern Cross – citing 'staffing issues', then they don't come out because they say they can't get there in time to make it to the prison prior to the 24 hour prison closing. So police [inevitably] have to do the escorts"; and
- "Serco do not provide escorts in a timely manner. At times, Serco Perth argue that Serco Albany must clear Narrogin lock-up. Therefore Serco Albany have to travel at least four hours to Narrogin to collect a prisoner when Serco Perth would be able to do the same in two hours. Serco have refused to convey a female prisoner who claimed to be seven weeks pregnant, therefore police had to escort her to Bandyup".

Staffing levels

Members were asked if they believed Serco provided adequate staff to meet service demands. Whilst 29.17 per cent were unsure, 46.35 per cent said there were insufficient staff to adequately meet service demands.

Members were given the opportunity to explain:

- "At the Northbridge court, auxiliary officers are used to man the holding cells in the court area due to Serco not having the staff to do it";

- “If [Serco] cannot meet the expected timeframes then they obviously do not have the staff required to carry out the escorts adequately”;
- “Usually told there is not enough staff (almost all the time)”;
- “They don’t attend Northam in a timely manner to relieve police of custodial duties and do not stay to convey the prisoners to court, forcing police to undertake these duties”;
- “Staff numbers vary dramatically from six officers for an immigration custody matter to one staff member for some custodial duties. In each regard, the service remains untimely and slow”; and
- “At times, the number of prisoners being escorted far outweighs the number of Serco staff in attendance”.

The interaction between stakeholders in the performance of the Contract

Customer satisfaction survey

Point 11.1 in Schedule 2 of the Contract refers to a customer satisfaction survey:

“The Contractor’s performance will be subjected to regular measurement through customer satisfaction reviews (Customer Satisfaction Surveys) based on the achievement of specific service objectives”¹⁴.

The customer satisfaction survey is undertaken quarterly, and assesses the relationship Serco has with the client agencies, based on overall service, delivery, flexibility and relationship management¹⁵. The Contract stipulates that representatives from WA Police *may* participate in the survey.

The Contract for the Provision of Annual Court Security and Custodial Services Annual Report 2013-2014 notes that for the 2013-2014 financial year, Serco

“achieved an average customer satisfaction measurement of 56.28% for this service year. This is a decrease of 4.92% in customer satisfaction on the previous year. The Contractor has, however, managed to remain within the ‘meets expectations’ performance level”.

The ‘meets expectations’ performance level is said to fall at a numerical value of six (on a scale from one to 10) within the Contract¹⁶. WAPU finds it baffling that Serco would receive a customer satisfaction performance fee of 20% for each quarter in 2013-2014 when it only just manages to receive a base level of satisfaction of performance from client agencies¹⁷.

In the OICS’s 2012/13 Court Custody Centres’ Inspection report, it was noted that

“the robustness of the survey methodology was questionable. The questions were confusing, the scale of responses were not mutually exclusive, there were some questions missing responses and the overall sample size was too low to allow comparison against each quarter... [It] is simply not robust enough, at present, to be used for a performance tool”¹⁸.

¹⁴ Court Security and Custodial Services Contract, p. 145.

¹⁵ Ibid, p. 146.

¹⁶ Ibid.

¹⁷ The customer satisfaction performance fee is a fee calculated and payable quarterly to Serco in respect of each operating quarter by reference to the results of the most recently conducted customer satisfaction survey. See page 147 of the Court Security and Custodial Services Contract.

¹⁸ Office of the Inspector of Custodial Services, *2012-13 Court Custody Centres’ Inspection*, No. 87, December 2013, p. 41.

Members were asked about their awareness of a customer satisfaction survey conducted by Serco that measures the delivery of their services to WA Police. Just over 90 per cent of respondents were not aware of the existence of any customer satisfaction survey.

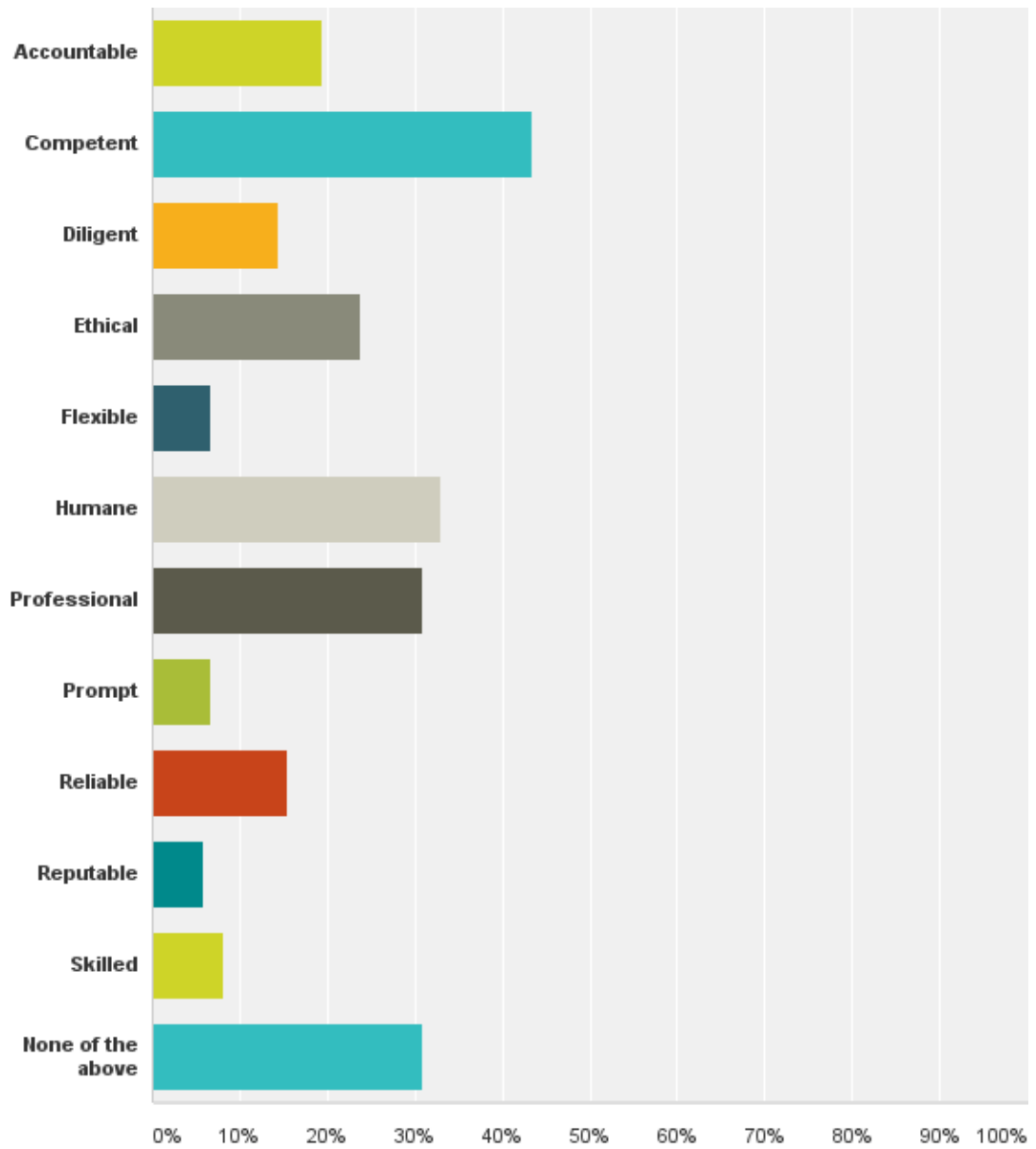
Police officer perceptions of Serco staff

Members were asked to reflect on their interactions with Serco staff from 31 July 2011 (the commencement date of the current Contract). From a list of descriptors, Members were asked to tick all the descriptors they felt applied to Serco staff. Every adjective that was listed within this particular survey question was obtained from the Contract's description of expected levels of service:

- Accountable (see page 31 of the Contract);
- Competent (see page 44 of the Contract);
- Diligent (see pages 40, 44 and 118 of the Contract);
- Ethical (throughout, however, see pages 24, 44 and 136 of the Contract);
- Flexible (see pages 136 and 218 of the Contract);
- Humane (throughout, however, see pages 31 and 44 of the Contract);
- Professional (see page 175 of the Contract);
- Prompt (see page 40 of the Contract);
- Reliable (see page 31 of the Contract);
- Reputable (see page 45 of the Contract); and
- Skilled (see page 118 of the Contract).

Respondents also had the option of selecting 'none of the above' from the list of adjectives.

The responses are noted in the chart below.



Implications for the Department of Corrective Services on regional transportation of prisoners and Contract scope

Lock-up clearances in regional WA

Currently, the Contractor is required to provide 24 hour clearances for persons in custody from regional police station hubs (formerly, a 72 hour clearing period applied).

Members were asked, if they were based in Regional WA, are police lock-ups being cleared within 24 hours of taking a person into custody. Whilst 40.51 per cent said they were unsure, 40.51 per cent said lock-ups were *not* being cleared within 24 hours.

A number of Members expressed their concern that Serco pushed the 24 hour clearance period to the maximum, with many persons in custody not cleared from police lock-ups until the eleventh hour:

- “The current contract allows for the collection of remanded juveniles within 24 hours. Serco regularly push that to the maximum and will have a plane here by the 23rd hour. At times, we can have juveniles in custody for 50 plus hours”;
- “The majority of booked escorts are conducted well toward the end of the time limit allowed”;
- “Same day service is impossible, even with high-risk juveniles that should not be kept in the lock-up”;
- “Often come at the very end of the 24 hours if not later”;
- “Serco often fails to meet the 24 hour service delivery agreement but many [police executive] do not apply pressure to Serco and just accept this failure”;
- “There is absolutely no accountability for Serco and the 24 hour clause is simply a joke, as is the cut-off times for [persons in custody] to prison”; and
- “There should be a same day turnaround of a person remanded in custody... [who] needs to be transported from regional WA to a correctional facility. The impost on station staff (fatigue, inability to attend tasking due to custody, inability to provide a quick response to tasking due to custody)... causes staffing, roster and fatigue issues. Irrespective of the time (day/night) a same day service would alleviate a lot of the issues incurred guarding a person in custody”.

Juvenile escorts

There has been a long and convoluted history of juvenile escorts by police in regional WA. The OICS's 2010 thematic review addressed a number of concerns regarding the transportation of juveniles in regional WA, stating:

- "Police vehicles are inappropriate for transporting people in custody over any significant distance";
- It is not "reasonable to deprive regional communities of two police officers for extended periods to convey a juvenile to and from custodial facilities in Perth and from those facilities to and from courts in the regions";
- "Juveniles from remote areas should not be subjected to the arduous road journeys taken by adult prisoners and cannot be safely or humanely accommodated in the prisons or in the Carnarvon Police lock-up"; and
- "It is of great concern that juveniles are taken so far from their home communities and families to be incarcerated in Perth"¹⁹.

An overarching concern was that the procedures surrounding the transportation of juvenile offenders were "certainly an unnecessary impost on police human resources and one which, with appropriate safeguards, could readily be undertaken by either juvenile custodial officers or contractors"²⁰.

In its submission to the Standing Committee on Environment and Public Affairs' *Inquiry into the Transportation of Detained Persons* in May 2010, WA Police indicated it was in discussions with DCS as to the preferred arrangement for juvenile offender transportation, noting its intention "to reassign juvenile transportation responsibilities to the CEO of DCS... [to] allow WA Police to focus on core policing responsibilities"²¹.

In the Annual Report for the Contract for the Provision of Court Security and Custodial Services 2013-2014, it is noted that

"on 15 October 2013, Serco commenced – on an interim basis – the State-wide provision of metropolitan and regional juvenile transport as well as custodial services for Perth Children's Court for an initial period of six months, which was further extended on 14 April 2014. On 9 June 2014, Serco commenced the provision of expanded juvenile services incorporating additional services"²².

¹⁹ *Thematic Review of Court Security and Custodial Services in Western Australia*, pp. 89-90.

²⁰ *Ibid*, p. 90.

²¹ p. 5.

²² Annual Report for the Contract for the Provision of Court Security and Custodial Services 2013-2014, p. 3.

Within WAPU's survey, Members were asked if they undertook any juvenile escorts as part of the duties they currently performed. Of the 54.40 per cent who responded they did undertake juvenile escorts, 20 per cent undertook them regularly, 46.06 per cent undertook them occasionally and 33.94 per cent undertook them rarely.

For those respondents based in regional WA, officers indicated that a juvenile escort can take anywhere between one and seven hours, which diverts frontline police and tasking vehicles:

- "As Broome is manned 24/7 we become the central point for custodial care for juveniles held in custody. This includes juveniles held on remand awaiting release to bail to the Bail Hostel or for escort to juvenile detention in Perth. We are often holding juveniles up to 48 hours after being remanded in court to detention, or over the weekend before appearing in court. Kimberley has no juvenile facilities and a Bail Hostel that never calls when their charges abscond. We also regularly conduct halfway meets with Derby and Fitzroy Crossing to collect adults and juveniles, held either for detention or refused bail";
- "Travel from Northam to Banksia Hill, via Perth, to drop off brief, three to four hour round trip and an average of about three escorts per month";
- "Some juveniles conveyed during the early hours of the morning";
- "On the odd occasion transport has been required to take a juvenile to Perth, this takes two officers out of a regional town for anywhere between four to six hours, this also has an impact on fatigue with those officers. Furthermore, this leaves the regional town with no police on duty";
- "The most common difficulty is having enough officers available to do the escort as well as having at least one vehicle available for tasking";
- "Difficulties relating to staff being absent from [Narrogin] leaving possibly only one other van in town to task, with little or no assistance from outlying sub districts to back up if required";
- "[I come from a] small station which is not 24 hours. Juveniles to be held in custody require escort to Carnarvon which is a 600+ kilometre round trip. If an escort is performed in darkness, significant risk of injury... due to the large number of animals on the road at night";
- "Our main difficulty is if the juvenile is refused bail it is a four hour drive (eight return) into the nearest staffed lockup being Halls Creek. We either have to do that drive ourselves or book a charter plane which is subject to availability, daylight and staff recalls from other stations to assist (total cost per escort is over \$2000); and

- “Escorts from my station to the metro detention centre takes at least three hours. This is not the most efficient use of resources. Staff often drive to Perth on afternoon and night shift”.

Other Members expressed their concerns about the long periods spent by juveniles in custody in police lock-ups and the quality of custodial/detention facilities, particularly in the Kimberley:

- “Juvenile facilities need to be created in the Kimberley to provide a local facility for juveniles that is culturally sensitive to the distances from country, the separation from family and allows the justice system to better deal with juvenile offending and appropriate sentencing”; and
- “The Kimberley does not have adequate facilities to remand and assess juvenile offenders. This means that when juveniles are remanded in custody in our location, they can remain in police cells/custody for up to 72 hours [which presents an] unnecessary risk”.

For those respondents based in the metropolitan area, unnecessary paperwork that had to be lodged at Curtin House was cited as being frustrating, confusing and time consuming. Some of the comments from our Members included:

- “Metro station to Banksia Hill, door to door duration usually an hour, provided all paperwork is complete. Only complication is lodgement of paperwork at Curtin House once escort is complete”;
- “If the juvenile is appearing in the Perth Children’s Court, we then have to drive another 45 minutes to Curtin House in order to lodge the brief with Perth Prosecuting. The brief should travel with the juvenile, however Banksia Hill will not allow this”; and
- “Conveyance to Banksia Hill from the station takes typically 1.5 hours to get there, one hour dealing with their protocols and then 1.5 hours back. The sub-district has no coverage during this timeframe”.

Respondents were asked who they felt was best placed to undertake juvenile escorts:

- 56 respondents felt Serco was best placed to undertake juvenile escorts;
- 42 respondents felt WA Police was best placed to undertake juvenile escorts;
 - Of these 42 respondents, 21 specified PAOs as most suited to the task;
- 16 respondents felt some contractor other than Serco was best placed to undertake juvenile escorts;
- 4 respondents were unsure as to who was best placed to undertake juvenile escorts.

Deficiencies in Serco's ability to monitor persons in custody in police lock-ups

When WAPU made its submission to the Community Development and Justice Standing Committee's "In Safe Custody" Inquiry, the following was noted:

"Officers at smaller stations with courts attached or nearby are finding that prisoners are being unceremoniously left at the police station by prisoner escort staff for officers to watch over prior to, during and after their court hearings. In doing this, officers become tied up with watching over prisoners, often in conjunction with other detainees and on top of any other police work that is demanded of them"²³.

As a result, the Committee's recommended:

"That the Minister for Corrective Services reviews the [Contract], with attention to... [the] provision of custodial care by Serco for people in custody before, during and after their court appearances"²⁴.

The Government response to the Committee's recommendation was that the Department of Finance was conducting an internal review of the Contract and would examine the issues raised by this recommendation²⁵.

This issue was noted separately to the Community Development and Justice Standing Committee's Inquiry by OICS's 2012/13 Court Custody Centres' Inspection report:

"The police regularly have other duties to fulfil and lock-up management obligations are sometimes pushed to the side. When police officers managing the lock-up attend to other matters, court appearance sometimes become negatively affected...

While the police manage individuals in the lock-up, escorting them to and from court is a service provided by Serco under the [Contract]. This arrangement results in constant hand overs between police and Serco throughout the day... Discussions... indicated that the system would run more efficiently if Serco had complete management of the person throughout the day... This would significantly reduce the number of hand overs and the excessive amount of paperwork and would free up police to be available for other duties"²⁶.

²³ WA Police Union submission to the Community Development and Justice Standing Committee's "In Safe Custody: Inquiry into Custodial Arrangements in Police Lock-ups", August 2013, p. 33.

²⁴ Recommendation 16, "In Safe Custody: Inquiry into Custodial Arrangements in Police Lock-ups", November 2013, p. xvi.

²⁵ As per the Government response to the Community Development and Justice Standing Committee's "In Safe Custody: Inquiry into the Custodial Arrangements in Police Lock-ups" report and recommendations, p. 9.

²⁶ pp. 36-37.

Since this was raised by a number of parties in 2013, our Members have expressed that nothing has changed:

- “On court days, Serco arrive, deliver [the] prisoner then spend the next eight hours eating cake and drinking (our) tea. They have only assisted in court once and cannot wait to get away”;
- “Serco bring up their own prisoners [in the Wheatbelt], ‘dump’ them into WA Police custody, sit in the crib room while police take them over and back from court, then [Serco] take them back to prison. Sometimes they go back to Perth and wait until the last of court finishes and then take another hour to get back”;
- “Serco transport prisoners to Collie for court appearance and they are placed into police custody. Police are then responsible to look after them whilst in the lock-up and then convey them to court and through the court appearance. On their return to the lock-up we have to look after them until Serco return to collect them. All the while, the Serco officers are hanging around town until they collect the prisoner. This ties up police resources while two Serco officers are doing nothing and could do the entire process”;
- and
- “Police are doing all the work here in Kununurra. Serco take care of the detainee whilst they are actually in the courtroom, however police are still required to wait in the courthouse lock-up whilst detainees are waiting for court. Serco also appear to be leaving work once all the prisoners are being dealt with. What cost to the tax payer is this contract... given police are doing 90 per cent of the work?”.

Gaps in the current Contract scope

Within the survey, Members were given the opportunity to elaborate on the current arrangements between WA Police and Serco/DCS.

A recurring theme noted by our regional Members was that the current Contract did not provide service (either adequately or at all) at certain regional locations. The regional locations that were commonly mentioned were Eucla, Kununurra, Karratha, Collie, Busselton, Balgo and Derby. Members expressed the need for the inclusion of these locations (amongst others) in the Contract so that Serco could service their lock-ups and prevent valuable frontline policing hours from being wasted on prisoner transport, custodial care duties and time spent in court. For example:

- “Local arrangements for Kununurra provide poor service to local police, who are still required to do all prisoners transports, standby at court for lawyer meetings, provide

person in custody duties, provide fitness-to-fly and fitness-to-hold, hospital escorts, etc. The only thing [Serco] do is collect persons in custody from the custody area and take them in and out of court and do court public area security and court orderly”;

- “[At Balgo, a remote multi-functional policing facility in the Kimberley], all escorts, juvenile or adult, are usually sentenced or remand prisoners. They have to be either driven out along Tanami Road, minimum four hours and with return trip every escort equals one working day out of the community for both officers. When remanded/sentenced from Balgo court, each escort has one officer and as Balgo MFPF has no courthouse, the single officer escort is carried out, unsecured, through the crowd including family members, to the MFPF one kilometre away”; and
- “I feel that Karratha Police Station would benefit greatly in this area if changes were made [to the Contract]. Some of the issues at this station are: no court security or orderly at court. Obviously this has a large impact on the staffing at the station, removing one officer from an already under-staffed station to stand at court for hours guarding a prisoner and even running the court as an orderly... No PAOs stationed at Karratha. Again, removing a frontline police officer every shift to remain as a custody officer affects the staffing levels greatly”.

Another recurring theme noted by our Members was the fact that Rockingham Magistrates Court is not considered part of the current Contract. Members were completely baffled as to why Serco were unable to convey prisoners from Perth Watch House to Rockingham Magistrates Court when it was apparent they were perfectly capable of doing so:

- “Serco will not convey prisoners from Perth Watch House to Rockingham Magistrates Court. Regularly staff from the Rockingham Local Policing Team are tasked to attend the Perth Watch House to convey remands from the Watch House to Rockingham Magistrates Court”;
- “For some reason their contract doesn’t cover Rockingham Court so often staff at Rockingham are required to collect prisoners from Perth and bring them to Rockingham for court”; and
- “Serco will not convey adults from Perth Watch House to Rockingham court for matters held in custody as it is not part of the current Contract... Rockingham lock-up is not 24 hours and staff must convey them to Perth. Perth Magistrates Court won’t hear Rockingham [matters] in custody and as such, each day police must drive back to Perth

and collect in custody offenders and convey them back to Rockingham Magistrates Court”.

Other matters of interest

High profile escapes of persons in Serco custody

Over the last 18 months, there have been a number of high profile escapes of persons in Serco custody.

These escapes most notably include:

- The escape of several detainees from Yongah Hill Immigration Detention Centre near Northam;
- The escape of a convicted rapist and alleged armed robber from a prison van at Geraldton Airport;
- The escape of a prisoner from Joondalup Health Campus;
- The escape of two prisoners from the Wandoo Reintegration Facility whilst performing community work in Alfred Cove²⁷.

In its 2013-2014 Annual Report, DCS indicated that there were 15 actual escapes for 2013-2014 (for all prisoner classifications)²⁸. Escape figures comprised all escapes in private and publicly operated facilities and during transport, including:

- One escape that occurred at court;
- Three escapes that occurred during prisoner escorts; and
- Three escapes that occurred within a hospital facility²⁹.

Nine of these 15 escapes occurred “while the prisoner was under the care and supervision of a private contractor”³⁰.

However, the Annual Report for the Contract for the Provision of Court Security and Custodial Services 2013-2014 noted the following:

“During 2013/14, there were seven incidents relating to escapes, which resulted in eight persons in custody escaping from the Contractor’s direct supervision”³¹.

The report went on to note that two of the offenders were apprehended by the Contractor prior to leaving the facility yet six had to be apprehended by police³².

²⁷ “Detainee caught after two hours on the run”, *The West Australian*, Thursday 23 January 2014, p. 6.

²⁸ Department of Corrective Services Annual Report 2013-2014, p. 136.

²⁹ Ibid.

³⁰ Ibid.

³¹ p. 2.

³² pp. 2-3.

In every circumstance where police are involved with the search and apprehension of these escapees, frontline services are affected as police officers (particularly those in regional WA) spend valuable hours and resources attending where Serco have failed.

Members were asked if, aside from the aforementioned high profile escapes, they were aware of any other critical or major incidents relating to persons in custody whilst they have been escorted by Serco. Some stories proffered included:

- The “escape of a prisoner from medical facilities at Selby St Shenton Park in late 2014. The prisoner was apprehended by attending police, at Irwin Army Barracks, approximately 90 minutes later”;
- “Serco had a vehicle incident (crash) with detainees on board whilst conveying them from Perth Watch House to Perth Magistrates Court (2013). There was a detainee being aggressive to another detainee in one of the vehicle pods – Serco had left Perth Watch House but returned to Perth Watch House for staff to deal with the incident. They did not try and rectify the issue themselves... This is not uncommon for Serco to just stand there [whilst police] deal with the detainee. Perth Watch House has had to on a number of occasions take the detainees out of their vehicle/break up a fight whilst they stand by watching”;
- “There was an incident of self-harm by a detainee when being escorted back to the police lock-up from court where the detainee deliberately banged his head on the wall of the corridor. This information was not passed on to the police by Serco. The detainee [had to provide] information to the police about 20 minutes later”; and
- “Prisoners have injured themselves in Serco custody coming back from the [Perth] courthouse. Usually by self-harm or hitting their head on the walls”.

WAPU believes that the increase in number of escapes over the last three years has warranted close scrutiny of Serco, its processes and the Contract. WAPU welcomes the OICS audit on “Escapes and Absconds” and anticipates that it will take into consideration the impact these escapes have had on the delivery of service by WA Police³³.

The privatisation debate

Since the outsourcing of prisoner transportation commenced in 2000, debate has ensued about the efficacy of privatising such a service, especially when the Government has a non-delegable duty to

³³ Department of Corrective Services Annual Report 2013-2014, p. 33.

protect people in any form of detention and ensure the appropriate monitoring and supervision of detainees³⁴. In its submission to the Standing Committee on Environment and Public Affairs' *Inquiry into the Transportation of Detained Persons* in May 2010, WA Police asserted its position by stating that it

“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”³⁵.

In its own report, this very Committee addressed the privatisation of prisoner transport services by noting that the

“[Deaths in Custody Watch Committee] recommends that... the State resume the control and management of custodial transport and that the privatisation of prisons and custodial services should cease. The WA Prison Officers' Union also supports terminating the privatisation of prisoner transport services. Two Members of the Committee (Hons Kate Doust and Lynn MacLaren MLCs) agree with this... [A petition tabled in the Legislative Council] requests that the Legislative Council recommend and empower DCS to resume the sole responsibility, management and delivery of all custodial transport and immediately terminate the CSCS Contract for the transportation of detained persons”³⁶.

Members were asked if they believed WA Police should be involved in the transport of persons in custody. More than 70 per cent of respondents believed WA Police should *not* participate in escorts. They were subsequently asked who they believed should be undertaking these escort duties:

- 50 per cent said responsibility should lie solely with DCS;
- 48.10 per cent said both DCS and a privately contracted company should undertake escorts; and
- Only 1.90 per cent said responsibility should lie solely with a privately contracted company.

³⁴ Standing Committee on Environment and Public Affairs, *Inquiry into the Transportation of Detained Persons: The Implementation of the Coroner's Recommendations in Relation to the Death of Mr Ward and Related Matters*, Report 23, July 2011, p. 31.

³⁵ p. 3.

³⁶ *Inquiry into the Transportation of Detained Persons: The Implementation of the Coroner's Recommendations in Relation to the Death of Mr Ward and Related Matters*, p. 42.

Serco fleet

Since the sad and untimely death of Mr Ward, there has been an intense (and justified) focus on the quality of the vehicles that are used to transport persons in custody.

The Contract stipulates that the transport fleet must be fit for purpose, be in good operating condition and comply with best industry practice³⁷. Members were asked if they believed the Serco vehicles were fit for purpose (being that they are appropriately equipped and maintained to transport persons in custody). Whilst almost 50 per cent were unsure (largely because they had not recently viewed a Serco vehicle), 44.85 per cent of respondents indicated the Serco fleet appeared to be fit for purpose, with many expressing that the new fleet appeared much better equipped than the vehicles that were used at the time of Mr Ward's death.

The Contract further stipulates that "all totally new vehicles added to the fleet... where feasible, is compatible with the person in custody unloading/loading facilities at police lock-ups"³⁸. Members were asked if they believed Serco vehicles were compatible with police lock-ups and sally ports and whilst 41.45 per cent were unsure, 46.11 per cent indicated yes. For those respondents who said no, the following was noted:

- More than 20 respondents indicated that the Serco vehicles were too large or too tall for the sally ports, or conversely, the sally ports were too small for the Serco vehicles;
- Several respondents expressed their concern that a Serco vehicle that didn't securely fit the sally port presented an escape hazard; and
- The following police stations were observed as being incompatible with Serco vehicles:
 - Broome;
 - Carnarvon;
 - Northam; and
 - Narrogin.

³⁷ Court Security and Custodial Services Contract, pp. 40, 77-78.

³⁸ Ibid, p. 77.

Recommendations

NB: The recommendations made below, which are informed by the feedback of the Membership, are noted in no particular order of importance.

1. Memorandum of Understanding between WA Police and DCS/Serco

WAPU is aware that, over the years, a number of MOUs relating to the transport of persons in custody have been developed in conjunction with WA Police and DCS. WAPU is concerned that if the MOUs have expired, arrangements between the agencies are ad hoc and not enforceable. From the Member feedback, it appears that those who are responsible for administering the terms of the MOU are not even aware of its existence.

Consequently, WAPU requests that WA Police and DCS/Serco clarify:

- Which of the MOUs is still in place;
- Why there have been delays in renewing any expired MOUs;
- If the MOUs are being regularly reviewed; and
- If the MOUs are readily available to be read by affected staff in WA Police.

If an MOU currently does not exist for the Albany Police lock-up, given its position as a “unique centre” WAPU supports the recommendation outlined in the OICS’s 2012/13 Court Custody Centres’ Inspection report that “a formal partnership agreement outlining the management conditions of the lock-up” be arranged between DCS and Albany Police³⁹.

2. Access to information – the Department of Finance review into the Contract

WAPU recommends that the Department of Finance’s review into the Contract be made publicly available. The review’s recommendations will certainly shape the outcomes of the Contract and management decisions and as these courses of action have the potential to impact our Members in the long term, WAPU believes that all of the affected parties should be privy to the review.

³⁹ Recommendation 20 of the OICS’s 2012/13 Court Custody Centres’ Inspection report, p. 39. In full, it reads: “That the Department of Corrective Services and Albany Police produce a formal partnership agreement outlining the management conditions of the lock-up and include specific details of when the contractor should take over management of the centre”.

3. The Contract's capacity to meet service demand in a flexible and timely manner

WAPU is concerned that Serco is not rendering its services in a timely manner and that there is no opportunity for flexibility within the Contract. Members have expressed their concerns that times within which Serco provide their services are restrictive, when the reality is that persons may be taken into custody at any time, anywhere in the State. Many regional Members articulated their frustration at the fact that Serco will not, or are unable to, collect persons in custody for transport, despite travelling past or near their station, which results in police officers having to perform the escorts and spend time away from their core duties. Members also expressed their concern that Serco was often inadequately staffed, which may be impacting the timeliness of service delivery.

Consequently, WAPU recommends:

- That Serco staffing levels be reviewed;
- That the Contract is reviewed to include and enhance flexibility in terms of retrieving prisoners from all regional locations;
- That consideration is given to expand Serco's hours of operation within the Contract; and
- That concerns about the timeliness of service delivery are appropriately addressed.

4. The Contract's customer satisfaction survey

WAPU is troubled by the fact that Serco receives a customer satisfaction fee each quarter when it barely manages to achieve a base level of performance satisfaction (as indicated by the customer satisfaction survey of client agencies). Given the number of high profile escapes (and the startling fact that there has been an increase in the number of escapes in Serco care) and the feedback from police officers regarding timeliness, perceptions of professionalism and competence, flexibility and capabilities, one must ask what this survey is asking and to whom it is directing its questions.

As such, WAPU recommends that the customer satisfaction survey be reviewed and revamped. WAPU believes there needs to be greater transparency surrounding the survey (methodology and results). WAPU believes that if the survey is to exist in any form, it is absolutely imperative that a greater number of police officers and PAOs are canvassed (and those canvassed should have recent experience with custodial care), in order to ascertain the most relevant and concise perspective on transport of persons in custody.

5. Lock-up clearances

Serco (and DCS) quite obviously pride themselves on ensuring that regional police lock-ups are cleared within 24 hours, as evidenced in statements within their Contract for the Provision of Annual Court Security and Custodial Services Annual Reports⁴⁰. However, feedback from the Membership indicates to the contrary. Many Members noted that Serco really pushed the timeframes, with clearances occurring at the very end of the 24 hour period. Other Members, especially those in the Pilbara and Kimberley, noted that the 24 hour period would more often than not lapse before collection was arranged. This was particularly concerning for juveniles in custody.

As such, WAPU recommends that the 24 hour lock-up clearance provision is reviewed so that lock-up clearances are conducted in a more timely fashion. This may only occur if Serco extends its hours of operation and increases staffing capacity. In doing this, the community can be assured that prisoners, especially those who are juveniles, are being held in suitable facilities and receiving necessary attention within an appropriate timeframe.

WAPU's recommendation replicates that of the Community Development and Justice Standing Committee's "In Safe Custody" Inquiry Recommendation 16⁴¹.

6. Juvenile escorts

WAPU had not anticipated the response it received from its Members regarding the custodial arrangements and transport of juveniles, especially in regional WA. Members expressed their concerns about the fact that Serco was not available to perform juvenile escorts in regional WA, which meant police (and associated resources) were diverted from frontline duties, for sometimes a whole shift. Regional Members, especially those within the Kimberley, were also troubled by the facilities in which juveniles were remanded. Within the metropolitan area, Members were frustrated by the administrative excesses, namely the requirement to drop paperwork at Curtin House as it appears that briefs cannot accompany the juvenile escort to detention.

Arising from this feedback, WAPU recommends that juvenile escorts in regional WA be wholly undertaken by an agency that is not WA Police. The Contract needs to conceive for juveniles to be

⁴⁰ Reports from 2013-2014, 2012-2013 and 2011-2012 express the achievement of the "Hub Clearance model", designed to clear regional lock-ups within 24 hours, implemented with the current Contract.

⁴¹ Specifically, the third dot point that notes a review of the Contract and clearance periods (bolding is my own): "Variation of the requirement for Serco to collect people in custody from police lock-ups within a 24 hour period, **so that detainees are collected in the early part of that period rather than the latter part**".

transported from every station in the State. It is especially important that these escorts occur within a timely fashion, given the facilities to remand juveniles are not considered suitable by our Members.

Furthermore, WAPU recommends that the red tape surrounding the paperwork for juvenile escorts in the metropolitan area be reviewed, in order to streamline the process and enable police to attend to their frontline duties.

7. Serco's capacity to monitor persons in custody in police lock-ups

The issue surrounding who monitors persons in custody at police lock-ups before, during and after court appearances has been on-going, and is a matter that has been noted by parties external to WAPU. Despite the "In Safe Custody" Inquiry recommendation that the Minister for Corrective Services review the Contract with respect to the "provision of custodial care by Serco for people in custody before, during and after their court appearances"⁴², nothing seems to have changed with this process. This may be a result of an expired, inadequate or ineffectual MOU between the agencies.

In our submission to the Community Development and Justice Standing Committee's "In Safe Custody" Inquiry, WAPU made the following recommendation:

"Current Serco practices with respect to prisoners involve leaving prisoners at police stations for the care of already time and resource pressed police officers and making the prisoner escort process difficult and time consuming. Consequently, the Union is adamant that changes to the regional WA, police-related Serco processes are enacted so that our Members are removed from the custodial care of remand prisoners. The Union recommends that Serco contracts be altered to encompass total responsibility for all persons within its custody. The Union understands that this would still necessitate that Serco utilise the respective police station, but we believe that under the circumstances outlined within this submission, prisoners should remain under Serco guard for the totality of their court appearance. In instances of prisoner escorts, police officers should only ever have to escort a prisoner to a prison or watch house under extraordinary circumstances – Serco must endeavour to collect prisoners from the appropriate police station in a timely fashion"⁴³.

WAPU still supports the implementation of its recommendation and that which was noted by the "In Safe Custody" Inquiry.

⁴² Recommendation 16, p. xvi.

⁴³ pp. 42-43.

8. Gaps in the Contract: servicing currently excluded lock-ups in WA

A recurring theme noted by our Members was that the current Contract did not provide service (either adequately or at all) at particular regional police stations. Stations that were frequently cited were Eucla, Kununurra, Karratha, Collie, Busselton, Balgo and Derby. Within the metropolitan area, Rockingham is a notable exclusion, with many Members expressing their discontent at having to convey prisoners from Perth Watch House to Rockingham Magistrates Court, a task all believed Serco were more than capable of performing. Including these locations (amongst others) in the Contract will enable Serco to service more lock-ups and prevent valuable frontline policing hours from being diverted to prisoner transport, custodial care duties and time spent in court.

The “In Safe Custody” Inquiry recommended, as part of Recommendation 16, that the Contract required review with respect to the “collection of people in custody by Serco from police lock-ups that are not hubs”. Despite the Government’s response indicating that this issue would be addressed in its internal review, there have been no changes to the Contract that reflect the aforementioned inclusions.

As such, WAPU recommends that the Contract is reviewed to encompass *all* lock-ups and stations in WA as service points for Serco.

9. Who should be conducting persons in custody transport in WA

A majority of respondents to the WAPU survey believe that WA Police should not be involved in the transport of persons in custody. Whilst the majority expressed that this responsibility should lie solely with DCS, many also believed this duty could be shared between DCS and a privately contracted company. The general consensus from the Membership is that the transportation of detained persons is incredibly time consuming, especially when there is another agency capable of performing these duties. When police spend their time traversing Perth city or their district or in some cases, the State, valuable resources are diverted from frontline policing.

WAPU agrees with the sentiment of its Membership and believes that WA Police should not be involved in the transport of persons in custody.