



Report No.

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December 2004

OFFICE OF THE INSPECTOR OF CUSTODIAL SERVICES

INSPECTION OF THE INTERIM ARRANGEMENTS  
AT THE SUPREME COURT FOLLOWING  
THE ESCAPE OF NINE PRISONERS FROM  
THE CUSTODY AREA ON 10TH JUNE 2004



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# The Report

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## A. THE ESCAPE FROM THE SUPREME COURT, THE HOOKER INQUIRY AND THE ROLE OF THE INSPECTOR OF CUSTODIAL SERVICES

- 1.1 At approximately 10:45am on Thursday, 10th June 2004, a group of nine prisoners escaped from the main holding cell at the Supreme Court Custody Centre. They did so by rushing the door, which had been partially opened to enable one of them to leave the cell to go to the toilet. Once through the cell door, the group easily overpowered the officers employed by Australian Integration Management Systems (hereafter ‘AIMS’)<sup>1</sup>, took the custody centre keys from one of them, and escaped through a side door into the Supreme Court Gardens.
- 1.2 An Inquiry was immediately set up under the *Public Sector Management Act 1994* and the *Court Security and Custodial Services Act 1999*. In combination these authorising provisions enabled the Inquirer, Mr Richard Hooker, to require documents, examine persons on oath and generally, subject to due process, to exercise powers calculated to facilitate discovery of the immediate and underlying facts of the incident. The purpose of that Inquiry, therefore, was to ascertain the facts surrounding the event; to examine the role of AIMS and the position of the Department of Justice<sup>2</sup>; to ascertain and document issues relating to the built environment; to evaluate the effectiveness of the monitoring arrangements of DOJ in relation to custody centre operations carried out by AIMS; to comment upon the role and responsibility, if any, of the Minister for Justice in relation to the contribution of AIMS and DOJ to the situation leading to the escape; and, finally, to assess the extent and effectiveness of the interactivity between the Inspector of Custodial Services and DOJ in relation to recommendations made by the Inspector.<sup>3</sup>
- 1.3 The Hooker Report was tabled in Parliament by the Premier on 12th August 2004. It is not the purpose of this Report to examine either the events themselves or Mr Hooker’s analysis of them. However, the final issue that formed part of this Report – namely the relationship of the Inspector of Custodial Services with DOJ – is relevant. This is because the Inspector’s Report No. 7 – ‘Report of an Announced Inspection of Metropolitan Court Custody Centres, November 2001’ – specifically addressed the question of Supreme Court security and identified various weaknesses. The escape itself occurred in circumstances identified as one of those weaknesses, and thus the question of the extent and manner of DOJ response to

1 The metropolitan and the major regional court custody centres are managed by AIMS under contract with the Department of Justice. The remaining court custody centres in the State are managed by the Western Australian Police Service.

2 Hereafter ‘DOJ’.

3 The full terms of reference are set out in the report of the ‘Inquiry into the Escape of persons Held in Custody at the Supreme Court of Western Australia on 10th June 2004’ (hereafter referred to as the Hooker Report), Appendix A, pages 1-2.

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recommendations made in Reports of the Inspector became a matter for media comment. Apart from that, the Office of the Inspector of Custodial Services has a continuing role in this matter because of its ongoing jurisdiction to inspect Court Custody Centres.<sup>4</sup> Accordingly, the Inspector decided to assess the interim and medium-term arrangements that have been made by DOJ in response to the escape.

- 1.4 It must be emphasised, however, that the Office does not see its primary role as being a definitive expert with regard to security matters. In the course of an inspection, of a prison or any other custodial service, we will as a matter of course endeavour to assess both physical and procedural security to the best of our ability. In this regard, we will if it seems necessary obtain expert assistance; this has been done, for example, in relation to the Special Handling Unit at Casuarina Prison as well as Casuarina Prison itself, and in relation to Hakea and Acacia Prisons. Consequential comment or advice may then be published as part of an Inspection Report or passed on to the Department and the Minister on a confidential basis, depending on its precise nature. This is prudent process, consistent with the statutory obligations of the Office. The course of taking expert advice was taken, as will emerge, in relation to the Supreme Court Custody Centre.
- 1.5 The Inspector cannot, however, purport to guarantee that any particular security arrangement is risk-free; his role is merely to remain alert to these issues so as to ensure that deficiencies that become evident in the course of an inspection are drawn to the attention of the Department having the operational responsibility to address such matters – DOJ. Ultimately, security must remain the responsibility of that Department, whose resources and presumed expertise are designed for this purpose.

## **B. REPORT NO. 7: AN ANNOUNCED INSPECTION OF METROPOLITAN COURT CUSTODY CENTRES, NOVEMBER 2001**

- 1.6 On 8th October 2001, formal notice had been given in writing to DOJ and to AIMS that the Inspector intended to carry out an inspection of the Metropolitan Court Custody Centres. At the time there were seven such centres,<sup>5</sup> of which the Supreme Court was one. The on-site phase of the Inspection commenced on 12th November 2001, and lasted approximately two weeks. However, during this time, the Inspector formed the view that the Supreme Court premises constituted an unacceptably high security risk. There were several matters that were of particular concern. The security of the sally port was quite unsatisfactory; public

<sup>4</sup> *Inspector of Custodial Services Act 2003*, s. 22(c).

<sup>5</sup> The court custody function at Mandurah Courthouse has since been taken over by AIMS. The Perth Children's Court Detention Centre was not included in that Inspection.

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access across and within the Supreme Court precinct entailed frequent mixing of persons in custody<sup>6</sup> with the general public; and the State's most dangerous prisoners, known as high-security escort prisoners, were routinely deposited in the Court Custody Centre by armed and highly proficient DOJ special officers and then left with unarmed and relatively untrained AIMS officers.

- 1.7 Consequently, the Inspector commissioned an Expert Appraisal in relation to the Supreme Court. Mr Lin Kilpatrick (architect) carried out this Appraisal; he was assisted by Mr Peter Cotter (security consultant). They inspected the Supreme Court premises on 27th and 29th November 2001. A preliminary copy of Mr Kilpatrick's Report was submitted to the Office of the Inspector on 10th December 2001. Verbal discussions were held with both DOJ and AIMS during December and January, and the draft Report - including a full version of the Expert Appraisal - was sent to each of them<sup>7</sup> on 15th February 2002. The final Report, with the Expert Appraisal attached as an Appendix, was tabled in Parliament on 11th June 2002.
- 1.8 The Expert Appraisal identified numerous deficiencies in the security arrangements, going well beyond the matters that had initially stood out at the initial on-site inspection in November 2001. Specifically, these deficiencies included the risk associated with having to manage accused persons into and out of cells to gain access to a single toilet facility. The Report stated: "This is of concern when managing high-risk persons" (Appendix 1, paragraph 2.4). With regard to high-security escort prisoners, the Report commented: "It seems surprising that prisoners who, according to one measure of risk assessment, apparently pose such a high risk to the community can be delivered to the sally port of the Court and left there for supervision and control by a group of unarmed personnel untrained in dealing with such persons. It is not the point to claim, as the Department does, that this is what the contract requires. These prisoners either pose an unusual danger or escape risk, or they do not" (Report, page 4).
- 1.9 Speaking of security issues as a whole, the Report stated: "These issues must be remedied immediately" (paragraph 2.67). The response of the Department with regard to the physical security aspects was that "currently [it] is not funded to undertake the capital work

6 It should be emphasised that not all persons being held at court custody centres on any given day are 'prisoners' within the meaning of the *Prisons Act 1981*. Usually, even at the Supreme Court, there are those who have surrendered to bail and continue to do so day after day throughout the duration of their trial.

7 In accordance with normal practice relating to court custody centre inspections, copies of the draft report were also sent to the heads of the relevant courts. The response of the Chief Justice indicated that he had expressed comparable concerns to the DOJ on previous occasions.

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implications of this recommendation” (Response to Recommendation 6). The Inspector’s view was that “the Department must [now] start putting together the business case for these capital works with energy and commitment” (Report, page 3). It was not adequate to refer as the Department did to the fact that the new proposed Criminal Court complex would be completed in approximately 2008 as, in the Inspector’s view, “the current complex cannot continue to operate until this time in the current condition” (paragraph 2.67).

- 1.10 With regard to the recommendation relating to high-security prisoners, the Department stated that it was “not aware of any reasons for excluding high-security prisoners from the scope of the services.” AIMS commented, however, that it “has represented its case to exclude high security escorts from the Contract formally to the Department on a number of occasions, to no avail” (Responses to Recommendation 4). The Department did, however, undertake to carry out a review of the criteria for categorising prisoners as requiring high security escort, but it is not evident that any such review was in fact carried out prior to the events of 10th June 2004.<sup>8</sup>
- 1.11 In the event, none of the nine prisoners who escaped were categorised as high-security escorts, though several of them could certainly be regarded as high-risk and dangerous. One of them, indeed, fell into the category of prisoners in relation to whom the Police State Security Unit normally provides armed in-court surveillance.<sup>9</sup> Thus, even though the issue of the operation of the high security escort system did not literally and directly arise in these particular circumstances, Mr Hooker considered that it was appropriate to examine the issue as being relevant to security generally at the Supreme Court and relevant also to the manner in which DOJ dealt with both its contractual relations with AIMS and its response to recommendations of this Office.
- 1.12 On 14th June 2004, the Director General of DOJ, acting pursuant to his authority under section 59 of the *Court Security and Custodial Services Act 1999*, resumed direct control of the Court Custody Services at the Supreme Court. He announced that DOJ Prisons’ Emergency Support Group (‘ESG’) would take over Court Custody Centre services at the Supreme Court as of that day, and that prison officers from the ESG and other prison facilities would undertake the custodial duties hitherto performed by AIMS staff. The various personnel were then appropriately authorised by the Director General under the *Court Security and Custodial Services Act 1999*.<sup>10</sup> However, AIMS would continue to provide front-of-house Court security, including perimeter and gallery guards and some other support services.

<sup>8</sup> As described in paragraphs 1.50 to 1.54, below, a review has occurred subsequent to the events of 10th June 2004.

<sup>9</sup> See paragraphs 1.55 to 1.56, below.

<sup>10</sup> Their legal status as prison officers under the *Prisons Act 1981* does not suffice as authority to carry out custodial functions within a designated court custody centre.

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- 1.13 In view of the demonstrated concerns of this Office about security at the Supreme Court, the Inspector decided to conduct an Inspection of the interim arrangements that the Department had made. A focal point of Court Custody Centre inspections includes the welfare of persons in custody and the availability of the required services, such as access to lawyers for the purposes of case consultation. The possibility obviously arose that, in tightening the security, the Department might inadvertently diminish these services.
- 1.14 Accordingly, on Friday, 18th June 2004, a team from this Office – including our previous security consultant, Mr Lin Kilpatrick – made an unannounced inspection of the Supreme Court Custody Centre. This was done with the prior knowledge and endorsement of His Honour Chief Justice David Malcolm. Additional formal visits were made on 30th June and 31st August, whilst numerous other less formal contacts were made with personnel from the Supreme Court, DOJ and AIMS. All contacts subsequent to 18th June were made with prior notice.

### **C. RESPONSE TO THE ESCAPE, STAGE ONE<sup>11</sup>: IMMEDIATE SECURITY MEASURES**

- 1.15 At this early stage, it was evident that the revised arrangements within the Custody Centre itself had already served to make the Supreme Court environment for handling persons in custody much more secure. These arrangements include:
- re-keying numerous doors;
  - changing the protocols relating to the carriage of the keys, so that no single officer was in possession of keys to take him or her through the whole of the Custody Centre;
  - creating “airlocks” so as to ensure that a person in custody was secured in a space behind one gate before the next gate was opened;
  - identifying arrangements for fire evacuation which do not impinge on the security of the Custody Centre;
  - strengthening the fabric of several doors and walls;
  - utilising DOJ staff from the ESG; and
  - in some instances transferring persons in custody awaiting transport back to prison to the Central Law Court’s Custody Centre.

<sup>11</sup> There are four distinct stages that have been differentiated for the purpose of this Report: (i) Stage One, in the immediate aftermath of the escape, in which emergency changes to security were made so as to enable the Supreme Court Custody Centre to continue to operate safely; (ii) Stage Two, during which Stage One changes were consolidated and extended; (iii) Stage Three, which refers to the temporary arrangements that will be in place between December 2004 and approximately June 2005, during which the Supreme Court Custody Centre, and related areas, will be undergoing major construction so as to create a permanent security and prisoner welfare solution; and (iv) Stage Four, which is the post-June 2005 arrangements intended to achieve a permanent solution.



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- 1.16 The ESG staff had also taken on the responsibility of acting as dock guards and escorting prisoners through the public areas (as is necessary in relation to one of the Courts) to the dock in that Court. However, the sally port remained in principle something of a risk, for no physical or infrastructure changes had been made. Offsetting that, however, were new processes for managing risk. These included the fact that an ESG armed patrol was now escorting AIMS vans from Casuarina and Hakea Prisons and a practice was in place whereby the personnel remained in a parked vehicle just outside the sally port.
- 1.17 It would also be fair to say that at this stage other aspects of custodial services, such as the receipting and storing of property, the accuracy of paperwork and the timeliness of movements of persons in custody into and out of the Centre were not a focus of the Department's staff.
- 1.18 It was evident that the Stage One arrangements had minimised, or virtually eliminated, the possibility of an escape from the Court Custody Centre area. Accordingly, if an escape – or possibly an assisted escape – were henceforth to be attempted, the courtroom would be the most vulnerable location – a point evidently clearly understood by accused persons as demonstrated by the fact that in October 2004 no less than three escapes or attempted escapes were made in this way.<sup>12</sup> This arguably had always been the case, but the strengthening of the security arrangements in the Custody Centre highlighted the relative lack of security of the courtroom itself. The easiest way of escape, or assisted escape, would be from the dock or the witness box and out through the courtroom door.
- 1.19 It may seem far-fetched to think in these terms, not only of escape but also of assisted escape – but then it seemed far-fetched until 10th June 2004 to think in terms of a mass breakout from the Custody Centre.

*The passage has been deliberately shaded out for security reasons*



<sup>12</sup> These occurred at Midland Courthouse on 18th October 2004; an attempt at the Central Law Courts on 21st October 2004; and at the Mandurah Courthouse on 27th October 2004.

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1.20 So it is true to say that there is a risk in the courtroom itself, and even though in a sense it has not been exacerbated by the escape of 10th June, that event has certainly highlighted that the primary location from which an escape or rescue may be possible is now the courtroom itself. Possible ways in which to address this issue will be discussed later.

1.21 At this point, it should be reiterated that AIMS still conducts the “front-of-house” and gallery security for the Supreme Court, as well as non-security aspects of the reception and dispatch of persons in custody. This split responsibility and command structure is, in principle, something of a problem. The reason that this has been done is because of the strain on DOJ staffing that this additional security task within the Court Custody Centre and the courtroom itself has caused.<sup>13</sup>

#### **D. RESPONSE TO THE ESCAPE, STAGE TWO: CONSOLIDATION OF THE IMMEDIATE SECURITY CHANGES**

1.22 The changes to physical infrastructure and processes that quickly followed Stage One have both strengthened and, in one respect, slightly weakened the Stage One arrangements. The improvements include the following:

- The placement of CCTV cameras at various points throughout the Custody Centre, including the sally port;
- Improved arrangements for monitoring the CCTV coverage;
- Improved links between AIMS and the Department’s Intelligence Analysis Section so as to ensure that better and more timely information is routinely available not only as to the individual prisoners due to appear on any given day but also the numbers and mix of prisoners;
- Generally, better co-ordination between the AIMS Movements Officer and the ESG personnel who are still running the Custody Centre;
- Improved radio communication within the Supreme Court itself, most notably between dock guards and custodial staff in the Custody Centre area; and
- Commitment by the Department to re-hire and re-train to an appropriate standard some prison officers who had previously worked within the Department with a view to their assisting to staff the Custody Centre and to act as dock guards, so that the specialised ESG personnel can gradually be returned to their normal roles.

<sup>13</sup> The Department in its formal response to the draft report states that “the reason for maintaining the front-of-house services with AIMS is that there was no failure in these services.” It seems to the Inspector that it is contrived and artificial to divide up the total service into these fragments. In any case, the officers on the ground do not perceive the issue in this way.

*The passage  
has been  
deliberately  
shaded out  
for security  
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- 1.24 The consolidation of protocols during Stage Two was epitomised by the completion by DOJ of a comprehensive manual, 'Operational Structure and Procedures: Supreme Court Custody Centre' (July 2004). The first version of this (June 2004) had been deficient in numerous ways, not least the fact that the various obligations to persons in custody had not been spelled out.<sup>14</sup> We drew these matters to the attention of the Department and they have now been addressed, though of course the manual primarily deals with protocols and standards relating to secure custody and the movement of persons in custody.

#### **E. BROADER COURT SECURITY ISSUES ARISING DURING STAGE TWO: THE DEPARTMENT OF JUSTICE'S COURT SECURITY PROJECT**

- 1.25 The need to examine thoroughly the security of the Supreme Court Custody Centre area led the Department almost simultaneously to set up a group to assess and advise upon security at all Court Custody Centres managed under contract.<sup>15</sup> The first in-house stage of the Court Security Project has now been carried out; and immediate and short-term changes to infrastructure and processes have been implemented, as determined. In the course of our own inspections, we had previously raised concerns about other venues, including Albany and the Central Law Courts complex. In fact, it appears that the Central Law Courts have the greatest number of dealings with high security escort prisoners, yet the impetus to improve these facilities has not equalled that evident in the improvements to the Supreme Court.

<sup>14</sup> See further paragraph 1.17, above.

<sup>15</sup> See footnote 1, above,

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## F. RESPONSE TO THE ESCAPE, STAGE THREE: THE PROPOSED TEMPORARY COURT CUSTODY CENTRE

- 1.26 Following the visit of 31st August 2004, discussions were held with DOJ as to the Stage Three changes to the Supreme Court Custody Centre. Essentially, these will involve the creation of temporary custodial accommodation and movement protocols, whilst Stage Four – a major refurbishment of the whole Court Custody Centre – is being carried out. During Stage Three, that part of the Supreme Court building will, in effect, be a construction site. Stage Three is expected to commence during the December 2004 judicial break and take about six months to complete, i.e., with a view to being ready in June 2005 after the Court’s winter recess.
- 1.27 Stage Three involves the rapid construction of temporary facilities – namely, an external perimeter fence at the back of the Supreme Court and the utilisation within that area of a pre-constructed, moveable, temporary Custody Centre building. Associated with this are various changes to the entrances and exits from the Supreme Court building itself and changed processes for the movement of persons in custody within this area.
- 1.28 This Office’s expert consultant, Mr Lin Kilpatrick, examined the drawings and made various suggestions for improvement, which DOJ has accepted. Nevertheless, this period of six months – which, in the familiar way of construction projects, may blow out a little – would appear to pose a small risk, though one that should be manageable. It is essential that, during this period, operational staff should have a clear understanding of what support the building infrastructure will provide to assist them in their work and, in particular, where the pitfalls lie. Mr Kilpatrick’s evaluation of this aspect is appended to this Report.
- 1.29 In discussions, it must be said that relevant DOJ personnel seem to be aware of the potential pitfalls, and that very fact makes it less probable that any of them will come to pass. Nevertheless, this temporary period will pose a somewhat greater risk than both the Stage Two period described above and the Stage Four period that will follow upon the major security upgrade of the Supreme Court.<sup>16</sup>
- 1.30 The risk had been somewhat exacerbated by the fact that no single part of DOJ bore the ultimate responsibility for the total plan in relation to these temporary arrangements. At the time that this Office was actively involved in inspecting this aspect of the matter, no less than

<sup>16</sup> When a secure location becomes simultaneously a construction site, unanticipated opportunities for escape or assisted escape can and do arise. The recent escapes from Hakea (where the escapees hijacked a prison vehicle and drove it through a ‘soft’ area of the perimeter) and Bandyup (where an external intrusion with a vehicle occurred through a ‘soft’ construction site entrance) highlight this point.

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eight different management groups were involved in one aspect or another of the Stage Three processes. This confusion replicated and highlighted the current day-to-day issues in maintaining court security across the State. This problem in relation to the Supreme Court was drawn to the attention both of the Director General and of the Minister, and it is understood that the organisational arrangements have now been linked straight up to the Director General himself. For such a high-risk area of activity, this seems entirely appropriate, at least as a short-term response.

- 1.31 However, this improvised approach cannot survive as a long-term organisational arrangement. In that regard, the Department has commissioned a consultant's review of court security from the point of view of service requirements, reporting lines, accountability, responsibility and authority. At present, no single person is in a position, as part of normal duties, to oversee the totality of court security. It is not proposed in this Report to attempt to suggest an alternative structure, but the guiding principle is evident: that a unifying structure should replace the diffused responsibility and split authority that characterise the present situation.<sup>17</sup>
- 1.32 During Stage Three, the Department has sought to obviate or at least diminish the risk of relying upon temporary facilities by requesting that cases be assigned to both Fremantle and Rockingham Courts so as to reduce the reliance on the use of the Supreme Court for serious criminal trials. This raises two important matters. First, there must be proper risk assessment of the types of prisoner who are sent to the various Courts; second, the security levels of those two Courts should also be thoroughly audited. On our previous Inspection, we had not identified any particular problem in this regard – certainly nothing comparable to what was apparent in the Supreme Court itself. However, because those Courts at that stage normally only dealt with relatively less serious cases and thus not the most dangerous offenders, this Office did not purport to make a rigorous security review. It is essential, therefore, that the Court Security Project team should conduct a review of the security at Fremantle and Rockingham Courts which is equally as rigorous as that undertaken at the Supreme Court before the commencement of the trial arrangements for serious offenders at those Courts.<sup>18</sup> Similar to the existing arrangements whereby DOJ transfers certain persons in custody from the Supreme Court to the Central Law Courts pending transport back to prison,<sup>19</sup> the

<sup>17</sup> The DOJ's consultant has discussed this matter with the Office of the Inspector, and this crucial point is clearly understood. It will be reflected in the final recommendations made to the Director General.

<sup>18</sup> The Office of the Inspector will itself look at the security issues in those courts during November and December 2004. The findings will be the subject of confidential discussions with the Department and advice to the Minister. However, it must be emphasised that ultimately the Department, which has not only the operational responsibility but also the specialist resources and experience, must carry the risk for security assessments. As with Report No. 7 itself, the Inspector's views should be seen as identifying clear and self-evident risks, rather than endorsing arrangements as being risk-free. See further the discussion in paragraphs 1.4 and 1.5, above.

<sup>19</sup> See paragraph 1.15, above.

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proposal to conduct substantial numbers of serious matters at Fremantle and Rockingham Courts will also see a transfer of risk from DOJ to AIMS. DOJ must ensure that its facilities and the agreed AIMS staffing arrangements are adequate to cover these additional risks.

#### **G. RESPONSE TO THE ESCAPE, STAGE FOUR: MAJOR REFURBISHMENT OF THE SUPREME COURT CUSTODY CENTRE**

1.33 With regard to the Stage Four arrangements – i.e., those that will be in place after the completion of the construction work that is scheduled to commence in December 2004 – this Office is not at this stage able to offer a detailed evaluation. At the time of this Inspection, the drawings and processes were still at the stage of development, though the main objectives were relatively clear-cut. These included:

- that it would not normally be necessary for persons in custody to leave the holding cell to use a toilet inasmuch as a screened toilet would be fitted in each of the relevant cells;
- that there would be a secure lift for conveying prisoners to the area of Court 3;
- that Court 6 would be reversed in its layout so as to minimise movement of prisoners through areas used by members of the public;
- that the sally port would be strengthened and widened, consistent with the ‘Class A Reserve’ constraints and requirements of the public area which it abuts;
- that the CCTV arrangements would be comprehensive and the offices from which these would be managed would be more appropriately located and secured; and
- that the principles as to locks, key access, prisoner movements and escorts, airlock areas and other procedural and physical aspects of security already identified would be maintained.

1.34 The cell areas, although they will have been adapted in the way described, will basically remain intact; this is because of the heritage listing of the Supreme Court building. In addition, two non-contact areas for discussions with lawyers will be created within the secure area. Also, there will be a Bail Surrender Office outside the secure area and a bailee Holding Room within that area.

1.35 However, in discussion, this Office ascertained that the intended changes would not improve the basic comforts of prisoners, which are well below an acceptable standard. This point needs some explanation. At present, the only sitting area in each of the cells is a solid concrete bench set at an angle of 90° to the wall. It is extremely uncomfortable and, for anyone with orthopaedic or musculoskeletal problems, it could be positively harmful. Whilst it is understood that movable furniture may constitute a risk and accordingly should not be placed

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within these cells, it is perfectly possible with modern technology to superimpose some kind of form-fitting and back-supporting structure upon the concrete benches. In discussion with the Court Services Division of DOJ and in subsequent correspondence, the Inspector urged this course for at least some part of the seating areas, and the Department has indicated that it will endeavour to take up this suggestion.

- 1.36 A second matter relates to climate control. It was reported to us that, during the 2004 winter, there was a period of more than ten weeks during which the temperature in the cell areas did not at any time rise above approximately 11° Celsius. On one of our visits, we encountered two prisoners attempting to keep warm, huddled under blankets that had been issued to them by the officers. We understand also that, once the cells warm up in the summer months, they remain excessively hot and stuffy; apparently, there is no arrangement whereby fans are available to move the air or cool it somewhat. It is also of note that custodial staff are even more exposed to the elements than persons in custody. Some officers are currently located in a barred area adjacent to a courtyard, without protection from the rain in winter or the heat (and sound) generated from air-conditioning units (servicing other parts of the building) in the summer. Accordingly, the Inspector has suggested to DOJ that the question of climate control should be addressed in the course of finalising the Stage Four development plans.
- 1.37 Another matter relates to the sheer boredom of the venue. Some prisoners spend many hours there; this can happen before their trial or hearing commences in the morning, or whilst the jury is considering a matter, or whilst they are waiting sometimes for several hours for an AIMS van to pick them up for transport back to their base prison. Whilst daytime television can often be excruciating, it nevertheless seems to represent an industry standard for the relief of boredom and the inability to gauge the passage of time (prisoners' watches are usually removed whilst in the cells), so some provision should be made for the availability of television.
- 1.38 A fourth matter relating to prisoner services would be the availability of a telephone for contact with lawyers on those occasions where for some reason they are unable to be present. The architects and the security experts should explore this further; in preliminary analysis of the plans, there appeared to be a suitable solution.
- 1.39 The matters discussed above highlight the need to recognise the change in function of court custodial facilities. Prior to AIMS undertaking these duties, court custodial functions in WA were undertaken by Police. Many of the existing court custody facilities were designed at a time when the function they served was to be nothing more than short-term "holding cells", the amenity of which was not a particular issue. The nature of the services undertaken by AIMS at these facilities is fundamentally different. There can be large numbers of persons in custody detained in each cell, often for many hours in what is generally recognised as high

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stress situations (prior to and after court appearances), and unarmed civilian staff are tasked with managing the security and other risks, such as self-harm, inherent at these venues. The upgrade of Supreme Court facilities not only provides an opportunity to bring those particular facilities into alignment with the current operations of court custodial services now that these are not undertaken by Police, but will also, it is hoped, mark a change in the institutional thinking around what a court custody centre should be.<sup>20</sup>

## H. OTHER MATTERS

### (a) Video-Court Technology

1.40 Two questions have arisen which are applicable to Supreme Court procedures generally. The first is the use of video facilities for some hearings in the Court. This matter is thoroughly discussed in the Hooker Report (pages 90-96). Mr Hooker mentions that, as part of the Court Security Project commenced after the escape, the Department has commissioned the Project to review and improve processes to enhance the use of video-link. This review will, according to its Terms of Reference, carry out the following tasks:

- Consider the observations of the Judiciary, the Solicitor General, the Court and the Prison Administrators;
- Make recommendations on changes to process, particularly in relation to broadening the use of video conferencing; and
- Audit current infrastructure and facilities so as to identify
  - modern equipment that can be introduced to enhance services including provision of document exchange and the provision of instruction and advice between lawyers and their clients; and
  - the potential for increased facilities at all metropolitan and regional prisons and at all metropolitan and major regional Courts; and
- Submit a proposed implementation plan and a proposed capital works program.

1.41 Whilst this initiative is welcome, it must be understood that, ultimately, the use of video facilities is a matter to be decided by the Chief Justice. This is a matter that has been extensively discussed within the Court in the past. The numerous practical problems identified by Mr Hooker are relevant to the question of the use of video-link facilities, but the Judges themselves are equally concerned and cognisant of due process issues from the point of

<sup>20</sup> On behalf of the Supreme Court Accommodation Committee and with the endorsement of the Chief Justice, the Hon Justice Murray has stated that it is “sensible” to take the opportunity of “improving the capacity to handle prisoners by reducing discomfort and boredom and therefore decreasing the level of frustration which prisoners may experience.”



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view of the accused person. It is, in their view, preferable for an accused person to be present in Court, even for status conferences, as some issues arising at such proceedings often require conferral between the Accused and Counsel. The set-up and the availability of the video-link facilities in each of the major WA prisons may impede the effectiveness of such communication. So too may confidentiality be prejudiced. Also, documents relevant to the status conference may need to be transmitted between the site of the video room at the prison and the Court, and this causes difficulties. The suggestion that Counsel travel to the prison for these status conferences and also appear on the video-link is impracticable for numerous reasons – time, cost, the distinct possibility that Counsel may also be needed in the Supreme Court or another Court shortly thereafter in relation to another client, and so on.

- 1.42 Problems also arise where the Accused decides to plead guilty. If this occurs during a status conference that is being held on video, it is absolutely essential that the whole process be carried on in open Court – not just the sentencing stage, but also the plea stage – to be absolutely certain that it is a voluntary plea properly and fully understood by the Accused.
- 1.43 In summary, although infrastructure and technological improvements would certainly enable this procedure to be utilised somewhat more frequently, it is the opinion of the Judiciary that these matters are unlikely to dramatically shift the balance of Court proceedings without putting elements of due process at risk.
- 1.44 In the course of our Inspection, however, we noted from our discussions with prisoners that they often expressed a preference for a video-linkup. This is because of the disruption to their daily lives – in effect, the loss of a day's work or participation in programs or education at a prison plus the indignity of strip searches inwards and outwards. It is fair to say that many of the complexities around the notion of due process may not have been thoroughly understood by them. The Inspector accordingly accepts the view of the Chief Justice and his colleagues that there is a somewhat limited capacity to increase the use of video conferencing. Having said that, it is also appropriate that the foreshadowed plans for the expansion of the Supreme Court and/or the construction of the new Court facility in Irwin Street should make allowance for a dedicated Video Court within the Supreme Court area itself so that, if the legal procedural issues change or can be managed in different ways, at least the technological potential is in place.

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*(b) Mechanical Restraints*

- 1.45 The second matter related to mechanical restraints. As previously mentioned, there is a category of prisoner who may be dangerous whilst in Court, either on account of his propensity to attack a co-accused or a guard or a witness, or because he or she is likely to make an escape attempt or possibly be the object of an assisted escape attempt. At present, the Presiding Judge may order that an accused person should be handcuffed whilst in Court. This would normally be done on intelligence and security advice from DOJ and/or the Police State Security Unit.<sup>21</sup> It is fair to say that the Judiciary tends to lean against the course of handcuffing defendants;<sup>22</sup> this is because the fact that the person is restrained would seem to indicate to the jury that a considered judgment has been made about the sort of person he or she is, even before the trial commences. In an oblique way, the practice erodes the presumption of innocence, therefore.
- 1.46 Nevertheless, it is necessary and prudent that it should sometimes occur. In a context where the risk has, in a sense, been transferred from the Court Custody Centre to the courtroom,<sup>23</sup> the question of restraint takes on a sharper focus. In the course of this Inspection, discussions were held with both the Chief Justice and personnel from the Court Services Division of DOJ as to an alternative manner in which restraints could be applied. In a context where no one is seriously putting forward a suggestion that defendants be confined within a perspex box or be shackled inside a barred cage, as happens in some other countries, the main suggestion that has been explored relates to an ankle restraint of some kind. It is possible that such a restraint could be discreetly and quickly applied to the Accused and that this situation would remain unknown to the jury itself. An arrangement whereby a fixed anchor-point was available for this purpose in an appropriate number of courtrooms may be feasible. If so, it would certainly do something to address the escape or assisted escape issue identified earlier. The matter is being examined further by DOJ, and the Chief Justice has indicated that he is not necessarily opposed to this possibility if it is implemented in an appropriate way and

21 In its response to the draft report the WA Police Service states that it does not provide advice in relation to whether a prisoner should be subject to some form of restraint but rather a risk assessment which is threat-based. The Inspector naturally accepts this representation. However, this is not how the interaction seems to be perceived from the Supreme Court side, and is indicative of the lack of full mutual understanding of the processes and criteria that underlies Recommendation 9 of this Report. See also paragraphs 1.55 and 1.56 and footnotes 30 and 31, below.

22 In a recent case before Magistrate at the Central Law Courts, the AIMS supervisor requested on three separate occasions that a defendant whom he judged to be aggressive and dangerous should be restrained. The Magistrate refused. During the hearing of the case, the defendant grabbed a heavy glass water jug and hit the AIMS officer on the head, rendering him unconscious.

23 See paragraphs 1.18 – 1.20, above.

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subject to the overriding decision of the presiding Judge.<sup>24</sup>

(c) *Split Security Responsibilities*

1.47 Previous reference has been made to gallery and front-of-house security.<sup>25</sup> The concern related to the fact that there was split command between the various elements responsible for ensuring security – namely, DOJ personnel at the moment and AIMS personnel. It is important that, eventually, there be a united or unified command structure.

(d) *Entry Protocols to the Supreme Court Precinct*

1.48 For the present, the point that requires to be made is that entry of ordinary citizens into and out of the Supreme Court is a very casual affair. As long ago as 1991, the Chief Justice suggested to the then Attorney General that legislation along the lines of *The Court Security Act 1980* of Victoria should be enacted in Western Australia empowering authorised Court Security Officers:

- (a) to demand the name, address and identity of any person on Court premises;
- (b) to require a person on Court premises to submit to a search of his or her person or personal effects as may reasonably be capable of concealing a fireman, explosive substance or offensive weapon;
- (c) to require the deposit for safekeeping of any such personal effects; and
- (d) to exclude or remove from the Court premises any person who refuses to comply with any such demand or requirement.

The *Court Security and Custodial Services Act* addresses these matters. However, the powers it creates for persons authorised under that Act are predicated on the assumption that the person to be subjected to such powers must already be behaving in such a way as reasonably to found a belief that they are, or are about to be, disorderly or to commit an offence (Schedule 1 of the Act). This is in practical terms a major constraint. The concerns of the Chief Justice need to be addressed less obliquely.

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<sup>24</sup> In a letter received subsequently, the Chief Justice has indicated that his judicial colleagues would support such an approach in appropriate cases and supports detailed examination of the practical arrangements that would be necessary.

<sup>25</sup> See paragraphs 1.12, 1.21 and footnote 13, above.

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1.49 Numerous other security reviews have occurred since then, but the arrangements have not been strengthened. The Chief Justice has indicated his agreement in principle to an airport-style electronic surveillance system for the entry of the public to the Court, but this has not yet occurred at the Supreme Court.<sup>26</sup> It seems to the Inspector that this is now a reasonable step to take, though the exact protocols (e.g., removal of shoes, belts and so on and the question of the treatment of frequent and regular users such as employees and lawyers) would need full and careful exploration.

*(e) High Security Escort Prisoners*

- 1.50 The question of high-security escort prisoners requires further analysis. As mentioned above,<sup>27</sup> this was commented upon in our own earlier Report, and the Chief Justice has confirmed in a letter to the Inspector his own view that the practice of leaving high-security escort prisoners in the custody of AIMS contract staff should be reassessed as a matter of urgency (letter of 27th March 2002).
- 1.51 Following the escape of 10th June 2004, DOJ has promulgated a new Policy Directive relating to high-security escort procedures. This document is categorised as “restricted access”, so for security reasons will not be described in detail. However, its essence is to create three categories of high-security escort prisoners and to spell out and clarify the assessment criteria relevant to each category. A different level of security procedure will be applicable according to the category into which a prisoner falls. A high-level panel within the Department will make these assessments, and a review procedure has been implemented whereby a prisoner’s status may be varied or terminated. In a day-to-day sense, the Superintendent of the Special Services Branch<sup>28</sup> is in charge of these escort operations.
- 1.52 This new approach is welcome and should add some clarity to this vexed issue. However, the normal requirement remains that the high security escort officers from the ESG remain with the prisoner only for the duration of the escort or until the prisoner is transferred into the custody of the Court Custody staff and/or police officers as required by the operational order. As previously mentioned, this has been a problem in the past, and it is presumably the intent of the Department that the various in-house arrangements made for additional security will obviate that anomaly.

<sup>26</sup> “Wanding” (i.e. the application of a hand-held electronic device to the clothes and person of people entering the area) is taking place on a trial basis at the Central Law Courts. In a memorandum of 17th November 2004, the Supreme Court Business Services Project Manager reports that “targeted wanding” will shortly commence at the Supreme Court.

<sup>27</sup> See paragraphs 1.6 and 1.10.

<sup>28</sup> This is the DOJ Branch that manages the ESG.

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- 1.53 The proposed AIMS Security Support Group (“SSG”) is also intended to address this problem. One of the proposed functions of the SSG is to be available at the Court to take over custody of high security prisoners once they leave the transport vehicle. The advantage of this reform is that it is not purely focused on the Supreme Court and has capacity to address the high security risks at other court venues. It is of some concern, however, that it is intended that the group will consist of only five full-time officers, particularly as various other functions are also being delegated to the SSG.<sup>29</sup> Another small group of trained AIMS officers undertaking normal duties is expected to provide additional support as an alternative SSG team.
- 1.54 The new arrangements seem in principle to be appropriately calibrated to the identified needs. Nevertheless, the matter needs to be kept under review; whilst it is untested, it remains something of a soft spot in overall risk management.

*(f) The Police State Security Unit*

- 1.55 A related problem is that the interaction between the Police State Security Unit and DOJ with regard to high security escort prisoners is not such as to ensure that there will be a State Security Unit police presence in Court in relation to the most dangerous of these prisoners. Often there will be – for example, with regard to members of biker gangs charged with major offences of violence or in relation to major drug runners. However, equally, there may not be a police presence and this will depend on the level and type of threat that such defendants pose.<sup>30</sup>
- 1.56 More generally, the exact circumstances of State Security Unit participation in court security are not absolutely clear-cut. From the point of view of the Supreme Court, requests are dealt with on a “case by case” basis. From the point of view of the State Security Unit, there are more closely defined criteria: [REDACTED]

*The passage has been deliberately shaded out for security reasons*

In the particular case of the escape of 10th June 2004, there was some uncertainty as to whether the fact that nine serious offenders would be in the court precinct simultaneously met the criteria. The applicable protocols could now benefit from some clarification, with a more formal relationship between the Court, the Police Service and the other relevant parties (including DOJ and AIMS) being fully documented.<sup>31</sup>

<sup>29</sup> This includes acting as a general high-risk response team for AIMS custodial and transport services throughout the metropolitan region, as well as undertaking scenario testing, security audits and training.

<sup>30</sup> The WA Police Service, in its response to the Draft Report (letter of 12th November 2004) stated that “the key criteria that determine if a State Security Unit presence is required is that it is threat-based, not just because there is a ‘high risk’ prisoner appearing in court.”

<sup>31</sup> The WA Police Service comments that “it is apparent that existing protocols would benefit from clarification and a more formal arrangement.” The officer-in-charge of the State Security Unit has already met with the Court Security Project Team, and ongoing meetings are scheduled. The WAPS state that “one of the aims of this consultation process is to ensure that all parties have a complete understanding of the criteria that are applied for armed members from State Security Unit having a presence in a Court.”

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*(g) The Office of the Inspector of Custodial Services and the Department of Justice*

- 1.57. The final matter of this Report relates to the relationship of DOJ to this Office. In the course of its submissions to the Hooker Report, the Department stated that the recommendations made in Report No. 7, particularly with regard to the need to develop a “master plan for the management of people in custody at the Supreme Court complex” (Report No. 7, Recommendation 6c) suggested some ambiguity as to whether physical infrastructure or management processes or both were being addressed. It is not to the point to argue at this time whether there was a reasonable basis for claiming that such ambiguity had been created. More relevant is the broad thrust of Mr Hooker’s recommendation as to improved communication between the Office of the Inspector and DOJ. In the particular case, for example, he contemplated that there should be a procedure for the Department to come back to the Inspector for clarification, should this be necessary.
- 1.58 Arrangements are being put in hand to enhance the communications and foster interactivity with regard to recommendations between this Office and the Department. At this early stage, it is premature to state whether the new arrangements have been effective. However, there can be no dispute as to the overall objective, which is to ensure that greater benefit is derived from the deliberations and recommendations of this Office. This point will be developed in more detail in the 2004/05 Annual Report of the Inspector.

*(h) Summation: The Overall Response of the Department of Justice to the Escape and the Position of AIMS*

- 1.59 Looking forward, it can be said that the overall response of the Department to the events of 10th June 2004 has been satisfactory. The problems that emerged from the unfortunate event have been constructively addressed. The risk of future escape from the Supreme Court Custody Centre in comparable circumstances has been virtually eliminated, and although the related risks of escape or rescue from other parts of that building have not been completely removed they would nevertheless seem to be minimal. Most of the stakeholders are now more aware of their own place in the complex jigsaw that is made up by the whole question of the secure operations of the Supreme Court – in relation to prisoners, visitors, staff and judicial personnel. The stage has thus been set for a continuing process to manage the remaining risks effectively and to rationalise and clarify the lines of authority and responsibility.

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- 1.60 The question of the continuance of the contract with AIMS is unresolved; the Government and the Director General of DOJ (with whom the statutory responsibility and authority lies) announced with the completion of the Hooker Report that the total AIMS court custody and transportation contract would be put on a probationary basis for the next six months. If at the end of that period it were decided that AIMS should resume coverage of the Supreme Court, it could only be in a context where the Director General of DOJ was satisfied that they possessed the capacity and skills to do so to a standard that reflects the new protocols and processes.
- 1.61 What this whole saga seems to have illustrated is that all stakeholders need to be pulling in the same direction if areas of high risk are to be effectively managed. The indications are that this lesson has been heard. The commendable efforts to improve the security, resourcing and facilities of the Supreme Court should also be replicated in relation to those other court custody centres throughout the State that require upgrading.

## RECOMMENDATIONS

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These are mainly directed at the Supreme Court arrangements, but inevitably their thrust spills over into court custody centre management generally. They should be interpreted in this context.

1. The diffused responsibility and split authority for both the development of the proposed temporary Court Custody Centre at the Supreme Court and the ongoing operations at the Supreme Court itself and other court custody centres must be resolved, with a unifying structure replacing the present temporary arrangements: see paragraphs 1.30 to 1.31.
2. The Department's Court Security Project Team must rigorously review both physical and procedural security arrangements at Fremantle and Rockingham Courts, including risk assessment procedures in relation to which prisoners can safely be tried at those locations, before trials of serious offenders at those courts commence in 2005: see paragraph 1.32.
3. The plans for the refurbishment of the Supreme Court Custody Centre should take account of the discussions in this Report relating to seating, climate control, television availability and telephone access: see paragraphs 1.35 to 1.38.
4. Whilst accepting that the opportunities for further usage of video-court facilities are limited, nevertheless the matter should be kept under review in the light of possible developments in criminal procedure. In the event of expansion of the Supreme Court on its present site and in relation to the proposed new Courts CBD Complex at Irwin Street, provision should be made for dedicated video-court areas: see paragraphs 1.40 to 1.44.
5. The question of discreet shackling of prisoners considered dangerous should be further reviewed, though in the context of acceptance of the fact that ultimately this is a matter for judicial control. Particular note should be taken of the risk of escape or assisted escape from the courtroom itself: see paragraphs 1.45 to 1.46.
6. Ideally, day-to-day security at the Supreme Court – in the Custody Centre, in the dock, in the public galleries, at the entrances and around the perimeter – should be under the control of a single entity. Once a decision has been made as to the renewal or non-renewal of the contract with AIMS, either the whole matter should be with AIMS or it should be with the Department of Justice: see paragraph 1.47.
7. The question of the conditions under which citizens are permitted to enter the Supreme Court should be reviewed: see paragraphs 1.48 to 1.49.



## RECOMMENDATIONS

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8. Noting the recent Policy Directive in relation to categories of high security escort prisoners and the arrangement whereby some AIMS staff will be specially trained to manage high security escort prisoners after their arrival at court custody centres, nevertheless the matter should be kept under review until it has been thoroughly tested in practice: see paragraphs 1.50 to 1.54.
9. The criteria according to which the Police State Security Unit makes personnel available for Supreme Court duties should be clarified: see paragraphs 1.55 to 1.56.
10. If the Supreme Court Custody Centre function remains with AIMS, the standard of training must be enhanced to take account of the matters identified in the Hooker Report, this Inspection Report and the various other Departmental inquiries, and the handover arrangements must be carefully structured to ensure continuity: *passim* and paragraphs 1.59 to 1.60.

# Appendix 1

REVIEW OF TEMPORARY CUSTODY CENTRE – PERTH SUPREME COURT  
BY LIN KILPATRICK

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## REVIEW OF TEMPORARY CUSTODY CENTRE - PERTH SUPREME COURT

Documents reviewed:

- block plan layouts / elevations A1.10 A
- plan layout A1.10
- sections A1.11 A
- transportable police cell block A.01,A.02,A.03

This brief review is undertaken to support what is clearly to be a difficult time during which a less than ideal arrangement of temporary building infrastructure will have to be tolerated by all participants during the construction phase of the proposed new custody centre.

Extraordinary operational and staffing protocols will have to be implemented to overcome the compromises that will exist due to the constraints of temporary and framed construction, the location of the facility and limitations imposed by the site and surroundings.

For these reasons, it is critical that operational staff have a clear understanding of what support the building infrastructure will provide to assist them in their work, and in particular where the shortfalls lie.

This review does not provide comprehensive evaluation of the engineering and technical aspects of the proposal. It also does not examine the proposed materials and fabric to be used in the construction. A comprehensive evaluation of these aspects, if required, would demand further review beyond the scope of this exercise.

However, in discussion with the Asset Manager, Department of Justice, it is understood that the specifications for construction of the standard Transportable Police Cell Block to be used have been upgraded to increase strength and robustness of the unit. This should provide adequate resistance against impulse attack, but only over short periods of time and under close supervision. Special attention will be needed by those managing and inspecting the construction process to ensure that door and window frames are properly installed to resist impulse attack on the door and glazing panels.

It would appear that the temporary buildings have been arranged to provide distinctly separate movement of detainees from that of visitors (legal counsel, etc.) other than when detainees move through to the courtrooms. This activity will place significant pressure on staff to 'manage out' potential conflict. The width of movement space to either side of the staff facility building should ideally be a minimum of 1.8 metres to enable management of detainees should an incident arise in these areas. Appreciating that the overall dimension at this cross section of the domain is limited, it might be of value to centralise the staff block as

indicated on the attached drawing.<sup>32</sup> It might also be of value to reorganise the layout of the toilet cubicles as indicated on the attached drawing. This would remove door swings from opening into movement space. Conflict between toilet doors should be the better compromise.

Ideally, the pre-cast concrete barriers should be kept back from the face of adjoining building elements by at least 1 metre to avoid their movement or collapse onto the building fabric in the unlikely event that a large vehicle is used to ram the domain at high speed. However, it is appreciated that in the proposed location, site constraints have made this virtually impossible to achieve. It might be worthwhile realigning the concrete barrier as indicated on the attached drawing. This arrangement would provide a better degree of protection against the vehicle sally port, and in this configuration should not compromise vehicle access. It would also help to guide traffic away from the secure zone and prevent vehicles standing alongside the temporary buildings.

It is not possible (by reference to available documentation) to evaluate the quality of direct observation into holding and movement spaces against that provided by CCTV. This needs to be clearly demonstrated to operational staff so that they might measure any inadequacy, and take account of this when reviewing operational protocol.

It is also difficult to clearly assess from the available documentation what measures are to be taken to overcome discomfort generated by the prevailing climate. Needless to say, occupation of the facility is likely to occur during the hot summer months. The enclosed nature of the building group by function of security will demand special consideration to deal with the issue of climate control.

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<sup>32</sup> No drawings are included as part of the Appendix.

## Appendix 2

### DEPARTMENT OF JUSTICE RESPONSE TO THE 2004 RECOMMENDATIONS

Recommendations	Level of Acceptance	Risk Rating	DOJ Response
1 The diffused responsibility and split authority for both the development of the proposed temporary Court Custody Centre at the Supreme Court and the ongoing operations at the Supreme Court itself and other court custody centres must be resolved, with a unifying structure replacing the present temporary arrangements.	Agree	Major	Since the escape on 10 June 2004 the Director General has taken direct control of improvement activity in regard to court custody centres. A project management framework was applied immediately with regular meetings. The projects include milestones to move management control into operational areas once supporting structures have been implemented and the transition of processes completed.
2 The Department's Court Security Project Team must rigorously review both physical and procedural security arrangements at Fremantle and Rockingham Courts, including risk assessment procedures in relation to which prisoners can safely be tried at those locations, before trials of serious offenders at those courts commence in 2005.	Agree	Major	Security audits have been completed of all court centres that are managed by contract and an improvement program continues to be implemented. A risk-management plan is being developed for the transfer of arrangements from the Supreme Court to Fremantle and Rockingham Courts.

## Appendix 2

### DEPARTMENT OF JUSTICE RESPONSE TO THE 2004 RECOMMENDATIONS

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Recommendations	Level of Acceptance	Risk Rating	DOJ Response
<p>3 The plans for the refurbishment of the Supreme Court Custody Centre should take account of the discussions in this Report relating to seating, climate control, television availability and telephone access.</p>	Agree	Minor	The Department is currently exploring options to ensure the new custody facility provides appropriate prisoner comfort.
<p>4 Whilst accepting that the opportunities for further usage of video-court facilities are limited, nevertheless the matter should be kept under review in the light of possible developments in criminal procedure. In the event of expansion of the Supreme Court on its present site and in relation to the proposed new Courts CBD Complex at Irwin Street, provision should be made for dedicated video-court areas.</p>	Agree	Moderate	The Department is pursuing a major project to maximise the use of video conferencing from prisons. This work is being carried out in consultation with the judiciary, with assistance from the Solicitor General.

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DEPARTMENT OF JUSTICE RESPONSE TO THE 2004 RECOMMENDATIONS

Recommendations	Level of Acceptance	Risk Rating	DOJ Response
<p>5 The question of discreet shackling of prisoners considered dangerous should be further reviewed, though in the context of acceptance of the fact that ultimately this is a matter for judicial control. Particular note should be taken of the risk of escape or rescue from the courtroom itself.</p>	Agree	Major	<p>Restraint options and the processes associated with restraints are currently being examined and any changes would be developed in conjunction with the judiciary.</p>
<p>6 Ideally, day-to-day security at the Supreme Court – in the Custody Centre, in the dock, in the public galleries, at the entrances and around the perimeter – should be under the control of a single entity. Once a decision has been made as to the renewal or non-renewal of the contract with AIMS, either the whole matter should be with AIMS or it should be with the Department of Justice.</p>	Disagree		<p>The operations of court custody functions and court security functions are managed under agreed protocols. The Department has previously and will continue to use the most effective option to conduct these services.</p>

DEPARTMENT OF JUSTICE RESPONSE TO THE 2004 RECOMMENDATIONS

Recommendations	Level of Acceptance	Risk Rating	DOJ Response
7 The question of the conditions under which the citizens are permitted to enter the Supreme Court should be reviewed.	Noted		The Department will continue to work with the judiciary in regard to this matter.
8 Noting the recent Policy Directive in relation to categories of high security escort prisoners and the arrangement whereby some AIMS staff will be specially trained to manage high security escort prisoners after their arrival at court custody centres, nevertheless the matter should be kept under review until it has been thoroughly tested in practice.	Agree	Moderate	The Department will review the effectiveness of the AIMS Security Support Group approximately six months after the service has been operating.
9 The criteria according to which the Police State Security Unit makes personnel available for Supreme Court duties should be clarified.	Noted		The Department will continue to work with Police in regard to this matter. Ultimately however, this is an operational policing decision.

DEPARTMENT OF JUSTICE RESPONSE TO THE 2004 RECOMMENDATIONS

Recommendations	Level of Acceptance	Risk Rating	DOJ Response
<p>10 If the Supreme Court Custody Centre function remains with AIMS, the standard of training must be enhanced to take account of the matters identified in the Hooker Report, this Inspection Report and the various other Departmental inquiries and the handover arrangements must be carefully structured to ensure continuity.</p>	<p>Agree</p>	<p>Major</p>	<p>The Supreme Court Custody Centre is currently resourced with officers from the Special Services Branch in the Department of Justice. Should the Department decide to transition these services to the contractor, the Department would require a detailed transition plan covering procedural and training issues. Commission testing would then take place on these services prior to handover of services.</p>



## Appendix 3

### INSPECTION TEAM

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Professor Richard Harding	The Inspector of Custodial Services
Bob Stacey	Director of Operations
Peter Upton-Davis	Manager Inspections and Research
Jeannine Purdy	Inspections and Research Officer
Lin Kilpatrick	Consultant

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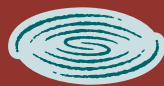
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