

Inspector's Overview

CONTRACTORS ARE PERFORMING WELL, BUT CONTRACT MONITORING AND MANAGEMENT CAN BE IMPROVED

COURT CUSTODY AND COURT SECURITY SERVICES ARE OUTSOURCED

This report looks at the infrastructure, operations and management of court custody centres in Western Australia and the Fiona Stanley Hospital (FSH) secure facility. These are all 'day stay' facilities where people in custody (PICs) spend time either before appearing in court or obtaining medical care and attention. PICs can be a difficult group to manage. They are often unsettled, may be under the influence of legal or illegal substances, and can be anxious about the impact of the court process on themselves and their families.

With the exception of custody at the Perth Children's Court, Western Australia has outsourced court custody and security services. The District Court Building (DCB) and Central Law Courts (CLC) in Perth come under the Central Business District (CBD) Courts Contract. Most metropolitan and regional courts and the FSH secure facility come under the Court Security and Custodial Services (CSCS) contract.

Although the state is 'buying in' services under these two contracts, it retains the ultimate duty of care to PICs. It also has responsibility for ensuring that services are properly provided and that there is adequate contractual oversight.

Previously, the Department of the Attorney General (DoTAG) managed the CBD contract, and Corrective Services (DCS) managed the CSCS contract. The amalgamation of those two departments into the Department of Justice (the Department) means it has responsibility for both contracts.

The CBD contract has been in place since 2005, when Western Liberty Group (WLG) undertook to design, construct and manage the District Court Building (DCB), and refit the Central Law Courts (CLC).

The CSCS Contract has been in place since 2000, with a series of different contractors, the latest being Broadspectrum Australia (BRS), which was awarded the contract in 2017.

THE CBD CONTRACTOR WAS MEETING CONTRACTUAL REQUIREMENTS

The CBD courts contract has run for over ten years. WLG has sub-contracted G4S to manage the progression of PICs and persons on bail through court processes at both the DCB and the CLC.

CBD contract arrangements are clearly defined, settled and mature. We found that services were being delivered at the DCB and the CLC in accordance with the contract. Performance against Key Performance Indicators (KPIs) had declined slightly, but after contractual adjustments, abatements for quality failure were minor.

G4S staff at both DCB and CLC treated PICs with respect, and showed genuine concern for their wellbeing. Both buildings were examples of sound custodial design.

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AFTER A NUMBER OF ABATEMENTS IN ITS FIRST YEAR, BRS ARE MEETING CONTRACTUAL REQUIREMENTS

In our 2016 inspection report we commented on the government's plan to award the CSCS contract to a new provider. Because the contract is high risk and high value, we said the Department should ensure rigorous processes were in place to ensure a successful transition.

It is timely that this inspection commenced one year after BRS had been awarded the contract. The new contract was intended to deliver more services and operational improvements at a saving of 18 per cent or \$11 million per annum. BRS's performance is measured against KPIs and comprehensive service requirements. Financial penalties (an 'abatement regime') apply if services are not delivered as required.

BRS self-monitors and reports on service delivery, but the Department is required to review, monitor and audit the contractor's performance.

During the 'settling in period' of 2017–2018, there were a large number of performance failures and incidents subject to abatement. However, I am pleased to report that BRS was proactive in improving procedures, and the number of abatements and performance failures has declined.

Our inspection of courts across the state found that in 2018, BRS was providing adequate court custody and court security services at most sites. Relationships with court staff and police were professional. Despite some difficult working conditions, we also saw many examples of positive interaction between BRS staff and PICs.

The quality of court custodial infrastructure varied widely. Some outer metropolitan sites were below standard, particularly Armadale, due for replacement in 2021. Staff amenities at Fremantle, Mandurah and Midland Courts were cramped and not fit for purpose. By contrast, the Northbridge Police Complex and the FSH secure facility were good examples of modern custodial infrastructure.

THE DEPARTMENT NEEDS TO IMPROVE ASPECTS OF CONTRACT MONITORING AND MANAGEMENT

If the state is to uphold its duty of care, cover its risks, and ensure standards are maintained, it must adequately monitor contractor performance. As these are multi-million dollar contracts, the state must also ensure robust financial oversight.

In 2016 we noted differences between DotAG and DCS in their monitoring and management of both contracts, and concluded that there was scope to improve. This report expresses similar concerns. Even though the Department of Justice is now responsible for both contracts, there are still differences in the way it monitors the contractors and manages the contracts, and in its capacity to assess performance and validate expenditure.

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The Department has not supported our recommendations for improved on-site monitoring of regional courts and the CBD contract. We acknowledge that these recommendations have resource implications, and that the Department faces severe budgetary pressures, but we are not persuaded that current arrangements are adequate, especially in the regions.

CSCS contract management needs to be improved. The Department put a transition team in place to oversee the handover from Serco, the previous contractor, to BRS, but it was disbanded prematurely. This left the CSCS Contract Management Team (CMT) to finalise aspects of the Serco contract as well taking on the management of the new BRS contract. Under-resourced, and focused on daily oversight of BRS, CMT was unable to develop formal management tools.

Representatives from BRS and CMT met monthly to resolve issues, but CMT was not able to validate data provided by BRS in support of its monthly invoices. While there is no suggestion of impropriety, this is an unacceptable risk, and the Department needs to ensure that CMT can do its job effectively and that payment-based data is validated.

By contrast, a robust management plan was in place for the CBD contract. The contract manager was on site regularly to investigate and evaluate performance against KPIs.

Treatment of PICs complied with Departmental standards. G4S sent daily and monthly performance reports through WLG to the Department, and an abatement regime was in place for performance failures. The contract was mature, and abatements were few, but the Department still relied to a considerable extent on self-reporting by the contractor.

THE DEPARTMENT SHOULD CONSIDER COMBINING MANAGEMENT OF THE TWO CONTRACTS

In this report we note that the two contracts deliver similar services but continue to be managed by two separate teams, much as before DotAG and DCS were merged. We have encouraged the Department to combine the two contract management teams, and create a single, streamlined process (Chapter 4).

The Department said, in response to our draft, that it is 'not for OICS to comment on the Department's structure.' We disagree. First, the *Inspector of Custodial Services Act 2003* gives us the authority to do so. It requires us to report on custodial services, and this includes any 'administrative arrangements'. Secondly, the primary aim of combining DotAG and DCS into one department was to improve efficiencies and effectiveness. In our view, the best way to achieve this in the context of the CBD and CSCS contracts would be to combine the knowledge and expertise of the two teams into one.

Neil Morgan
Inspector

28 March 2019