

OFFICE OF THE INSPECTOR  
OF CUSTODIAL SERVICES

Post-Incident Management  
Review Paper

**Banksia Hill Directed Review**

**August 2013**



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## **1 Introduction**

- 1.1 On the evening of Sunday 20 January 2013, an extremely serious incident of mass disorder occurred at Banksia Hill Juvenile Detention Centre ('Banksia Hill'), a facility managed by the Department of Corrective Services ('the Department'). This was by far the most serious incident of this type in Western Australia since what is generally known as the 'Casuarina Prison riot' of Christmas Day 1998. Although the incident had some very specific dynamics and features which set it apart from previous prison 'riots' in Western Australia (for example, staff and detainees were not targeted with violence), the term 'riot' is an apt description of the incident.
- 1.2 Banksia Hill is the state's only juvenile detention centre and at the time, housed 185 males and 21 females. The incident began just before 6.00 pm when three male detainees absconded from one of the units and then used some loose pavers and debris to break another detainee out of his cell. After the first assisted break out, the situation escalated with more and more detainees being assisted to break out of their cells.
- 1.3 In total, sixty one detainees escaped from their cells and a significant number of detainees caused damage to their cells. Due to the nature of the incident and the extent of the damage, it has not been possible to put a precise figure on the number of detainees involved in the incident. Department-supplied figures put the number of detainees involved in the riot at around 73, all male, but it is more likely that, in total, somewhere between one-half and two-thirds of Banksia Hill's male detainees were actively involved to some degree, and also some of the females.
- 1.4 Extensive damage was caused to parts of the buildings at Banksia Hill, including 106 cells, as well as to some equipment and personal property. The worst of the damage resulted from windows being attacked from both the outside and the inside.
- 1.5 The consequences for the detainees were dramatic, with 73 of the male detainees being immediately transferred in the early hours of 21 January 2013 to a nearby adult prison, Hakea Prison ('Hakea'). Within the next three weeks the majority of the remaining male detainees at Banksia Hill were subsequently transferred to Hakea while the damage caused by the riot was repaired and security upgrades implemented. The female detainees continued to be housed at Banksia Hill along with a small number of male detainees under 15 years of age and some older male detainees who needed to be held there for specific purposes.
- 1.6 On 24 January 2013 the Minister for Corrective Services ('the Minister') directed the Inspector of Custodial Services ('the Inspector') under section 17(2)(b) of the

Inspector of Custodial Services Act 2003 to carry out a full investigation into all aspects of the incident including:

- the context of the incident;
- facts of any contributing/causal factors;
- security and integrity of the cells;
- security systems and infrastructure;
- security practices and protocols for all staff;
- adequacy of crisis/emergency management planning and crisis/emergency management response;
- temporary housing of juvenile detainees at Hakea Prison; and
- to report to Parliament on the findings at the conclusion of the review.

1.7 In addition, the Minister also asked the Inspector 'to review staffing levels at the facility and report on the management of the incident and its impact on staff'.

1.8 The terms of reference for this Directed Review of the riot at Banksia Hill ('the Inquiry') require the Inspector to carry out 'a full investigation into all aspects of the incident' including the specific areas identified. This Review Paper on the Post-Incident Management of Detainees ('the Paper') is one of a suite of six Papers prepared as part of the Inquiry and in support of the Inspector's Report to Parliament.

## **2 Overview**

- 2.1 This Paper focuses specifically on the management of juvenile detainees after the riot, both at Banksia Hill and at the temporary youth custodial facility that was established by the Department inside Hakea Prison and known as the Hakea Juvenile Facility ('Hakea JF').
- 2.2 The Paper deals with two distinct periods. The first of these periods is the immediate aftermath of the riot, defined as the two weeks from 21 January to 4 February 2013. During this period, 73 male detainees were housed in Unit 5 at Hakea Prison, with 133 detainees remaining at Banksia Hill. The Department was still assessing the damage at Banksia Hill and formulating a plan to address the ongoing emergency situation. Detainees at both sites were subjected to a highly restrictive custodial regime, and the Paper examines whether or not this regime could be justified.
- 2.3 The second period discussed in this Paper follows immediately from the first, extending from 4 February through to mid-June 2013. At the beginning of this period, the Department transferred the majority of male detainees to Hakea Prison to allow repairs and security upgrades to be undertaken at Banksia Hill. Units 11 and 12 at Hakea Prison were gazetted as a detention centre and referred to as the Hakea JF. It was estimated that the works at Banksia Hill would not be complete until the end of June. Hakea JF would therefore be an improvised juvenile detention centre for five months or more. In this context, it was important for the Department to re-establish a more normal regime and a structured program of activities as soon as possible. In effect, this Paper explores the extent to which the Department was able to restore a more normal regime for detainees at Hakea JF and Banksia Hill.
- 2.4 The methodology involved in the preparation of this Paper included the examination of a number of relevant documents, a survey of Banksia Hill employees, focus groups and meetings of detainees and staff and regular site visits to Banksia Hill and Hakea JF.

### 3 Conclusions

#### Immediate aftermath (21 January to 4 February 2013)

- 3.1 The 73 detainees transferred to Hakea included 61 detainees who had escaped from their cells. The other 12 detainees had damaged their cells to such an extent that they were uninhabitable. There were a number of other detainees who damaged their cell during the riot and were moved into another cell at Banksia Hill rather than transferring to Hakea. No clear distinction was made between those involved in the riot and those not involved.

#### Staff

- 3.2 The deterioration of staff morale and the high level of staff absenteeism in Youth Custodial Services (YCS) was not and could not be resolved in the immediate aftermath of the riot. If anything, staff morale worsened as Youth Custodial Officers (YCOs) struggled to cope with the trauma of the riot and the literal upheaval of their working environment. YCO shortages continued and were in fact exacerbated by the need to staff two separate centres. However, unlike before the riot, the Department took steps to supplement the YCO workforce with prison officers from the adult custodial system, as provided for in section 11E of the *Young Offenders Act 1994*. YCOs and prison officers worked alongside each other at both Hakea and Banksia Hill.
- 3.3 Although the assistance of prison officers addressed the problem of staff shortages, there were significant problems associated with introducing a workforce with no training or experience in dealing with young people in custody. Some prison officers were supportive and eager to work with detainees. However, other prison officers were openly unsympathetic towards the detainees and even the YCOs, who they felt had lost control at Banksia Hill. YCOs invariably expressed feelings of anger and betrayal towards the detainees and the influence of the prison officers did little to lessen a hardening of attitude towards detainees. This attitude was reflected in the highly restrictive regimes applied at both centres.

#### Restrictive regime – lockdowns and use of restraints

- 3.4 During this time detainees in both centres spent virtually no time out of their cells and all meals were served in the cells. Detainees were locked in their cells for 23 to 24 hours per day for 23 continuous days between 20 January and 12 February and were only allowed out for the time it took to make a telephone call or to meet with a psychologist to undergo a risk assessment.
- 3.5 Although it appears that the lockdowns were dictated by a combination of factors including staff shortages, suspension of the normal program and the need to

assess the security risks, no legal authority or reasonable explanation for the length of the lockdowns over this period has been provided by the Department.

- 3.6 This lockdown regime was particularly inappropriate because the Department did not accurately identify those detainees who were involved in the riot. The lockdowns were applied to all detainees, regardless of their age or circumstances. It included those who had actively refused to take part in the riot and some who had not even been in custody at the time of the riot.
- 3.7 It is entirely unacceptable, whatever the circumstances, for the detainees to have been confined to their cells for 23 to 24 hours a day for this length of time. This regime of confinement was contrary to the legislative framework in the *Young Offenders Act 1994* and it is difficult to interpret it as anything other than punitive.<sup>1</sup> In fact, the regime was more punitive than the conditions normally applied when a detainee is confined to a cell as punishment for a detention offence. In that circumstance a detainee is required to have two hours of exercise for each 24 hour period of confinement.<sup>2</sup>
- 3.8 A directive was issued by Banksia Hill management on 1 February 2013 that all detainees, when out of their cells must be in mechanical restraints. Handcuffs were even applied when a detainee was simply making a telephone call in their unit. The practice of the routine use of restraints for the escorts of detainees within the centres lacked justification as the law only authorises the use of mechanical restraints in the circumstances provided by section 11D of the *Young Offenders Act 1994*. Under that Act, the use of restraints is permitted only when an individual detainee is imminently presenting a risk of physical injury to himself or others, where restraints are required on medical grounds, and where detainees are being escorted outside the facility. Accordingly, the routine mechanical restraint of detainees for movements within the centres was not justified.
- 3.9 Discussions with detainees during the Inquiry confirmed that those who were not involved felt a keen sense of injustice at the way they had been treated. There had been little recognition and no effort to provide a reward for those who had chosen to do the right thing. They were essentially treated no differently from those who had participated in the riot. Many said that their treatment since the riot made them wish that they had taken part. This experience was therefore potentially quite damaging to the rehabilitation prospects of a significant cohort of detainees.

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<sup>1</sup> Section 7(c) of the *Young Offenders Act 1994* provides that a young person who commits an offence is not to be treated more severely because of the offence than the person would have been treated if an adult and section 7(j) provides that punishment of a young person for an offence should be designed so as to give the offender an opportunity to develop a sense of social responsibility and otherwise to develop in beneficial and socially acceptable ways.

<sup>2</sup> *Young Offenders Regulations 1995* (WA) reg 79.

## Hakea Juvenile Facility (4 February to mid-June 2013)

### **Safety and security**

- 3.10 The location of Units 11 and 12 and the measures taken by the Department to make them safer and secure ensured that any potential contact with adult prisoners was minimised. Although most of the measures taken were necessary to meet the requirement that detainees be separated from adults, inevitably, it also made the environment more oppressive and intimidating.

### **Environment/facilities**

- 3.11 Units 11 and 12 are the newest accommodation units at Hakea. Both units were clean, modern and spacious, with large common areas. Cells were more spacious than those at Banksia Hill, a fact that was appreciated by detainees. However, it was clearly a more oppressive and confined environment than detainees were accustomed to at Banksia Hill. Security infrastructure is highly visible with razor wire, fences, bars and grilles all in abundance. The Unit 11 and 12 compound is relatively small when compared with the grounds of Banksia Hill and does not have the same sense of openness and space.
- 3.12 The Department dropped three demountable units into the Unit 11 and 12 precinct to provide more space for delivery of services on 20 February but various delays meant that they were not fully operational until 25 March. This lengthy delay deprived detainees of much-needed activities and services. Even with the extra space provided by the demountable units, infrastructure for services was fundamentally inadequate to cater for the size of the detainee population at Hakea JF.

### **Staff**

- 3.13 The attitude of YCOs towards working at Hakea differed greatly between individuals. Some YCOs were happy at Hakea, welcoming the high security environment as an opportunity to establish stricter routines and standards of behaviour. In contrast, other YCOs were affronted by the secure infrastructure (particularly the bars and razor wire) and concerned that an increased emphasis on authority and security was being achieved at the expense of good interaction and positive relationships with detainees.
- 3.14 Poor staff morale and high levels of absenteeism continued to be an issue. The added stress of a new and unfamiliar work environment coupled with the trauma experienced during the riot and its aftermath resulted in even higher levels of staff absence. In Unit 11 and 12 at Hakea, a full roster required 37 YCOs. In the months following the riot, it was common for 10 YCOs to be absent on any given day and absences were occasionally as high as 18. This naturally had an enormous affect on the operation of the units. More than any other factor, it

diminished the Department's ability to provide an appropriate structured daily program of activities for detainees.

### **Lockdowns**

- 3.15 The extensive lockdowns experienced by detainees in the first two weeks after the riot continued until 12 February 2013. By that time, detainees had been subjected to this highly restrictive regime for 23 continuous days. There is no reasonable explanation for the continuation of this lockdown regime, particularly in Units 11 and 12, which provided a highly safe and secure environment.
- 3.16 The Department established a structured day program in Unit 11 and 12 on 12 February 2013. Even if fully implemented this would have involved an average of 15 hours lock down per day over the course of a week at Hakea JF. This number of hours is excessive and not acceptable as a base figure for lockdowns in a detention centre.
- 3.17 Overall, the amount of time that detainees were spending locked in cell at Hakea JF was entirely unacceptable.

### **Recreation**

- 3.18 The time and space available for detainees to participate in outdoor recreation was insufficient. The structured day program did not even guarantee one hour of outdoor recreation per day for all detainees. Some detainees had as little as four hours per week of scheduled outdoor recreation.
- 3.19 Facilities for outdoor recreation in Units 11 and 12 included a grassed area and a basketball court between the units. Adjacent to the units but separated by fences is an oval. When Unit 11 and 12 were first selected as temporary accommodation for the detainees, the oval was seen as a significant asset that would allow detainees access to outdoor recreation. Unfortunately, the oval was found to be in poor condition. The surface was uneven and scattered with building rubble left over from the construction of Unit 11 and 12. Remedial works were required and the oval was not considered fit for any sort of use until April 2013. Even then it was not considered safe to play any sort of competitive sport. Detainees were permitted onto the oval in groups of up to 40, but they were restricted to walking laps or kicking a ball to each other.

### **Education and programs**

- 3.20 The structured day provided for a maximum of nine hours per week of education for each detainee. This was clearly inadequate, and less than half of the 20 hours of education that detainees received under the normal regime at Banksia Hill before the riot.

- 3.21 The main factor in this diminished service delivery was the lack of available classroom space. Three program rooms were used, with 16 detainees attending each room. A fourth classroom became available when the demountable units were opened, but this was not until 25 March. Even then, maximum classroom capacity was 64 detainees at any one time, and Hakea JF typically held twice that number of detainees.
- 3.22 Program delivery was even more severely restricted by space. No programs at all were commenced until March and delivery continued to be limited.

### **Social visits**

- 3.23 While the resumption of regular visits was welcomed, there were some teething problems and in particular some considerable distress for detainees and families over the exclusion of relatives (other than immediate family) and friends from social visits. These restrictions were lifted only gradually through protracted negotiations between managers from Banksia Hill and Hakea Prison, starting after a couple of weeks with a restoration of visit rights by partners and children of detainees and an increase in the size of visit parties to five, from 16 March. Ultimately, by 5 April, a second visit session was allowed each day at 5.10 pm. Nonetheless, it took over 10 weeks before visit services for detainees held at Hakea were restored to a normal level.

### **Official visits**

- 3.24 Official visits arrangements for detainees at Hakea have been particularly problematic and a major source of complaint by legal practitioners and others. Units 11 and 12 as originally occupied, as well as Unit 5 before, did not have enough interview rooms to accommodate consultations by psychologists and other medical practitioners, or to facilitate case planning reviews. At first, many of these interviews had to take place on picnic tables outside, in a corner of the unit, or in a programs room which also acted as a staff lunch room. Eventually, by late March, access to an interview room in one of the demountables was made available.

### **Strip searches**

- 3.25 From 20 January 2013 detainees were strip searched when transferring from one detention centre to another (Hakea JF to Banksia Hill and vice versa) and on leaving or returning to the detention centre (for example, for court appearances). Detainees were also strip searched before and after every social visit up until 5 March 2013 when the search prior to the visit was discontinued. As Banksia Hill had become the transfer hub for all external transport of detainees from both facilities the amount of times that some detainees were strip searched increased markedly.

- 3.26 Regulation 86(2) of the *Young Offenders Regulations 1995* provides that a detainee should be strip searched if there are circumstances giving rise to a reasonable suspicion that the detainee may be in possession of an item that could jeopardise the safety, good order or security of the detention centre or could be used for self-harm. There is a need to for some security measures to prevent contraband from entering detention centres. However, to subject detainees to routine strip searches, particularly before and after social visits, without a proper evaluation of whether it was needed in a particular individual case or situation was unreasonable and contrary to the intent of regulation 86(2).

### **Banksia Hill (4 February to mid-June 2013)**

#### **The Harding Unit**

- 3.27 After most of the male detainees were transferred to Hakea JF on 7 and 8 February 2013, 33 young people were left at Banksia Hill. These included 10 young women and girls, residing in Yeeda Unit. The male detainees were accommodated in the Harding Unit. Staff in the Harding Unit had to cope most days with multiple movements and diverse detainee needs. The operation of the unit was often affected by short staffing caused by high levels of staff absences of various kinds and at times extra resources were needed to cover other operational requirements. On such days, time out of cell for detainees in the Harding Unit was extremely limited.
- 3.28 On the other hand, the Harding Unit often benefited from the presence of recovery staff, regional transport staff and admissions staff which made it possible to start to allow detainees to stay up for meals, undertake more cleaning and laundry duties and have more phone calls. Eventually, in March 2013, detainees were also allowed to have recreation time in the yard adjacent to one of the wings and to play table tennis in the wings.

#### **Education and programs**

- 3.29 Female detainees were able to attend school from 12 February 2013 and young males from 18 February. After a time, selected older detainees nominated by education were added to the class lists in the junior school. With almost all detainees in the Harding and Yeeda Units attending school, supervision was able to be reduced and YCOs were able to attend to other chores.
- 3.30 Although there was a significant setback in provision of personal development and rehabilitation group programs for four to six weeks after the riot, by March 2013 an essentially normal level of group programs was provided to all of the detainees still resident at Banksia Hill.

### Have Hakea JF and Banksia Hill been meeting regime requirements?

- 3.31 The immediate aftermath of the riot saw the implementation of an oppressive regime of lockdown of all detainees (whether they were involved in the riot or not) for which there is no reasonable explanation and which was contrary to the legislative framework in the *Young Offenders Act 1994*. In addition, detainees were subject to an unjustified practice of routine mechanical restraint.
- 3.32 The structured day program for the detainees at Hakea JF and Banksia Hill, after 4 February 2013, fell short of providing the positive, busy rehabilitative regime necessary for the detention of young persons. Lockdown times remained unacceptable, the time available for education at Hakea JF was less than half of that previously available and recreation and the delivery of programs was severely restricted. In addition to these deficiencies, detainees suffered the indignity of routine strip searches before and after social visits.

## 4 The Immediate Aftermath: 21 January to 4 February 2013

- 4.1 In the early hours of 21 January 2013, after order had been restored at Banksia Hill, 73 male detainees were transferred to Unit 5 at Hakea Prison. At that time, 133 detainees (including 21 female detainees) remained at Banksia Hill.
- 4.2 The 73 detainees transferred to Hakea included 61 detainees who had escaped from their cells. The other 12 detainees had damaged their cells to such an extent that they were uninhabitable. It was ultimately determined that 106 cells had been rendered inoperable. There were a number of detainees who damaged their cell during the riot and who were moved into another cell at Banksia Hill rather than transferred to Hakea.
- 4.3 No further attempt was made to identify the number of detainees involved in the riot and no clear distinction was made between those who had escaped their cells and those who had damaged, but had been unable to escape from their cells. It was not until May 2013 that 35 detainees were charged by police with offences arising from the riot, mainly criminal damage.

### Staff

- 4.4 The deterioration of staff morale and the high level of staff absenteeism at Banksia Hill are discussed at length in the *Management, Staffing and Amalgamation Review Paper*. These problems had a negative impact on the daily regime and the operation of the centre prior to the riot, with chronic shortages of YCOs contributing to increased lockdowns of detainees.
- 4.5 These issues were not and could not be resolved in the immediate aftermath of the riot. If anything, staff morale worsened as YCOs struggled to cope with the trauma of the riot and the literal upheaval of their working environment. They invariably expressed feelings of anger and betrayal towards the detainees. In the days after the riot, some staff at Banksia Hill were visibly distressed.
- 4.6 YCO shortages continued and were in fact exacerbated by the need to staff two separate centres. However, unlike before the riot, the Department took steps to supplement the YCO workforce with prison officers from the adult custodial system, as provided for in section 11E of the *Young Offenders Act 1994*.
- 4.7 At Banksia Hill, officers from the Department's Emergency Support Group were present on site full-time, including overnight. Any vacancies on the YCO roster were covered by prison officers who had responded to the call for assistance.
- 4.8 At Hakea, Unit 5 was staffed by both YCOs and prison officers. The prison officers were there to cover YCO shortages but also to provide practical guidance on operating within the unit and the prison. More than one YCO made the

observation that with staffing levels this high, it was ironic that detainees were locked in their cells for most of the day.

- 4.9 Although the assistance of prison officers addressed the problem of staff shortages, there were significant problems associated with introducing a workforce with no training or experience in dealing with young people in custody. Some prison officers were supportive and eager to work with detainees. However, the Inquiry was told that others were openly unsympathetic towards the detainees and even the YCOs who they felt had lost control at Banksia Hill. Particularly at Hakea, prison officers had a tendency to impose prison procedures onto the management of detainees, asserting that adult custodial procedures were superior to youth custodial procedures. The influence of the prison officers encouraged YCOs to adopt a harder attitude towards detainees. In the first few days at Hakea, some officers were deliberately avoiding any sort of verbal interaction with detainees. Members of the Inquiry team observed one officer directing a detainee to vacate his cell by pointing a finger rather than speaking to him. These attitudes were reflected in the highly restrictive regimes applied at both centres.

## **Banksia Hill**

### **Lockdowns**

- 4.10 For the first week, detainees were largely confined to their cells. Some detainees were released from cells where required to attend court in person or via video-link. Others attended the Supervised Release Review Board (SRRB) hearing on Wednesday of that week. For the most part, however, detainees were locked in their cell for 23 to 24 hours per day and only released for the time it took to make a telephone call. For many it was several days after the riot that they first had an opportunity to contact their family. The 23 to 24 hour lockdown continued until 12 February 2013.

### **Activities and services**

- 4.11 Laundry at Banksia Hill is usually facilitated by a laundry boy or girl in each wing, but there was no opportunity to access the washing machine in that first week. Those without spare clothes in their cells had to wear the same clothes and underwear all week. In the second week, staff began to allow selected detainees to assist in serving meals in cells to others, washing up and doing the laundry.
- 4.12 Activities and support services for detainees at Banksia Hill were almost completely suspended for a few days and only gradually restored. Education and recreation ceased, as did programs, counselling, family visits and case planning meetings. The canteen was closed, denying detainees their bi-weekly opportunity to stock up on toiletries, supplementary food, drinks and

confectionary, although gratuities continued to be credited to their accounts as if they were participating in the structured day.

- 4.13 Psychologists, case planners, Aboriginal Welfare Officers and medical staff were effectively unable to see detainees for the first few days other than those presenting to custodial staff as highly distressed or requiring essential medical treatment. It remained difficult for these staff to access detainees for the following week or so. Visiting officials such as Youth Justice Officers, Youth Bail Officers and lawyers were also unable to see their clients either at all or only after considerable delay and inconvenience.
- 4.14 When detainees were transferred from one cell to another in the aftermath of the riot, most had to leave their personal property behind, at best being allowed to bring a few toiletries and clothing items. Televisions and audio systems were also removed from cells despite detainees being kept in their cells almost 24 hours per day. These were hot summer days (particularly Tuesday 22 January at 37 degrees Celsius)<sup>3</sup> to be confined in a small cell without entertainment or air-conditioning.

### **Use of restraints**

- 4.15 A directive was issued by Banksia Hill management on 1 February 2013 that all detainees out of cell must be in mechanical restraints. Any movement through the centre required a detainee to be handcuffed. When groups of detainees were moving to the gymnasium, they were handcuffed to each other in pairs. Hand cuffs were even applied when a detainee was simply making a telephone call in their unit.
- 4.16 The Department contended that the application of restraints was necessary because the broken glass and other debris around the site posed a risk to the safety of detainees and staff. The stated concern for the safety of detainees seemed disingenuous after members of the Inquiry team observed a detainee being escorted through the centre wearing hand cuffs but barefooted.
- 4.17 There were no individual risk assessments of detainees and little regard seems to have been given to the fact that most of the detainees at Banksia Hill had not been involved in the riot. It was not reasonable to assume that every detainee at Banksia Hill presented such a risk that restraints were universally required.

### **Recreation**

- 4.18 Recreation recommenced on Friday 25 January, although it was restricted to indoor activities in the gymnasium. Groups of 20 detainees were rotated through the gymnasium for one hour sessions. Staffing shortages and ongoing repair

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<sup>3</sup> According to the Bureau of Meteorology, the daily maximum temperature at Gosnells City was 37.0 degrees Celsius. <<http://www.bom.gov.au/climate/current/month/wa/archive/201301.perth.shtml>>

works around the site meant that it was not always possible for all detainees to access recreation every day. Even for those who did get to recreate, it was only one hour out of cell. Detainees continued to be locked in cell for 23 to 24 hours per day.

- 4.19 The table below indicates on which days and from which units detainees had access to the gymnasium in the first three weeks after the riot. Although no record of lockdowns was kept in this period, Shift Managers at Banksia Hill did keep this record of which units were able to access the gymnasium. However, this record does not indicate whether any detainees in the unit could not be included in recreation due to supervision ratios, nor does it record whether any given detainee was allowed out of cell that day to make a telephone call, clean their cell or help with preparing meals or laundry. Consequently, there is no clear picture of how much (or how little) time detainees spent out of cell.

**Table 1**

*Access to recreation time in first three weeks after the riot (Source: Shift Manager's Daily Summary)<sup>4</sup>*

	Harding	Jasper	Karakin	Lenard	Murchison	Urquhart	Yeeda
Monday, 21 January							
Tuesday, 22 January							
Wednesday, 23 January							
Thursday, 24 January							
Friday, 25 January		Y	Y	Y	Y		
Saturday, 26 January							
Sunday, 27 January							
Monday, 28 January		Y	Y	Y	Y	Y	
Tuesday, 29 January	Y	Y	Y	Y	Y	Y	Y
Wednesday, 30 January	Y		Y	Y		Y	Y
Thursday, 31 January	Y	Y	Y	Y	Y	Y	Y
Friday, 1 February							
Saturday, 2 February							
Sunday, 3 February	Y	Y	Y	Y			Y
Monday, 4 February							
Tuesday, 5 February							
Wednesday, 6 February		Y		Y	Y		
Thursday, 7 February							
Friday, 8 February		Units closed		Units closed			
Saturday, 9 February	Y	Units closed		Units closed			Y
Sunday, 10 February							

- 4.20 Uneven numbers in a unit created problems because of the one to eight staffing ratio which applied at Banksia Hill.<sup>5</sup> A certain level of staffing is required to supervise eight or more detainees. If, for example, there are 11 detainees in a wing, two staff members are required to supervise the whole group. Given a

<sup>4</sup> Turner Unit which was vacated on 23 January is not included in the table.

<sup>5</sup> Although it is accepted practice within the youth custodial system, the Inquiry was unable to identify any basis within legislation, the relevant enterprise bargaining agreement, policy or procedure for the one to eight staffing ratio.

shortage of staff, it may not be possible to find the extra staff member, so only eight detainees might be allowed out for recreation. While every effort might be made to include the remaining three in another recreation session, in some cases they simply missed out.

### **Visits and strip searches**

- 4.21 The first weekend (Saturday 26 January 2013) saw the resumption of family visits, although numbers were limited. Before the riot, detainees were routinely searched after visits, often including a strip-search to ensure that tobacco, drugs or other contraband had not been concealed. Following the riot, it was decided that each detainee must be strip-searched before and after every social visit. This practice continued until 5 March 2013.

### **Hakea Juvenile Facility**

- 4.22 Of the 73 detainees transferred to Hakea, 58 were immediately placed in Unit 5. The remaining 15 detainees were temporarily housed in Unit 12. At that stage, all detainees were housed in single cells. As the day progressed, risk assessments were conducted to determine which detainees were suitable to share a cell. By the end of the day, all detainees had vacated Unit 12 and were housed in Unit 5. Psychological assessments had identified two detainees who were particularly distressed and at risk of self-harm. A decision was made to place these two detainees in the crisis care unit at Hakea.

### **Facilities**

- 4.23 By a stroke of good fortune, on 21 January, Unit 5 was vacant. Two new units (Units 11 and 12) had recently become available at Hakea and all prisoners had transferred out of Unit 5 and into Unit 11 on the previous Friday (18 January 2013). The prison was planning to refurbish Unit 5 before opening it to prisoners again.
- 4.24 A few days earlier and Unit 5 would have still been full of adult prisoners. A few days later and the refurbishment works may have made the unit uninhabitable. As it was, the unit was vacant and there was no need to displace adult prisoners at that stage.
- 4.25 Unit 5 had previously been used as a self-care unit for adult prisoners at Hakea. It generally offered a better standard of accommodation than the other units at Hakea and living there was an earned privilege. Unit 5 is entirely segregated from the other units at Hakea. The corridor leading to Unit 5 contains a series of locked gates that can only be opened by staff with keys. There was minimal risk that juvenile detainees in Unit 5 would have any contact (not even visual contact) with adult prisoners.

- 4.26 One of the wings in Unit 5 contains a spacious common area and the other includes an open-air courtyard. A small grassed outdoor area adjoins the unit and this area is also entirely segregated from the rest of the prison. Neither of these outdoor areas was made available to detainees during this two-week period.

### **Lockdowns**

- 4.27 The regime for detainees in Unit 5 was extremely restrictive. For the first week, detainees spent virtually no time out of their cells. All meals were served in cell. Detainees were only allowed out of their cells to receive a telephone call or to meet with a psychologist to undergo a risk assessment. This meant that detainees spent between 23 and 24 hours per day in their cells. They had no recreation time and no opportunity for social interaction. In the second week, efforts were made to provide detainees with one hour out of their cells per day, in the common area within Unit 5. This was dependent on staff availability. Even though the detainees were moved to Units 11 and 12 on 4 February 2013, this regime was continued for a further week until 12 February 2013.

### **Use of restraints and strip searches**

- 4.28 As at Banksia Hill, mechanical restraints were applied to detainees at all times when out of cell, even if only moving a few metres through the unit to an interview room or telephone. Unlike at Banksia Hill, however, Unit 5 was not littered with broken glass and debris. It was even harder to justify the universal application of restraints here. There were suggestions that an unrestrained detainee might access the internal courtyard of Unit 5, climb onto the roof and from there access the rest of the prison and come into contact with adult prisoners. However, this seemed an exaggerated risk, especially given the high level of staff supervision in Unit 5.
- 4.29 At Hakea JF detainees were also strip-searched before and after every social visit. This practice continued until 5 March 2013.

### **Activities and services**

- 4.30 Detainees were almost entirely deprived of access to activities and services. There was no education, recreation, programs or case planning meetings. Some detainees complained that no change of clothes was provided for several days.<sup>6</sup> Detainees also complained about not being allowed to keep any personal property in their cells, not even a photograph of their family.<sup>7</sup>

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<sup>6</sup> This was noted by detainees in the detainee survey.

<sup>7</sup> This was noted by detainees in the detainee survey.

## Family contact and visits

- 4.31 For many detainees it was several days before they were given the opportunity to speak to a parent or guardian on the telephone. Telephone calls took place in the unit office with officers listening in to the call on loudspeaker.<sup>8</sup> No social visits were permitted during the first week. In the second week, visits were permitted with a parent or guardian only. The delay in facilitating family contact was distressing for both detainees and their families.<sup>9</sup>

## The Harsh Regime – Unauthorised and Punitive

- 4.32 A number of submissions to the Inquiry raised concerns about the frequent and lengthy periods of lockdown of detainees at Banksia Hill before the riot of 20 January 2013 and at both Banksia Hill and Hakea after 20 January 2013. These lockdowns were said to relate to security needs and staffing issues.<sup>10</sup>
- 4.33 In *The State of Western Australia v BAJG*<sup>11</sup> (BAJG case) and other cases dealt with by the Children’s Court in March and April 2013, evidence was presented by the Department in the form of detention management reports (DMRs) in relation to the custodial regimes at Banksia Hill and Hakea for the young offenders involved. The DMRs confirmed that from 20 January 2013 to 12 February (23 continuous days) all detainees had been kept in a 23 to 24 hour lockdown. His Honour Judge Reynolds said, in part:

I regard that as exceptionally harsh and I also am of the view that it is clearly inconsistent with the objectives and principles in the Young Offenders Act and it is clearly inconsistent with the statutory framework of the Young Offenders Act. Can I make the point that in my view, and particularly when it is imposed against young people that cannot be said and there is no basis to say that they had anything to do with the incident, it can give rise to a feeling of grievance and also a feeling of anger, which is very counterproductive.

It also, in my view, constitutes something that can be properly said to be inhumane. It shows a lack of empathy for children. It is also my view that it is a serious breach of duty of care owed to the children in the detention centre.<sup>12</sup>

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<sup>8</sup> This was raised in a focus group with detainees.

<sup>9</sup> The restrictions on visits were noted by six public submissions to our Office.

<sup>10</sup> Submission 5, Scales Community Legal Centre; Submission 7, Aboriginal Legal Service of Western Australia Inc; Submission 8, Youth Affairs Council of Western Australia, Submission 9, Legal Aid Western Australia; Submission 10, Commissioner for Children and Young People Western Australia.

<sup>11</sup> Unreported, the Children’s Court of Western Australia, KT35/12, Reynolds J, 27 March 2013.

<sup>12</sup> Transcript of Proceedings, *State of Western Australia v BAJG* (the Children’s Court of Western Australia, KT35/12, Reynolds J, 27 March 2013) 47.

- 4.34 Although it appears that the lockdowns were dictated by a combination of factors including staff shortages, suspension of the normal program and the need to assess the security risks, no legal authority or reasonable explanation for the length of the lockdowns over this period has been provided by the Department.
- 4.35 This lockdown regime was particularly inappropriate because the Department did not accurately identify those detainees who were involved in the riot. The lockdowns were applied to all detainees, regardless of their age or circumstances. It included those who had actively refused to take part in the riot and some who had not even been in custody at the time of the riot.
- 4.36 The only legal means by which a detainee may be confined to cell is provided by regulation 74 of the *Young Offenders Regulations 1995* ('the Regulations') which provides for confinement only 'as a way of dealing with a detainee who has been found to have committed a detention offence' or 'in order to maintain good government, good order or security in a detention centre'.
- 4.37 Even if it could be said that confinement in terms of regulation 74 could be justified, regulation 79 requires that a specific order be made to authorise the confinement of a detainee and secondly, that this information be specifically conveyed to each individual detainee. There is no evidence that detainees at Banksia Hill were ever formally notified as to the reason or likely extent of their confinement. There was certainly no written notice provided to detainees about this situation. It was left to wing staff to pass on this information, staff who in many cases were unsure what would transpire that day.
- 4.38 Regulation 79 also provides that each such detainee have two hours of exercise in each 24-hour period. Accordingly, the confinement of detainees for 23-24 hours over this period of time was more punitive than that applied to an individual detainee confined to his cell in terms of regulation 74.
- 4.39 It is entirely unacceptable, whatever the circumstances, for the detainees to have been confined to their cells for 23 to 24 hours a day for this length of time. This regime of confinement was contrary to the legislative framework in the *Young Offenders Act 1994* and it is difficult to interpret it as anything other than punitive.<sup>13</sup>

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<sup>13</sup> Section 7(c) of the *Young Offenders Act 1994* provides that a young person who commits an offence is not to be treated more severely because of the offence than the person would have been treated if an adult and section 7(j) provides that punishment of a young person for an offence should be designed so as to give the offender an opportunity to develop a sense of social responsibility and otherwise to develop in beneficial and socially acceptable ways.

4.40 One can similarly question the blanket use of restraints on both human rights and legal grounds.<sup>14</sup> In particular, section 11D of the *Young Offenders Act 1994* provides:

**11D. Use of restraints**

- (1) The chief executive officer, or a superintendent, may authorise and direct the restraint of a young offender where in his or her opinion such restraint is necessary —
- (a) to prevent the young offender injuring himself or herself, or any other person;
  - (b) upon considering advice from a medical practitioner, on medical grounds; or
  - (c) to prevent the escape of a young offender during his or her movement to or from a facility or detention centre, or during his or her temporary absence from a facility or detention centre.

4.41 The use of mechanical restraints is only authorised in the circumstances provided by this section. Those circumstances concern the application of restraints during an immediate period when the detainee is imminently presenting a risk of physical injury to himself or others, on medical grounds and during external escorts. Currently, there appears to be no authority for the CEO or Superintendent to authorise the routine mechanical restraint of one or more detainees as part of a management regime designed to maintain order and custody within the detention centre.

4.42 The Department contended that the application of restraints was necessary at Banksia Hill because the broken glass and other debris around the site posed a risk to the safety of detainees and staff. At Hakea, there were suggestions that an unrestrained detainee might access the internal courtyard of Unit 5, climb onto the roof and from there access the rest of the prison and come into contact with adult prisoners. However, there were no individual risk assessments of detainees and little regard seems to have been given to the fact that most of the detainees still held at Banksia Hill had not been involved in the riot. It was not reasonable to assume that every detainee at Banksia Hill presented such a risk that restraints were universally required. Unlike Banksia Hill, Unit 5 at Hakea JF was not affected by broken glass and the risk that detainees might climb onto the roof seemed exaggerated, given the high level of staff supervision in Unit 5.

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<sup>14</sup> See this Inquiry's *Legal and Administrative Context Review Paper*. Limitations on the use of restraints are further elaborated for juvenile detainees in other instruments including clauses 63-65 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and paragraph 89 of the General Comment No. 10 (2007) on the *Convention of the Rights of the Child* (CRC), on the topic of *Children's rights in juvenile justice*.

### **A Bleak Regime Worsened by Staff Attitudes**

- 4.43 While management and senior staff understood the point that the detainees remaining at Banksia Hill, by and large, were those who had refrained from joining in the melee on 20 January, the regime that was provided in these first few weeks was almost unremittingly bleak and little different to that provided to those placed in Hakea Unit 5 at the same time. It appears that this regime was dictated by a combination of factors including staff shortages, suspension of the normal program and a belief that conditions were unsafe for detainees to be at large in their units.
- 4.44 Another factor behind the implementation of this regime were the attitudes of staff. Staff felt betrayed by youth and angry at the damage they caused, despite not having been directly threatened by the youth on the night. A real effort had been made, for example, by staff in the Turner Unit, commissioned in 2010, to preserve the fabric of that unit to good effect. Lenard Unit provided a special fitness program and Urquhart Unit, occupied for only a month before the riot, was trying to establish itself as an enhanced privilege unit.
- 4.45 Disappointment by such staff is understandable, but youth remaining at Banksia Hill felt that staff were angry at them and unduly afraid.<sup>15</sup> Detainees reported a number of interactions in which staff were less than courteous or helpful and ascribed their continuing lockdowns and loss of amenities to staff attitudes, staff absenteeism and an over-concern with security. They did not understand why so many lost their personal property, televisions and radios. It took some days before some detainees got even a single call out to anxious loved ones.
- 4.46 Their experience was worsened to some degree by the presence of Prison Officers, who in some cases seemed extremely unsympathetic to the young people and rather more direct in the way they gave instructions. For example, two-thirds of respondents to the prison officer survey felt that the management of juveniles could be improved by adopting more practices that currently operate in adult facilities and/or an approach based less on 'welfare concerns'. Some non-custodial staff described prison officers as 'distant and hierarchical'. Prisoner Officers had responded with good will to the call for assistance, and the Commissioner had made the appropriate delegations for them to act as Youth Custodial Officers. But remarkably, there was no effective orientation provided to Prison Officers either to the facility in which they were placed or more importantly as to the practices and legislative requirements of the role in which they were placed.<sup>16</sup> At first they were simply placed into empty lines on the

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<sup>15</sup> A culture of fear and apathy in a subset of staff was prevalent before the riot, as noted in this Inquiry's *Management, Staffing, and Amalgamation Review Paper*. The riot likely exacerbated these attitudes.

<sup>16</sup> In a survey of prison officers working in Banksia Hill, only 20% stated that they received an orientation to working at the facility. Approximately one-third of respondents stated that they were aware of the different conduct required by legislation when working with juveniles as opposed to adults.

roster, but later supposedly confined to recovery and supervision roles. In practice, they were also utilised for internal escort duties.

### **An Opportunity Lost**

- 4.47 The Department had an opportunity to provide a more positive regime to youth remaining at Banksia Hill during these early days after the riot. However, detainees were treated as if they were all responsible and posed a high risk to security and safety. Even detainees on regression regimes are entitled to at least two half hour periods out of cell per day,<sup>17</sup> yet it was some days before these detainees had any time out of their cells except for a phone call home and other legal requirements such as a court or SRRB appearance.
- 4.48 There were areas other than the gym where youth could have had some social time out of cell or gained some exercise for longer period. A good many of these youth, might have been trusted with and duly rewarded for their contribution in helping clean up units and grounds with an appropriate level of supervision and risk management. Interested students may have had limited contact with teachers. This may have helped rebuild damaged relations with staff and create a good foundation for cooperation and mutual respect in the coming difficult months.
- 4.49 Instead, discussions with detainees during the Inquiry confirmed that those who were not involved felt a keen sense of injustice at the way they had been treated. There had been little recognition and no effort to provide a reward for those who had chosen to do the right thing. They were essentially treated no different from those who had participated in the riot. Many said that their treatment since the riot made them wish that they had taken part. This experience was potentially damaging to the rehabilitation prospects of a significant cohort of detainees.

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<sup>17</sup> OICS, *Report of an Announced Inspection of Banksia Hill Juvenile Detention Centre*, Report No. 76 (January 2012) [4.23].

## 5 Hakea JF (4 February to mid-June 2013)

### Facilities

- 5.1 The Department determined that the most appropriate place to house the male detainees at Hakea was in Units 11 and 12.<sup>18</sup> These units sit next to each other in the southernmost corner of the prison. They are physically separated from any other part of the prison by about 50 metres and are also enclosed by a five-metre-high cyclone fence. They also sit next to an oval which is similarly separated from the rest of the prison by a five-metre-high cyclone fence. These features were considered particularly advantageous for the housing of detainees.
- 5.2 The Department reasoned that Units 11 and 12 could operate as a separate precinct within Hakea Prison. Detainees would not need to move through other parts of the prison except when attending visit sessions or leaving the prison. This would minimise any potential contact with adult prisoners.
- 5.3 The security and privacy of the Unit 11 and 12 precinct was increased by modifications to the surrounding fence. The section of the fence separating the area from the rest of the prison was covered with a shade cloth screening to a height of about two metres. This eliminated any visual contact with the rest of the prison at ground level. In addition, razor wire was installed on top of every fence in the precinct. Razor wire was also installed on the roofs of the accommodation buildings to prevent detainees from climbing onto the rooftops. The razor wire made the area more secure and reduced the risk of a detainee absconding into the main body of the prison. However, inevitably, it also made the environment more oppressive and intimidating.
- 5.4 Units 11 and 12 are the newest accommodation units at Hakea. Prisoners had only been living in Unit 11 for two weeks before they were displaced by incoming detainees. Unit 12 had never been occupied by prisoners at all. Both units were clean, modern and spacious, with large common areas. Cells were more spacious than those at Banksia Hill, a fact that was appreciated by detainees. Overall, the standard of accommodation was perhaps somewhat better than at Banksia Hill, notwithstanding the fact that cell windows and office doors and windows were heavily fortified with bars or grilles.
- 5.5 In terms of additional facilities, each unit included four staff offices and two program rooms. These spaces were variously utilised for interviews, counselling, education and health services. The Department dropped three demountable units into the Unit 11 and 12 precinct to provide more space for delivery of services. The demountable units arrived on 20 February but delays in connecting

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<sup>18</sup> Please refer to this Inquiry's *Emergency Management Review Paper* for further information regarding the decision making process.

power and other services, and some security concerns meant that they were not fully operational until 25 March. This lengthy delay deprived detainees of much-needed activities and services.

- 5.6 An internet video-link system was installed in one of the program rooms in Unit 12 in an attempt to facilitate regional court video-links and social visits. Unfortunately, neither regional courts nor regional community or youth justice facilities have internet video compatible systems.
- 5.7 One cell in each unit was converted to a multi-purpose cell. This involved stripping all furniture from the cell, leaving a bare space with a low concrete plinth on which a mattress could be placed. This was an attempt to make them safe cells where a detainee could be placed if they had been fighting or identified as at risk of self harm. It was not intended that a detainee would be placed in one of these cells for a substantial period of time. Any detainee at ongoing risk of self harm would be transferred back to Banksia Hill.

### **Transferring to Units 11 and 12**

- 5.8 On Monday 4 February, the detainees in Unit 5 at Hakea were transferred to the vacant Unit 12. They were ferried through the prison between Unit 5 and Unit 12 in a 12-seater bus with tinted windows. Multiple trips were needed to transfer the 68 detainees remaining in Unit 5. The whole process was completed within two hours, during which time the adult prisoner population were locked in their cells. When the detainees were secured in their cells in Unit 12, the adult prisoners in Unit 11 vacated that unit and returned to Unit 5.
- 5.9 A few days later, on Thursday 7 February and Friday 8 February, 71 detainees from Banksia Hill were transferred into Unit 11. The detainees were transported from Banksia Hill in a secure vehicle that drove through the front gate at Hakea and all the way through the prison grounds to Unit 11 and 12. Again, adult prisoners were locked down during the transfer process. For the most part, the transfers ran smoothly, although on Thursday the process took longer than anticipated. Hakea management had hoped that the transfers would be complete by midday but it was mid-afternoon before adult prisoners were released from lockdown. On Friday more resources were allocated and the transfers were completed more quickly.
- 5.10 Inquiry team members observed the arrival of some of the detainees at Unit 11. It was an unnecessarily intimidating process for detainees. The transport vehicle parked about 10 metres from the door to Unit 11. Despite this short distance, detainees were handcuffed prior to leaving the vehicle and escorted into the unit by a YCO with numerous other officers in close proximity. Once inside, handcuffs were removed and detainees were instructed to sit on their hands on a bench in

the common area of the unit. There was a heavy presence of officers surrounding the group of 10 detainees, including seven YCOs and three prison officers.

- 5.11 One of the YCOs spoke to the group of detainees emphasising that the detainees were inside a prison now and would therefore be treated differently. They were also told, contrary to law, that prison rules would apply to them. In reality, because Unit 11 and 12 had been declared as a juvenile detention centre, the same rules applied as at Banksia Hill. This introduction for detainees signalled some worrying changes that did not accord with youth custodial philosophies of rehabilitation. This included the directive to no longer address YCOs by their first names, and instead to address them as ‘sir’ or ‘miss’. Detainees were also told that when in their cells, if an officer opened the viewing hatch in the door, the detainee must stand at the back of the cell with their shirt tucked in and their arms extended downward with palms facing out.
- 5.12 This practice seemed overly militaristic and unnecessary based on the risk presented by detainees in their cells and appeared to be an attempt by YCOs to assert more authority. Coupled with the directive to stop addressing YCOs by their first names, this hardening attitude was a change in the nature of the relationship between detainees and YCOs. As discussed in the *Management, Staffing and Amalgamation Review Paper*, this change reflected a deterioration of staff culture and morale in youth custodial services that began long before the riot.<sup>19</sup>

### **Staff**

- 5.13 The attitude of YCOs towards working at Hakea differed greatly between individuals. Some YCOs were happy at Hakea, welcoming the high security environment and stating that the youth custodial system could learn from the adult custodial system. A number of YCOs stated that they saw an opportunity to establish stricter routines and standards of behaviour. In contrast, other YCOs were affronted by the secure infrastructure (particularly the bars and razor wire) and concerned that an increased emphasis on authority and security was being achieved at the expense of good interaction and positive relationships with detainees.
- 5.14 In addition to this internal tension between YCOs, there was also some conflict between YCOs and prison officers. A small number of prison officers remained in Units 11 and 12 to augment security and provide guidance in operating the units. However, these prison officers were not given a comprehensive orientation by Youth Custodial Services on working with detainees, and tended to impose prison procedures and ways of operating. Understandably, some tensions were evident between the two workforces. Some prison officers were helpful and

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<sup>19</sup> Please refer to this Inquiry’s *Management, Staffing, and Amalgamation Review Paper*.

supportive but a few were unreasonably critical of the working styles of YCOs and rather less cooperative.

- 5.15 A Senior Officer was subsequently appointed to act as liaison to the juvenile facility in Units 11 and 12. When the successful applicant commenced in late February, the prison officers were withdrawn from the units. This position has been crucial to the security of both centres as well as to the communication link between the centres. It has enabled the facilitation of proper arrangements for food, laundry, internal escorts, garbage removal, supplies and maintenance. Consequently, over subsequent months, tension between the workforces largely dissipated.
- 5.16 As discussed in this Inquiry's *Management, Staffing and Amalgamation Review Paper*, there was a history of high numbers of staff absences at Banksia Hill in the lead-up to the riot.<sup>20</sup> Staff shortages led to increased lockdown time for detainees and fewer activities. This continued to be a problem at Hakea. In fact, the added stress of a new and unfamiliar work environment coupled with the trauma experienced during the riot and its aftermath resulted in even higher levels of staff absence and attrition.<sup>21</sup> In Unit 11 and 12 at Hakea, a full roster required 37 YCOs. In the months following the riot, when OICS staff members visited the site it was common for 10 YCOs to be absent on any given day and absences were occasionally as high as 18. This naturally had an enormous affect on the operation of the units. More than any other factor, it diminished the Department's ability to provide a structured daily program of activities for detainees.

### **Lockdowns**

- 5.17 The extensive lockdowns experienced by detainees in the first two weeks after the riot continued until 12 February. By that time, detainees had been subjected to this highly restrictive regime of 23 to 24 hour lockdown, for 23 continuous days. There is no reasonable explanation for the continuation of this lockdown regime in Unit 11 and 12, which provided a highly safe and secure environment.
- 5.18 Even when a structured day program was established in Unit 11 and 12, detainees continued to experience significant periods of lockdown. On the evidence presented to him in the BAJG case, Judge Reynolds concluded that the lockdowns equated to a 'daily average per week of 17 and two-third hours per week'. He said, in part:

That figure, it seems to me, would be dependent on there being no staff shortages...

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<sup>20</sup> Please refer to this Inquiry's *Management, Staffing, and Amalgamation Review Paper*.

<sup>21</sup> After the riot 60 out of 199 Youth Custodial Officers had an active worker's compensation claim. Six staff resigned shortly after the riot.

Then in addition to this 17 and two-thirds hours per day per week on average, there will be periods of time when people have been locked in their cell or within the unit but outside the cell, but at the same time secure in a limited space having meals. So it can be seen from all of that that the extent of the lockdowns is extremely extensive, harsh and onerous and not what one should expect at a juvenile detention centre.

So my comment on all of that is that this extremely high level of lockdown time is completely contrary to the legislative framework in the Young Offenders Act. While the act makes it clear that one of the purposes of detention is punishment, the act also makes it clear that another one of the purposes of detention is rehabilitation. Lockdowns of this magnitude are not only contrary to the purpose of rehabilitation but, even worse, they will likely result in already-damaged children becoming even more so.<sup>22</sup>

- 5.19 Evidence presented to the Supreme Court in the case of *Wilson v Joseph Michael Francis, Minister for Corrective Services for the State of Western Australia*<sup>23</sup> also confirmed the extent of lockdowns of detainees at Banksia Hill and Hakea. Martin CJ said:

It is clear that the staffing issues at Banksia Hill had not been resolved prior to the riot, and 'rolling lockdowns' were being used as a means of managing those shortages.

In the immediate aftermath of the riot, detainees at both Hakea and Banksia Hill were locked down for 23 hours each day for several weeks. During this period, planning was undertaken with a view to restoring a structured daily schedule at each of the two facilities. It was approximately three weeks before such schedules were restored, and detainees were locked down almost continuously throughout this period...

In very general terms, it can be seen that detainees are scheduled to be locked down for a little over 12 hours each night and approximately three hours during the day, leaving a maximum of between eight and nine hours each day when detainees are not locked down.

However, it is clear from the evidence that there continue to be occasions upon which that maximum period of 8–9 hours is not achieved, because of the persistence of rolling or unscheduled lockdowns. Essentially, the programme for each day, and the extent to which education, recreation,

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<sup>22</sup> Transcript of Proceedings, *State of Western Australia v BAJG* (Unreported, the Children's Court of Western Australia, KT35/12, Reynolds J, 27 March 2013) 50.

<sup>23</sup> [2013] WASC 157.

remedial programmes and visits can be provided has to be assessed and reviewed each day, in the light of the number of staff who have attended for work.<sup>24</sup>

- 5.20 Overall, the amount of time that detainees were spending locked in cell at Hakea JF was entirely unacceptable.

### **Recreation**

- 5.21 Between Unit 11 and 12 is an outdoor space including a grassed area and a basketball court. Each unit has some isometric training equipment under cover of the verandah. Adjacent to the units but separated by two fences is an oval. When Unit 11 and 12 were first selected as temporary accommodation for the detainees, the oval was seen as a significant asset that would allow detainees access to outdoor recreation.
- 5.22 Unfortunately, the oval was found to be in poor condition. The surface was uneven and scattered with building rubble left over from the construction of Unit 11 and 12. It was ultimately deemed unsafe for use until such time as the surface could be repaired. Two layers of topsoil were added to the oval in an attempt to level the surface. Later, some of the more trusted detainees were sent onto the oval to pick up the rocks and pieces of rubble that were lying around. This all took some time and it was April before the oval was considered to be fit for any sort of use. And even after all this remedial action, it was not considered safe to play any sort of competitive sport. Detainees were permitted onto the oval in groups of up to 40, but they were restricted to walking laps or kicking a ball to each other.
- 5.23 The first outdoor recreation for detainees at Hakea occurred on 9 February for detainees in Unit 11. These detainees had transferred into Unit 11 on 7 and 8 February so their access to outdoor recreation was appropriately prompt. These detainees had also had regular access to recreation, albeit in an indoor gymnasium, while at Banksia Hill for the preceding three weeks. Detainees in Unit 12 on the other hand, were first allowed to participate in outdoor recreation on 12 February. For the Unit 12 detainees, this was their first outdoor recreation since the riot on 20 January.
- 5.24 Overall, the time and space available for detainees to participate in outdoor recreation was insufficient. The structured day program did not even guarantee one hour of outdoor recreation per day for all detainees. Some detainees had as little as four hours per week of scheduled outdoor recreation. As with all other services, detainee access to recreation was heavily dependent on staff

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<sup>24</sup> *Wilson v Joseph Michael Francis, Minister for Corrective Services for the State of Western Australia* [2013] WASC 157 [79-82].

availability. Ongoing staffing shortages meant that actual outdoor recreation time was frequently far less than scheduled.

### **Education**

- 5.25 The education program had been completely suspended in the immediate aftermath of the riot and it was not until detainees were transferred to Hakea JF that the first attempts were made to reengage detainees with education.
- 5.26 Soon after arriving in Unit 11 and 12 in the week commencing 4 February, packages of educational materials that had been prepared by education staff were distributed to detainees in their cells. These had been specifically catered to each detainee's capabilities and represented a significant amount of work on the part of education staff. Classes were not yet running so those detainees who were motivated to do so were expected to complete their worksheets in cell. Unfortunately, some detainees did not have access to pen or pencil. This was a result of inconsistent practice amongst YCOs, with only some allowing detainees to keep pencils in cell. Clearly all detainees should have been given a pencil. It made no sense to provide education packages without any means of working on them.
- 5.27 Education classes did not recommence for detainees at Hakea until 18 February, a full month after the riot. The structured day schedule provided for a maximum of nine hours per week of education for each detainee. This was less than half of the 20 hours of education that detainees received under the normal regime at Banksia Hill before the riot. In the BAJG case, Judge Reynolds described this as 'grossly inadequate' and stated that 'while rehabilitation is not just about education – rehabilitation requires many other types of programs for personal development – education is crucial'.<sup>25</sup>
- 5.28 The main factor in this diminished service delivery was the lack of available classroom space. Three program rooms were used, with 16 detainees attending each room. A fourth classroom became available when the demountable units were opened, but this was not until 25 March. Even then, maximum classroom capacity was 64 detainees at any one time, and Hakea JF typically held twice that number of detainees (or more).
- 5.29 Each classroom was staffed with four teachers and supervised by one YCO. This meant that teachers were each responsible for supervising four detainees. Several stated that they appreciated working with these small groups which provided the opportunity to give detainees more individual attention. However, it was also challenging to run multiple activities in one space.

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<sup>25</sup> Transcript of Proceedings, *State of Western Australia v BAJG* (Unreported, the Children's Court of Western Australia, KT35/12, Reynolds J, 27 March 2013) 51.

- 5.30 Teachers also noted that they were working with limited resources. There were no computers available for education at Hakea and any other educational resources were limited to what could be carried into the prison by education staff. Teachers reported that it was more difficult to keep detainees engaged and stimulated, particularly the older detainees and those at higher education levels.
- 5.31 The education program was vulnerable to staffing levels and shortages sometimes meant that detainees spent even fewer hours than scheduled in education.

### **Food**

- 5.32 Several submissions to the Inquiry raised concerns about the food provided to detainees at Hakea JF.<sup>26</sup> This was also a common cause for complaint amongst detainees during the Inquiry. Complaints were about the poor quality of the food and particularly about the inadequate quantity of food provided, with allegations that this had resulted in significant weight loss for some detainees. The Inquiry confirmed that there were a number of issues with the food at Hakea JF.
- 5.33 After some weeks at Hakea JF, it was discovered that the pre-packaged meals provided for detainees' lunch and dinner by the Hakea kitchen contained considerably smaller portions than those being distributed to adult prisoners. It was conjectured that the adult prisoners working in the kitchen had taken this action as some sort of retribution against the detainees for the disruption they had caused to the Hakea prison regime. However, there was no specific evidence of this. It was regrettable that it took so long for this issue to be identified and detainees' complaints that they were being underfed during this period were absolutely justified.
- 5.34 Compounding this issue was the failure to provide morning tea to detainees during these first few weeks. In the youth custodial system, in recognition of the increased appetites of growing adolescents, it was established practice to provide morning tea for detainees. This was not instituted at Hakea JF until 18 February.
- 5.35 In addition, detainees complained that the quantity of food available at breakfast was far less than they were used to at Banksia Hill. At Banksia Hill, detainees were able to make themselves as much cereal and toast as they liked. At Hakea, breakfast is limited to a bowl of cereal and two slices of toast.
- 5.36 The Department installed a significant amount of additional equipment in the Hakea kitchen and a staff member from the Banksia Hill kitchen was placed at Hakea permanently to oversee preparation of detainee food. From this point, the issues such as portion size and provision of morning and afternoon tea began to

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<sup>26</sup> Submission 5, Scales Community Legal Centre; Submission 8, Youth Affairs Council of Western Australia; Submission 9, Legal Aid Western Australia.

be addressed. However, complaints about food quality continued and breakfast portion sizes had still not been increased by the end of May.

### **Clothing and bedding**

- 5.37 During the Inquiry, respondents to the detainee survey noted problems about lack of access to clean clothing and bedding. Detainees claimed that they were forced to wear clothing and underwear for days on end, and sheets and towels were sometimes not changed for weeks. Some detainees reported that they washed their own clothes in the shower or sink in their cell. Many had only one set of clothing in their cell and so could only wear a towel while they waited for their clothes to dry.

### **Programs**

- 5.38 There were no rooms available for offender, health or personal development programs until demountable buildings were provided. As noted above, three were installed on 20 February, but were not fully operational until 25 March. In March, only the Department's 'Emotional Management' program and Mission Australia's 'Motivation to Change' programs were delivered at Hakea, both commencing in the second week of March. These are both essential rehabilitation programs for young offenders, the former essentially addressing anger management issues over six sessions and the latter addressing drug and alcohol addiction issues over four sessions.
- 5.39 The Inquiry was informed by the Mission Australia facilitator that their program had met demand during December for any detainees due to leave in January, but many of those due to leave in February through mid-March would have missed out. However, the facilitator believed that by the end of March, with two programs delivered in Hakea and one at Banksia Hill, their program delivery was back on track. The following table shows the level of program delivery at Hakea as reported by the Department.

**Table 2**

*Programs delivered for male detainees at Hakea, Feb to May 2013*

<b>Program Title</b>	<b>Focus</b>	<b>Provider</b>	<b>Sessions</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>
Emotional Management	Cog skills	DCS	6		1	1	1
HALO Remand	Life planning	HALO-R	2			1	1
HALO Sentenced	Life planning	HALO-S	3				1
Health in Health out	Health	Hepatitis WA	1				3
Healthy relationships	Cog skills	DCS	4			1	
LADS	Career	Extra Edge	1				3
LTAS	Sex edn	Family Planning	1				3
Motivation to Change	Addictions	Mission Australia	4		2	2	1
Pathways to Health	Addictions	Family Planning	2			3	2
Save a Mate	Addictions	Red Cross	1				1
<b>Total</b>				<b>0</b>	<b>3</b>	<b>8</b>	<b>16</b>

- 5.40 As can be seen, a further offender rehabilitation program focussed on sentenced detainees, the 'Healthy Relationships' program (which addresses family violence issues over four sessions), was only available in April and the HALO 'Sentenced' program (to support and assist Aboriginal detainees to develop their release plan), only recommenced in May. Also recommencing in April were two key programs available to detainees on remand, the HALO 'Remand' program for Aboriginal detainees, and 'Pathways to Health', a two session addictions education program. Only in May were other key health and personal development programs added to service provision.
- 5.41 Not included in the above list are individual programs such as addictions counselling provided by Mission Australia (up to six sessions) and offender counselling provided by a member of the Department's Psychological Services Team. Psychological counselling is typically provided over four sessions to detainees whose violent or sexual offending requires individual therapy. The Department has not advised of recommencement dates for either service, but the former would not have recommenced at Hakea until at least mid-March when the demountable became usable. Offender counselling by a psychologist is unlikely to have recommenced before at least May, because psychologists have been overwhelmed since the riot by other requirements, notably risk management and the need to assess and support detainees at risk across both centres.
- 5.42 All of these programs are invaluable to the development of young people. It is regrettable that it took four months after the events of 20 January 2013 for program provision to be largely restored, although the efforts of relevant managers and program providers to restore these services in an alien environment is recognised. Unfortunately, during this period, a good many detainees were disadvantaged in their applications to the SRRB for release on a Supervised Release Order at their Early Release Day because they had not done all the programs they were assessed as needing. Even voluntary programs, such as the HALO program can also help give the board confidence that a detainee is appropriately prepared for release under supervision. It would not have been possible in many cases, especially for detainees from regional areas, for programs missed to be substituted by community programs.

### **Social Visits**

- 5.43 In preparation for the transfer of detainees into Unit 11 and 12, it was determined that family visits for detainees should be held in the Hakea Prison Visits Centre during the lunch period between 11.30 am and 12.30 pm. Local Order 106 also specified that all visits were to be booked through the gatehouse at Banksia Hill Detention Centre and that visits 'are restricted to parents and

caregivers only, with a maximum of two visitors per detainee.’ Only eight simultaneous visit parties were allowed to attend each session.

- 5.44 Detainees were transferred to the visits centre in a vehicle after prisoners were locked in their units, strip searched prior to their visit and seated at tables in the visits hall before their visitors were allowed in. Visitors were required to submit to a higher level of security that they were used to at Banksia Hill, including a walk-through metal detector, an iris biometric recognition scanner and more frequent presence of drug detection dogs. Information about these visit arrangements were sent to parents and placed on the Department’s website.
- 5.45 While the resumption of regular visits was welcomed, there were some teething problems such as parents attending at Hakea to find their visit booking had not been sent through, others having insufficient ID, or failing to report at the Outcare centre before the visit. Inquiry team members met a detainee in the change room of the visit centre who had been brought down for a visit and strip searched then left alone in the change room for the whole session because his mother failed to attend her booked visit. The same thing happened for three days. Working parents or caregivers had difficulty visiting in the middle of the day, especially parents of remandees who are entitled to daily visits. Nor could parents or caregivers bring other children, raising childcare issues. Detainees complained that visits were too often shortened by late movements of detainees to visits or problems with visitor processing issues.
- 5.46 For detainees and families, there was considerable distress over the exclusion of relatives (other than immediate family) and friends from social visits. A number of detainees had intimate partners, and some were themselves parents. Others were supported more closely by siblings, grandmothers, uncles, cousins or friends other than their own parent or caregiver. Not surprisingly, on two occasions, Deaths in Custody Watch Committee activists sought to support and engage visiting parents in a protest outside the Hakea Prison gates about the placement of detainees within the prison walls.
- 5.47 These restrictions were lifted only gradually through protracted negotiations between managers from Banksia Hill and Hakea Prison, starting after a couple of weeks with a restoration of visit rights by partners and children of detainees and an increase in the size of visit parties to five from 16 March. Ultimately, by 5 April, a second visit session was allowed each day at 5.10 pm. Thus, in effect it took over 10 weeks after the riot before visit services for detainees held at Hakea were restored to a normal level.
- 5.48 Sadly, for regional detainees, family video visits have not been available since the riot. While detainees are transported to Banksia Hill for court video links the afternoon prior to their scheduled appearance, no such arrangement is in place to facilitate family video visits. Indeed, the Inquiry was informed that family

video visits fell away after the transfer of detainees from Rangeview to Banksia Hill in October 2012, as the amalgamated centre was left with a single video-link facility which was overwhelmingly needed for court video-link purposes. This is most concerning for a system that was originally installed to facilitate family participation in case conferences and family visits for detainees.

### **Official Visits**

- 5.49 Official visits arrangements for detainees at Hakea have been particularly problematic and a major source of complaint by legal practitioners and others. Units 11 and 12 as originally occupied, as well as Unit 5 before, did not have enough interview rooms to accommodate essential internal consultations including for at-risk management by psychologists, medical treatment, mental health assessments and case planning reviews.
- 5.50 Nevertheless, visitors from other parts of the Department, such the detainee's Youth Justice Officer have been expected to see detainees in the juvenile precinct, requiring an escort from the gatehouse. At first, many of these interviews had to take place on picnic tables outside, in a corner of the unit, or in a programs room which also acted as a staff lunch room. Eventually, by late March, they were able to access an interview room in one of the demountables.
- 5.51 Escorts for such visitors had to be sent from Units 11 and 12 and depending on other priorities and other movements in the prison, it could take a considerable period to achieve contact with a youth and exit the prison. Such visitors also often found they were taking the young person away from the only period that they were likely to have outdoor recreation that day, or from one of the only two periods they could expect to receive education, a significant distraction.
- 5.52 A permanent reservation was made in the Hakea Official Visits centre for non-Departmental official visitors such as lawyers. The main difficulty, however, was moving the detainees to and from Units 11 and 12 in a way that prevented any contact with adults. As only one vehicle was available to service this and other requirements, and staff had to be coordinated between the prison and youth custodial, there were often considerable delays in producing the young person required for the visit. At one stage, an attempt was made to confine these visits to the same lunch time-slot as social visits, but this was overturned following strong objections by relevant agencies.

### **Strip-searches**

- 5.53 The DMR's provided by the Department to the Children's Court in March and April 2013 confirmed that from 20 January 2013 detainees were strip searched when transferring from one detention centre to another (Hakea JF to Banksia Hill and vice versa) and on leaving or returning to the detention centre (for example, for court appearances). Detainees were also strip searched before and after every

social visit up until 5 March 2013 when the search prior to the visit was discontinued. As Banksia Hill had become the transfer hub for all external transport of detainees from both facilities the amount of times that some detainees were strip-searched increased markedly.

5.54 The use of strip-searching at Banksia Hill was examined in a June 2008 inspection of Banksia Hill and although the Department agreed to review the practices and procedures relating to the strip searching of detainees, it appears that there has been little change. At the time of the inspection in 2008, detainees at Banksia Hill were routinely strip-searched on every entry into and exit from the centre. Strip-searches were conducted on detainees arriving from Rangeview, despite having been strip-searched there prior to travelling in a secure vehicle (staffed by juvenile custodial officers) and disembarking in the secure sally port at Banksia Hill. This double search process was said to be unnecessary, as there should have been no opportunity after strip-searching at Rangeview for a detainee to access any contraband, weapon or self-harm implement prior to arriving at Banksia Hill. There was no clear risk to be mitigated by a second strip-search.<sup>27</sup>

5.55 The Acting Inspector commented that:

In the majority of cases, strip-searches were undertaken as part of routine procedure rather than in response to suspicion or information received. The use of strip-searching as a routine practice at Banksia Hill cannot be justified from a risk management perspective – it should be targeted based on reasonable suspicion. The extensive use of routine strip-searches is a breach of human rights and dignity, at odds with the otherwise individual-focused care of detainees maintained by the centre.<sup>28</sup>

5.56 Regulation 85 of the *Young Offenders Regulations 1995* states the circumstances in which detainees may be searched and provides:

- (1) A detainee should be searched —
  - (a) on admission to the detention centre;
  - (b) immediately before discharge from the detention centre;
  - (c) on leaving or returning to a detention centre; and
  - (d) when transferring from one detention centre to another.
- (2) A detainee may be searched at any time, and in such a manner, as is considered necessary at the time by the superintendent.

5.57 Regulation 85(2) accordingly gives the Superintendent a wide discretion to search a detainee, at any time, where such a search is ‘considered necessary at

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<sup>27</sup> OICS, *Report of an Announced Inspection of Banksia Hill Juvenile Detention Centre*, Report No. 58 (December 2008) [2.32].

<sup>28</sup> *Ibid*, [2.38].

the time'. The manner of search is qualified by regulation 86 which provides that:

- (1) A detainee may be searched using either a "pat" or "strip" search depending on the circumstances surrounding the requirement of the search.
- (2) A detainee should be "strip" searched if there are circumstances giving rise to a reasonable suspicion that the detainee may be in possession of an item that could —
  - (a) jeopardise the safety, good order or security of the detention centre; or
  - (b) be used for self harm.
- (3) At least 2 officers must be present during a search of a detainee.
- (4) A detainee must not be "strip" searched in the sight or immediate presence of a person of the opposite gender.
- (5) Where practicable, a detainee should not be "strip" searched in the immediate presence of another detainee.
- (6) Any search of a detainee must be conducted with due regard to the decency and self-respect of the detainee.
- (7) Despite subregulation (4), a superintendent may direct that a search is to be carried out in the presence of a medical practitioner or a nurse.
- (8) Whenever a detainee is "strip" searched, each officer taking a role in that search must forward a written report of the search to the superintendent.

5.58 Notwithstanding the provisions of regulation 86(2), the Department's standing orders<sup>29</sup> made strip-search mandatory for detainees on admission and discharge, transfer between detention centres and departure or return to a detention centre.

5.59 Strip-searches are invasive and even if conducted appropriately, they can be embarrassing and raise considerable feelings of anguish or inferiority, particularly for more vulnerable young detainees. It is clear that the conduct of a strip-search, upon the reasonable suspicion set out in r 86(2), could not be regarded as unlawful or unreasonable. There is a need to for some security measures to prevent contraband from entering detention centres. However, to subject detainees to routine strip-searches, particularly before and after social visits, without a proper evaluation of whether it was needed in a particular individual case or situation was unreasonable and contrary to the intent of regulation 86(2).

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<sup>29</sup> Standing Order 17

5.60 The President of the Children's Court, Reynolds J, has also expressed the view the practice of strip-searching is overused:

In relation to stripsearching, I have already expressed the point that I think it is highly embarrassing, degrading. It is also very humiliating. Stripsearching seems to be overly used. There does not seem to be any discretion to decide whether or not it is needed in a particular case, in a particular situation. There is just this broadbrush approach which I do not think is appropriate. It seems to be happening in relation to attendances at court, which is highly undesirable. Accepting that it has happened when Mr Hawkins has visited JAB - that is in my view totally unacceptable, and without good reason.<sup>30</sup>

5.61 Reference was also made in the above case to the affect of strip-searches on detainees at the time of social visits. Information provided by counsel for one of the detainees was that the detainee had asked his family to stop visiting him because he did not want to be subjected to the humiliation of a strip-search before and after the visit.<sup>31</sup>

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<sup>30</sup> Transcript of Proceedings, *State of Western Australia v BAJG* (Unreported, the Children's Court of Western Australia, KT35/12, Reynolds J, 27 March 2013) 53.

<sup>31</sup> *Ibid*, 34.

## **6 Banksia Hill (4 February to mid-June 2013)**

### **Reconfiguration**

- 6.1 After most of the male detainees were transferred to Units 11 and 12 at Hakea Prison on 7 and 8 February 2013, 33 young people were left at Banksia Hill. These included ten young women and girls, six of whom were serving a detention sentence, residing in the Yeeda Unit. There were also four male remandees under fourteen years of age, as management had decided that detainees in that age group would not be sent to Hakea.
- 6.2 There were another nineteen older male detainees who were retained at Banksia Hill including five who were serving a detention sentence. Most of these were on short-term remands, were eligible to be bailed, or were sentenced detainees imminently due back in court or due for release. A few were kept at Banksia Hill for welfare or management reasons.
- 6.3 While female detainees remained in the Yeeda Unit, male detainees were consolidated into the Harding Unit which has 28 standard cells, five with double bunks, and eight management and observations beds.

### **Transport Hub**

- 6.4 Following the transfer, YCS and Hakea management realised that morning escorts of detainees from Hakea through Hakea Reception to court at the same time as outgoing prisoner escorts was unsustainable. Less predictable were medical escorts and returns from court, which also had the potential to clash with adult returns in Reception. It was too difficult to maintain adequate separation between detainees and adult prisoners at these busy times. In addition, the video-link equipment newly installed in a program room in Unit 12 at Hakea could not connect to courts in regional WA.
- 6.5 It was determined that Banksia Hill would remain as the hub for all external transports for youth and that any transfers from Banksia Hill, including returns from court should occur after 4.30pm on weekdays. A return transport after 5pm from Hakea to Banksia Hill would include anyone needed in court the next day (whether in person or via a videolink), together with anyone due to appear before the Supervised Release Review Board which sits on Wednesday morning at Banksia Hill in the Case Planning building and anyone due to be released (whether on bail, for supervised release or end of sentence).
- 6.6 Also included in daily transfer back to Banksia Hill were people scheduled for treatment at Banksia Hill the following day (for example dentistry) or an external medical appointment. Detainees who misbehaved and required separation from other detainees or regression, were also transferred, as were detainees who

needed to be kept under observation due to self-harm concerns, or other mental health or other medical reasons.

### **Complexity**

- 6.7 Banksia Hill remained the reception centre for all arrested detainees brought in by Police, including overnight, for detainees returning or newly remanded from metropolitan children's courts and for detainees transported by the regional youth transport service from remote and regional areas. Together with its role as the transport hub and releasing facility, Banksia Hill Reception was exceedingly busy. The Harding Unit had to accommodate and manage a very diverse cohort of male detainees, often including a large group transferred from Banksia Hill before their court or Supervised Release Review Board (SRRB) appearances.
- 6.8 Thus for example, on the first Tuesday evening after the transfers, ten detainees were transferred back to Banksia Hill, six to appear before the SSRB the next morning, two to attend Perth Children's Court and two for video-links to regional courts. The Harding Unit the next morning was full, with some detainees having to stay overnight in MPU cells usually used for managing poor behaviour.

### **Female detainees**

- 6.9 The selective staff roster<sup>32</sup> in the girl's precinct (Yeeda Unit) had largely survived the crisis, so there was a greater consistency in detainee care and management practices than in other areas. However, staff numbers were reduced, in that either the unit manager or senior officer position was filled each day, not both, and the management unit (Cue) was generally unstaffed and hence unable to function. This meant that girls in acute risk of self-harm had to be managed down in a holding cell in detainee reception. This was not ideal, but afforded greater privacy than if they had been placed in an observation cell in the Harding Unit.
- 6.10 As with other units, before the transfer of most of the males to Hakea, the Yeeda Unit had made slight progress towards normalisation. The girls had intermittent access to recreation in the gym and were able to make a canteen order on 27 January, just a week after the riot. One young woman was allowed to continue to reside in the self-care unit.
- 6.11 Classes recommenced in the Yeeda Unit on 12 February, three weeks after the riot. These were well resourced, with two education staff in each of the two classrooms. By that time there were only 10 remanded or sentenced girls in residence. Numbers of sentenced and remanded detainees continued in the 9-13 range in the following few months.

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<sup>32</sup> In Yeeda Unit the staff roster was made up of officers who were specifically selected or recruited to work with the female detainees.

- 6.12 The Jade Lewis Foundation also recommenced visiting at this time, providing a fitness and personal development activity (Step up) as did Esther house, a faith based mentoring and support program. Other rehabilitative programs such as 'Bella' (Extra Edge), 'Girls Group' (DCS), 'Save a Mate' (Red Cross) and 'Health In Health Out' (Hepatitis WA), all recommenced in February, adding to the variety and quality of the program for young women and girls. Wednesday and Thursday afternoons came to be set aside for Jade Lewis and Esther House activities (Interim Standing Order Management of Detainees dated 7 March 2013).
- 6.13 The girls were progressively allowed to get up and out of their cells to make their own breakfasts, help distribute lunches and evening meals, clean their cells, do the laundry and the Saturday morning wing clean-up. Even so, for the following three months they continued to be confined to their cells, typically for 15 to 19 hours per day on weekdays and 15 to 22 hours per day on weekends.
- 6.14 When Banksia Hill was sufficiently staffed to operate a standard program before the riot, young people spent 13.5 to 14 hours per day locked in their cell with an additional two hours on Wednesdays for staff training.<sup>33</sup> In reality that program was very often severely compromised and it could be argued that the compromised program offered to the girls in the Yeeda Unit in the period after the education program was restored, was not significantly worse than before the riot. However, the extra time locked down after 8 February 2013 was a significant compromise in the opportunity for the girls to socialise with each other, make phone calls, enjoy some passive recreation and eat meals outside of their cells.

### **The Youngest Detainees**

- 6.15 The under 14 year boys who remained at Banksia Hill after most of their older peers had been transferred to Hakea, had no designated residential area of their own. They were simply scattered between A, C and D Wings in the Harding Unit along with other detainees.
- 6.16 An effort was made to get detainees from these wings to the gymnasium for an hour each day with others having exercise time in the caged yard in the Harding Unit. However, the ever-changing cycle of detainee movements, detainees on management regimes, and detainees with special needs, in combination with staffing shortages meant that it was a struggle to maintain any kind of consistency in the regime including in access to recreation. To some degree, detainees were allowed to help with serving meals to others in cell, with washing up, cleaning and laundry, but it was some weeks before they could have meals outside of their cells.

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<sup>33</sup> OICS, *Report of an Announced Inspection of Banksia Hill Juvenile Detention Centre*, Report No. 76 (March 2012).

6.17 The first real change in their program was in the week beginning 18 February when up to 16 of the youngest detainees were allowed to attend school in the junior school area adjacent to the Harding Unit. The main Education and Vocational Training area at Banksia Hill had been empty since the riot. After most of the detainees were transferred to Hakea, these classrooms and workshops were mothballed preventing access to manual arts, computer lab, library, arts/music classroom and horticulture.

### **Mixing it in Yeeda**

6.18 Between 8 and 28 February 2013 there were many occasions on which the Harding Unit had to manage over 28 young males overnight (being the number of standard cells), due mainly to the number of detainees transferred from Hakea for court or board appearances the next day, in concert with incoming detainees from police or regional courts.<sup>34</sup> When such an influx was anticipated, some of the detainees resident in the Harding Unit had to be doubled up, either in double-bunked cells or using a mattress on the floor. This included the youngest detainees, who were certainly at risk of being doubled with older detainees returning from Hakea or newly admitted. Incoming detainees on occasion also had to occupy multipurpose (MPU) cells, observation cells or a holding cell in Reception.

6.19 Thus on Friday 1 March, there were 44 young people having to be managed in Banksia Hill. With 10 females resident in the Yeeda Unit, that left 34 to be accommodated in the Harding Unit. As was usual over a weekend, it was anticipated that police would bring further arrestees to be accommodated. A decision was taken to place seven male detainees, under the age of 15 years, in the Yeeda Unit.

6.20 This decision was in line with an Interim Standing Order assented to by the Assistant Commissioner Youth Justice on 26 February, with an approval date of 7 March. Notably, the order stated that as soon as standard beds became available in the Harding Unit, 'young male detainees should be immediately transferred back to the Unit prioritised by age'. Despite this, the boys were returned to the Yeeda Unit the following Tuesday, 5 March where they remained until at least the end of May.<sup>35</sup> Up to eight males were accommodated there at any one time. While 14 year old males were eligible to reside in Hakea, some remained at Banksia Hill on short remands or they were considered more vulnerable so were included in the group placed in the Yeeda Unit.

6.21 In principle, the placement of young males in a unit dedicated to young females and the compromise to privacy for young women and girls is exactly the kind of practice which creation of a separate precinct was supposed to prevent. In

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<sup>34</sup> This happened on 12 occasions in February 2013.

<sup>35</sup> At the time of writing (late June 2013) there were still both boys and girls living in the Yeeda Unit.

practice, in keeping with the Interim Standing Order, strict separation was maintained between male and female detainees in the Yeeda Unit. At first, the two groups were only allowed out of cell within their wings at different times for cell cleaning, breakfast or other meals. The male detainees were removed from the precinct each weekday morning between 9.00 am to 3.00 pm. When not at school or in a program, they were managed in the Harding Unit.

- 6.22 In the afternoons or on weekends, each group could only have access to the basketball court in the precinct while the other was locked down or out of the unit using the gym. After a time, the restriction on each group being allowed out of cell in their own wings was lifted.
- 6.23 This arrangement provided a greater degree of stability for the youngest boys in custody including more regular access to time out of cell, recreation and schooling than could be achieved for them at the Harding Unit. They were also able to make more than one phone call per day, if there was enough time out of cell. Nevertheless, this arrangement also imposed limitations on the time either group could spend out of cell. While this was less than ideal, it was reasonable given the vulnerability of these two groups and the circumstances of the continuing staffing crisis in youth detention. When, in May, it was the turn of the Yeeda Unit to be fortified like the other units, both young males and females were transferred to the Urquhart Unit.

### **Harding Unit**

- 6.24 Other male detainees continued to be managed in the Harding Unit. Newly arrived detainees were housed in D Wing where possible, or failing that in a standard cell in A or C Wing. However, under the circumstances these detainees often found themselves in a multipurpose cell, observation cell (in B Wing) or even a holding cell in Reception. Those due in court were woken early, given toast or cereal to eat in their cell, and sent to reception to be searched, reclothed and processed onto a transport.
- 6.25 Those residing in D or B Wings often had an especially tough time, with meals served in cells, and time out of cell only for a shower, a single phone call per day, and a half hour in the caged yard. This recreation time would be experienced alone if serving regression, or with other detainees if not in that category. Those accommodated in A or C Wings also initially experienced restricted phone calls and limited time out of cells for some meals, but did enjoy a visit to the gym most days for an hour for recreation.
- 6.26 Staff in the Harding Unit had to cope most days with multiple movements, and diverse detainee needs. However, the centre in general was often affected by short staffing caused by high levels of staff absences of various kinds and the inability of Youth Custodial Services to fill the extra roster lines required to

supervise detainees in an additional custodial facility at Hakea.<sup>36</sup> At times extra resources were needed to cover hospital sits for detainees in hospital, to cover absences at the Perth Children's Court Holding Rooms or other operational requirements. On such days, time out of cell for detainees in Harding was very limited with even the gym session not being able to be provided.

- 6.27 On the other hand, the Harding Unit often benefited from the presence of recovery staff, regional transport staff and admissions staff which made it possible to start to allow detainees to stay up for meals, undertake more cleaning and laundry duties and have more phone calls. At such times, detainees from D Wing were also included in visits to the gym. Eventually in March, detainees were also allowed to have recreation time in the yard adjacent to A and C Wings which has a half-basketball court and to play table tennis in the wings.

### **Education**

- 6.28 As noted above, female detainees were able to attend school from 12 February and young males from 18 February. Two classrooms functioned in the Yeeda Unit and two in the junior school near the Harding Unit. After a time, selected older detainees nominated by education were added to the class lists in the junior school. Older detainees resident at the Harding Unit for special needs were the first to benefit from this.
- 6.29 Over some weeks numbers of female detainees had dropped and by mid-March, the second class for females was no longer needed so a third classroom was able to be opened in the junior school. By the beginning of April a relief teacher was hired to open the fourth classroom. The youngest detainees remained in one class with selected older detainees and the oldest detainees were generally in the art class in which they also work on job readiness skills. In May, as numbers of female detainees began to climb, a second classroom was also reopened making six classes in all, catering for up to 32 male students and 16 females.
- 6.30 With almost all detainees in the Harding and Yeeda Units attending school, supervision was able to be reduced and YCOs were able to attend to other chores. This in turn made it possible to offer more out of cell time before and after school either in their wings, or in the gym, a virtual cycle. Increasingly in late March, April and May, the main yard at the back of the Harding Unit was being used for all of the units' detainees for recreation and socialisation, before and after school and at lunch time. Staff were often seen attending to detainees about their issues, playing chess or cards with detainees or otherwise supervising their recreation.

### **Programs**

- 6.31 The first of the programs for female detainees commenced in mid-February. The tables below depict the programs reported by the Department as having been

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<sup>36</sup> Please refer to this Inquiry's *Management, Staffing, and Amalgamation Review Paper*.

delivered respectively to female and male detainees each month from February to May at Banksia Hill. Programs were delivered over one or more sessions, each session typically taking one and a half to two hours. Very short programs were typically provided to all new detainees, especially those on remand. More intensive programs were those provided on the one hand to girls (Girls Group, Bella) and on the other hand primarily to sentenced detainees (Motivation to Change) although remandees may have been included in certain cases. This mix of programs reflected the mix of detainees managed at Banksia Hill at the time and was a different mix to those provided at Hakea.

**Table 3**

*Programs provided for female detainees, Feb-May 2013*

Program Title	Focus	Provider	Sessions	Feb	Mar	Apr	May
Bella	Various	Extra Edge	8	1			
Bella 1 on 1	Career	Extra Edge	3				1
Girls group	Cog skills/art	DCS	6	1		1	
Health in Health out	Health	Hepatitis WA	1	1	1		1
Life Design	Life planning	Extra Edge	1			2	
Pathways to Health	Addictions	Family Planning	2		1		1
Save a Mate	Addictions	Red Cross	1		1	1	1
<b>Total</b>				<b>3</b>	<b>3</b>	<b>4</b>	<b>4</b>

**Table 4**

*Programs provided for male detainees, Feb-May 2013*

Program Title	Focus	Provider	Sessions	Feb	Mar	Apr	May
Health in Health out	Health	Hepatitis WA	1	1	1	3	
LADS	Career	Extra Edge	1		2	2	1
Motivation to Change	Addictions	Mission Australia	4		1		1
Save a Mate	Addictions	Red Cross	1	1	3	2	1
<b>Total</b>				<b>2</b>	<b>7</b>	<b>7</b>	<b>3</b>

- 6.32 A potential barrier to programs a time when staff are short is the need to move to dedicated program spaces which also have to be supervised. Female detainees have a dedicated room adjacent to the classrooms so this was not a problem. For young males an innovative approach was taken by the delivery of programs in one of the existing classrooms. Those not involved in the program simply swapped classrooms with program participants. Not included in the above table of programs are those delivered by the Jade Lewis Foundation and Esther House which visit weekly (see above) and the Australian Children Music Foundation who resumed weekly visits on 30 May 2013 to engage young people in music making.
- 6.33 In summary, there was a significant setback in provision of personal development and rehabilitation group programs, for four to six weeks after the

riot. However, by March, an essentially normal level of group programs was provided to detainees still resident at Banksia Hill, especially for female detainees.<sup>37</sup>

### **Arrest, Bail and Remand**

- 6.34 As indicated above, Banksia Hill Detention Centre remained as the reception centre for young people brought by Police (usually on arrest, but occasionally on remand or sentenced) from the Perth metropolitan area or surrounding country areas. It is also the reception centre for newly remanded or sentenced detainees brought by the Youth Custodial Services transport service. Most of the processes involved in receiving new detainees after the riot simply continued existing practice in place after the amalgamation and before the riot. These in turn mirrored practices at Rangeview which managed reception of all new detainees prior to the amalgamation with certain important exceptions.
- 6.35 At Rangeview, the admission process was supported by a 24-hour Liaison Unit which took responsibility for informing parents or caregivers of detainee admissions, entering arrest and remand warrant details on the system and endeavouring to arrange bail for those eligible to be bailed. This service was not included in the operating model at Banksia Hill after the amalgamation with its functions split between Reception staff and the Case Planning Unit.<sup>38</sup> The former was given responsibility for informing parents or caregivers overnight and over the weekend and for entering next day court appearance details for arrestees. The latter was given responsibility for any outstanding parent or caregiver contacting, for entering remand warrants and facilitating bail during office hours on weekdays.
- 6.36 An extra FTE was to be provided to Case Planning not only for these functions, but to provide remandees with a case management service they previously lacked. This position was not yet in place when the amalgamation went ahead nor at the time of the riot in January. As an interim measure the Case Planning Unit assigned a Senior Case Planning Officer to provide a service to remandees on a weekly rotation basis. The Unit actually only received additional staff in April 2013 to assist with preparation of detention management reports required by the President of the Children's Court for his sentencing deliberations in relation to detainees resident at either Banksia Hill or Hakea after the riot.

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<sup>37</sup> What was missing for some months after the riot was another layer of rehabilitation: individual offender counselling traditionally provided by psychologists to the higher risk offenders, generally those who have committed who have committed sex offences or other crimes involving serious violence. However, this mainly pertains to youth resident at Hakea during this period. Psychological Services are further discussed below.

<sup>38</sup> The lack of a 24 hour liaison unit made it more difficult to organise legal advice outside conventional hours post-amalgamation. See Submission 9, Legal Aid Western Australia.

- 6.37 The Metropolitan Youth Bail Service, despite attracting new resources through the closure of the Killara Youth Support Service, has continued to assess and assist detainees given supervised bail by a court, not those eligible for responsible person bail.
- 6.38 These arrangements were less than ideal and led to a number of detainees falling through the cracks. The Inquiry was informed that warrants were sometimes overlooked, entered late or inaccurately and detainees who were eligible for bail were sometimes not assisted for some days. If a Senior Officer who had worked at Rangeview happened to be on duty, Reception staff could organise bail on the weekend or out of hours. Otherwise they had to wait until office hours. There was also an early failure to consult Case Planning about detainees transferred to Hakea, and the Inquiry was informed of instances of detainees who were eligible for bail were transferred to Hakea where they had to wait for 24 hours before returning to Banksia Hill where their bail could be processed.
- 6.39 As these transfers became more routine, the traditional transfer process that applied between Rangeview and Banksia Hill was restored, and detainees were held at Banksia Hill long enough to be risk-assessed and cleared by a psychologist and for their status to be accurately determined before being transferred to Hakea.
- 6.40 An examination of TOMS records relating to 21 detainees who entered youth detention for the first time during the period from 21 January to 25 May 2013 and stayed in Banksia Hill for at least three nights and in custody at least a week found that seven were not given the necessary formal orientation by staff. Four of the seven (three females and one young male) were resident in the girls' precinct. Orientation is the formal opportunity to inform detainees about the centre and behavioural expectations, check if they need any help and organise their authorised phone contacts.

### **Psychology and at-risk management**

- 6.41 The Psychological Services team came under significant pressures in the aftermath of the 20 January 2013 riot. Psychologists found that the riot left many detainees in need of care and support, that their relationship with custodial staff was under strain, and that practice required that every detainee transferred to Hakea be reassessed.
- 6.42 The incident itself generated self-harming behaviour by two female detainees, and another very young detainee transferred to Hakea became acutely distressed. Custodial staff appropriately sought assistance for detainees they identified as at-risk, but psychologists had difficulty accessing detainees when requested. They and other professional staff were affronted at the degree of security surrounding such interviews and the potential compromise to the

detainees' privacy. Regimens for detainees placed in confinement for observation or misbehaviour were developed without consulting psychologists who were expected to simply sign them off.

- 6.43 Youth custodial practice requires that detainees transferred to a different centre be placed on elevated checks until interviewed and cleared by a psychologist. It took many weeks before this could be undertaken for the 140 or so youth transferred to Hakea. The degree of confinement detainees were experiencing and anxieties about their future meant that more detainees came to notice and had to be reassessed, counselled and managed. As there were no observation facilities in Units 11 and 12 at Hakea JF, any acutely at-risk detainees had to be transferred back to Banksia Hill.
- 6.44 As a result, for much of the period they were at Hakea JF, the Psychological Services team were only able to provide normal risk management services, consultation (when requested) on behaviour management and the necessary reports to sentencing and releasing authorities. Assessment of offending issues of newly sentenced detainees to inform case planning of intervention needs could not be provided, nor was it possible to provide rehabilitative counselling to serious violent and sex offenders.

#### **Documentation and record-keeping**

- 6.45 Poor documentation and record-keeping practices within Youth Custodial Services again made some aspects of the Inquiry more difficult.<sup>39</sup> For example, there was no reliable or consistent record of detainee movements within the two centres.
- 6.46 There was a structured day program that set out when a detainee should be out of cell and when they should be participating in activities such as education or recreation. However, it was established in evidence gathered and observations made during the Inquiry that the daily schedule was frequently disrupted by staff shortages and other factors. As a result, it was common for detainees to be subject to unscheduled lockdown in cell.
- 6.47 This information was not recorded formally. The Department was unable to confirm exactly how many hours a particular detainee had spent locked in cell on a particular day. Even in written evidence supplied to the courts, the Department referred to the structured day program as scheduled rather than as delivered. The structured day program essentially provided a best-case scenario of the activities that a detainee could participate in on a given day. The reality was often considerably more limited.

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<sup>39</sup> Poor documentation and record keeping was one of the findings of the Inspection of Banksia Hill in 2011. See OICS, *Report of an Announced Inspection of Banksia Hill Juvenile Detention Centre*, Report No. 76 (March 2012).

## **7 Impact on Hakea Prison Operations**

- 7.1 The mass transfer of juvenile detainees to an adult prison and the later legal declaration of parts of that prison as a juvenile detention centre was unprecedented in Western Australia. It has had significant consequences for both the prison and detention centre environments and it is appropriate therefore as part of this Review Paper that the impact of the changes on the operations of Hakea Prison are recorded.

### **Hakea before the Incident**

- 7.2 Hakea Prison had its own difficult journey in the 12 or so months prior to receiving the detainees from Banksia Hill in the early hours of Monday 21 January 2013. Prisoner numbers were resurgent in early 2012, having eased from peaks previously reached in 2009 and the prison was again under pressure. Hakea was the last of three prisons to occupy one of its two modern units (Units 11 and 12) completed in late 2011. Unit 11 was occupied in early April 2012 on a 'trial basis' as numbers surged past the 900 level. However, it was subsequently closed several months later because of security concerns and required an expensive retrofit of security grilles and other security modifications. Accordingly, the prison returned to its previous overcrowded position.
- 7.3 In October, 2012 a new management team was installed at the prison and the new Superintendent decided to set aside Units 11 and 12 as Enhanced Privilege Units to strengthen the hierarchical system of accommodation at the prison. As part of this decision, the self-care and enhanced privilege status prisoners in Unit 5 were to be relocated to Unit 11. The utilisation of Units 11 and 12 was also seen as allowing some of the older units to be progressively closed for essential repairs and renovation work.

### **OICS Inspection**

- 7.4 An inspection of Hakea Prison was conducted by OICS in late May, early June 2012, while Unit 11 was occupied. The Inspector's report was released on 17 January 2013, the Thursday before the riot. The inspection 'identified many examples where staff, in their own work areas, were getting on with the job in a pragmatic and resourceful way, sometimes in the face of significant infrastructure challenges'.<sup>40</sup> However, the Inspector also noted that the prison had long suffered from a negative and divided workplace culture which needed to change. It was noted that the key ingredients of that change included careful planning; a clear and shared sense of direction across management and staff; respectful relationships; strong local leadership; and appropriate direction and support from head office.

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<sup>40</sup> OICS, *Report of an Announced Inspection of Hakea Prison*, Report No. 81 (November 2012) [iii].

### **Hakea at the time of the transfer**

- 7.5 One of the Inspector's recommendations was that Units 11 and 12 be opened as soon as possible and that the role of those units be articulated to meet the challenges and needs posed by the prison's diverse prisoner group.<sup>41</sup> On Friday 18 January, self-care prisoners were moved from Unit 5 to Unit 11. The refit in Unit 12 was not quite complete at that time but it was due to be occupied by prisoners on 8 February. The timing of the riot was fortuitous insofar as Unit 5 was vacant without renovation works having commenced allowing most of the 73 detainees from Banksia Hill to be placed there in the early hours of 21 January. A handful of others were initially placed in Unit 12 before being transferred to Unit 5 in the afternoon, after assessments of those to share cells were completed. The Hakea population at lockdown on 20 January was 873, which reduced to 852 the following night after Monday court appearances.

### **Demands on Hakea Management**

- 7.6 Hakea management were justly proud they were able to accommodate the detainees at such short notice. However, it proved to be a huge burden to management and staff alike, also having considerable impact on adult prisoners. A command post was established on the night at Hakea which remained open until 8 February after the third and final transfer of detainees from Banksia Hill. For most of the first fortnight after the incident, senior managers at Hakea were consumed by the demands of managing the juveniles within the prison, working long days and coming in on weekends. Even a month after the initial transfer, they reported it was taking at least half of their attention.
- 7.7 Young people in Unit 5 initially had to be fed, assessed for cell sharing and self-harm risk, given medicine and a phone call. After the first week, arrangements also had to be made to provide time out of cell, laundry, additional calls and eventually, visits with family. An interview room for psychologists and a health clinic had to be established in Unit 5 and later in Unit 12. Youth Custodial staff had to be accommodated in working alongside prisoner officers in Unit 5 and later in Units 11 and 12. Large numbers had to be given orientations to their work environment in Hakea prison including security requirements and access to keys.
- 7.8 At the administrative level, a new youth custodial facility had to be created on TOMS, reflecting the legal excision initially of Units 5 and 12 as detention facilities, and later Units 11 and 12. Office space in administration was provided for the Assistant Superintendent Operations to be largely based at Hakea and for visiting Security and HR staff.

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<sup>41</sup> OICS, *Report of an Announced Inspection of Hakea Prison*, Report No. 81 (November 2012) [Recommendation 7].

## **Separating youth from adult prisoners**

- 7.9 The highest priority for Hakea, after ensuring the wellbeing and security of the detainees, was their complete separation from adult prisoners. This meant that all prisoner movements were ceased and prisoners were confined to units or workshops while detainees were moved in the prison. There were occasions in the early days when detainees had to access the Crisis Care Unit, Reception for external movements, the visit centre, Official Visits and the Video-link facility. Detainees required in court, for example, could only be moved when reception was empty of adult prisoners, something that could only occur after most had been picked up by prisoner transports.
- 7.10 This caused considerable disruption in Reception at the prison and made detainees late for court. There were considerable delays in receiving and processing adults through Reception, when a vehicle containing detainees returned to Hakea. Detainees attending video link could be held in a separate holding cell, but were visible to adults entering the facility. This facility was already wholly inadequate for the numbers and mix of prisoners it was required to manage.
- 7.11 The transfer of detainees from Unit 5 to Unit 12 and of detainees from Unit 11 back to Unit 5 on 4 February caused a full day lockdown and the transfers of two groups of detainees from Banksia Hill to Unit 11 on 7 and 8 February each caused half-day lock-downs for all prisoners.

## **Impact on prisoners**

- 7.12 Many prisoners expressed dissatisfaction at the extended lockdowns they experienced, at the disruptions to their routines, at having in some cases to move out of the new units, and the continued overcrowding and loss of opportunity that the new units represented. There was a palpable sense of outrage towards the detainees who had destroyed their cells at Banksia Hill and caused such inconvenience, although there was no awareness as to which detainees were actually responsible. Prison Officers reported that prisoners had made threats they would 'sort out' any detainees they had contact with and there were rumours the food prepared for them in the kitchen was being tampered with.<sup>42</sup>
- 7.13 Despite this, there was no evidence that the disruption and lockdowns caused elevated levels of conflict or dissent among prisoners, or that any detainee subsequently transferred to adult prison was targeted by adult prisoners. While movements of detainees to and from Units 11 and 12 were conducted in vehicles with darkened windows while prisoner movements had ceased, some prisoners and detainees occasionally managed to communicate with each other by shouting from their cells between Units 11 and 8, or through the fences

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<sup>42</sup> Refer to [5.33] above.

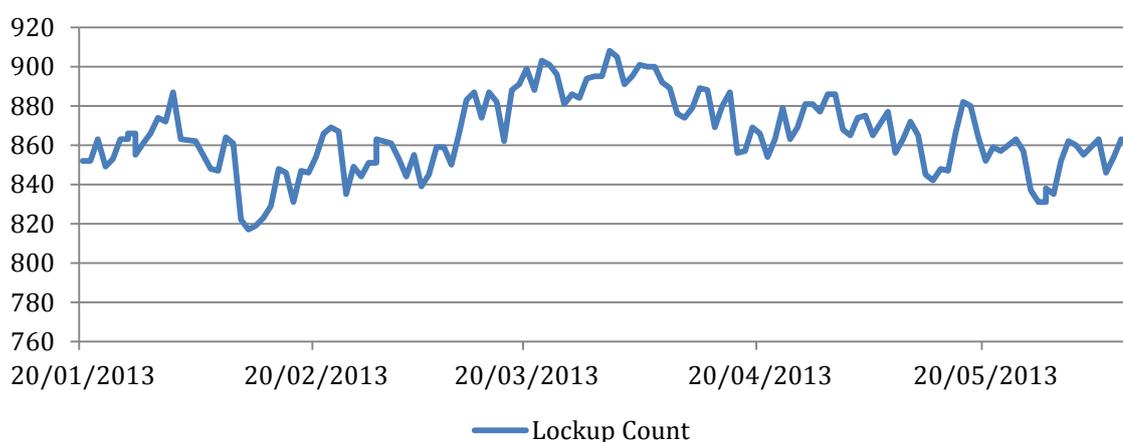
separating the units, despite being screened from view. It was reported that these communications were overwhelmingly good natured, generally concerning friends and relatives on either side.

### Implementing less intrusive escort arrangements

- 7.14 Much of the impact on prisoners had abated by mid-February. Family visits were scheduled during the lunch period when prisoners were locked inside their units. Official visitors from the Department were to see their clients in the youth precinct, and others were scheduled where possible during the lunch period.
- 7.15 A daily escort from Banksia Hill was received directly in the youth detention precinct each afternoon after prisoners were confined to their units. Those due in court the following day were transferred back to Banksia Hill, as were any detainees due for discharge, due before the Supervised Release Review Board or due for a medical escort or funeral. Court returns were also routed via Banksia Hill and transferred to Hakea.

### Impact on Hakea staff

- 7.16 Hakea staff were already impacted by an increasing overtime burden due to attrition and absence levels, but in the aftermath from the riot, many took extra shifts working with detainees in Hakea or at Banksia Hill to add to the effort.<sup>43</sup> The presence of the detainees at Hakea also had a significant impact on the routines and rosters for many staff and continued overcrowding in other units meant an elevated effort was required to find suitable places for prisoners and to address their issues and behaviours. As shown in the diagram below, the attempt by management to reduce prisoner numbers to a management level at the time of the juvenile transfers provided only temporary relief, with the prison population rising strongly from mid-February to 1 April when it peaked at 908.



**Figure 1**  
*Hakea Prison lockup count, 20 Jan to 9 Jun 2013*

<sup>43</sup> OICS, *Report of an Announced Inspection of Hakea Prison*, Report No. 81 (November 2012) [29].

- 7.17 Many staff noted with a degree of frustration the resources being expended on the youth facility at Hakea and the speed at which capital assets were provided by the Department in contrast to the neglect shown other areas. Recreation staff for example, had been asking for a demountable as a base in the Eastern end of the prison for some time without success. There was also a sense that the momentum for change brought by the new management team had been derailed.

### **Asbestos crisis**

- 7.18 In April 2013, safety and health representatives at Hakea served four provisional improvement notices on management at Hakea claiming a significant asbestos risk from ceiling panels in a number of the older units and administration areas at Hakea Prison. The Department responded expeditiously to the notices, commissioning a report on the matter from an independent expert who confirmed there was a potential significant risk from asbestos but that there was presently no evidence of exposed friable materials or airborne fibres and informed the Department of treatment alternatives. The Department has since committed to a treatment plan.
- 7.19 The removal of asbestos in the units concerned will require the complete closure of each unit for a two week period, something that will not be possible until Units 11 and 12 are vacated by detainees and reincorporated into Hakea Prison.

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