

Overview

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.

Banksia Hill is the state's only juvenile detention centre and at the time, housed 185 males and 21 females. During the riot, sixty one detainees in total, escaped from their cells and a significant number of detainees caused damage to their cells. 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.

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.

Immediate aftermath (21 January to 4 February 2013)

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.

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.

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.

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.

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.

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.

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.

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.

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

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.

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.

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 Juvenile Facility.

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.

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.

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 Juvenile Facility. This

number of hours is excessive and not acceptable as a base figure for lockdowns in a detention centre.

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.

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. Program delivery was even more severely restricted by space. No programs at all were commenced until March and delivery continued to be limited.

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 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

From 20 January 2013 detainees were strip searched when transferring from one detention centre to another (Hakea Juvenile Facility 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.

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 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)

After most of the male detainees were transferred to Hakea Juvenile Facility 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.

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.

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.

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.