



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PUBLIC ACCOUNTS

**(Reference: [Appropriation Bill 2013-2014 \(No 2\)](#) and
[Appropriation \(Office of the Legislative Assembly\) Bill 2013-2014 \(No 2\)](#))**

Members:

MR B SMYTH (Chair)
MS M PORTER (Deputy Chair)
DR C BOURKE
MS N LAWDER

TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 1 MAY 2014

Secretary to the committee:
Dr A Cullen (Ph: 620 50142)

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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Amended 20 May 2013

The committee met at 10.29 am.

RATTENBURY, MR SHANE, Minister for Territory and Municipal Services
Minister for Corrections, Minister for Housing, Minister for Aboriginal and Torres
Strait Islander Affairs and Minister for Ageing

HAMMOND, MR GREG, Executive Director, Capital Works and Infrastructure,
Justice and Community Safety Directorate

MITCHERSON, MS BERNADETTE, Executive Director, ACT Corrective
Services, Justice and Community Safety Directorate

THE CHAIR: We welcome you, minister, and your officials to this public hearing of the inquiry into Appropriation Bill 2013-2014 (No 2) and Appropriation (Office of the Legislative Assembly) Bill 2013-2014 (No 2). We would like to ask if all those appearing have read the pink privilege card and understand its obligations and protections. They are all nodding that they have. Given that there is no opening statement we will go straight to questions. I might defer to the shadow minister for corrections and give the first question to Mr Wall.

MR WALL: A portion of the appropriations is for the design-ready work of the extension of the AMC. I was just wondering who has been contracted to deliver this work.

Mr Rattenbury: That work has been tendered out. It has gone to a local company called Construction Control. They are the managing contractor. The way that contract arrangement is set up is that they will lead the project through the whole build. The intent in this process is to have continuity. We believe that will provide a better financial outcome but, given the complexity of the project of operating inside the AMC, it will also deliver a better management structure of the contract.

MR WALL: So the project has already gone to tender for both the design and the construction component of it?

Mr Rattenbury: The managing contract has gone out, yes.

MR WALL: They have been contracted to do the entire project or just a portion of the project?

Mr Hammond: The contract that has gone out is a two-stage contract. The first part of the contract has been awarded for the development phase of the project. The second phase, the construction phase, has not been awarded. It is a two-stage contract and it is subject to government approval of the funding. It is a similar model that is used in the commonwealth space.

MR WALL: The contracting of the managing contractor was an open tender process?

Mr Hammond: That is correct.

MR WALL: For the design process.

Mr Hammond: It is tendered for the full package, without the commitment for the

full package, so that you can effectively move from design and construction without going through another procurement process.

MR WALL: By what process will the managing contractor be granted a contract to deliver the construction component of the extension?

Mr Hammond: That is part of the delivery phase negotiations. If the delivery stage negotiations are not successful, we have the right to go back to the market for construction, for a different company.

MR WALL: On what grounds would negotiations not be successful?

Mr Hammond: Generally, it could be around things like agreement for target construction costs for the scope of works, reimbursables, the preliminaries or the management fee—if they were expecting a larger management fee than would be appropriate for industry. Generally, from my experience, these negotiations have been very successful. It is a collaborative form of contracting. The company that we are working with I have previous experience with. They are very proactive and very effective at delivering complex projects in complex environments.

MR WALL: Certainly, it is an unusual environment to work in. I would not imagine that they are the only contractor that is available to deliver a build project of this complexity. Why has the directorate chosen to essentially have a closed-shop decision for who delivers the build project and not put it out to market?

Mr Hammond: The project did go to the market. It was an open tender. There were a number of companies that tendered for the works. There is a tender evaluation process that looks at a number of things, including their understanding of the task, the risks, understanding the complexity of the project and also proven ability to date. There are a number of factors in there, but I cannot go into the commercially sensitive; these are around the tendering process.

MR WALL: What is the dollar value of the existing contract?

Mr Rattenbury: While that information is being sought, can I just clarify, in response to your earlier comment, Mr Wall, that I think the record should show that the tender was not a closed shop, as you suggested; it was an open tender.

MR WALL: For the design project.

Mr Rattenbury: Yes.

MR WALL: But the build project will not be an open tender.

Mr Rattenbury: It was an open tender for the managing contract. It was quite appropriate to let it as a single package. Anyway, we will now provide the dollar figure.

Mr Hammond: The original component is in the order of \$2.3 million. This includes the design procurement costs and the managing contractor's fee proposal.

THE CHAIR: We might go to Dr Bourke and then move on.

DR BOURKE: Minister, can you tell us why this work is necessary?

Mr Rattenbury: Yes. What we have seen is a situation—

THE CHAIR: Because Simon screwed up.

DR BOURKE: Chair, you are not here to give evidence. If you want to give evidence, go and sit on the other side.

THE CHAIR: I thought it was obvious.

DR BOURKE: Except that will not be a choice for you.

Mr Rattenbury: I think, as has been widely reported, members will be aware that we have seen a significant expansion in the AMC population in the last 12 to 15 months. In particular, we saw the spike last year from a population of 240-ish in January to 340 by September-October last year. What we have seen since then is that the population has consistently sat at those higher numbers. We had a dip through the earlier part of this year down into the high teens, 319, but we are now back today at 342. So what we are seeing is a consistently higher population. Corrections has had further modelling done which indicates that we will need more capacity into the future.

DR BOURKE: Does not the issue of separations cause issues in this particular jail as well, and why is that a specific problem in Canberra?

Mr Rattenbury: Certainly, the operational experience since the AMC has opened has demonstrated that the separation rates that are necessary are much higher than were originally modelled. There was an assumption in the first round of projections of a 15 per cent separation rate. The practical experience has been a separation rate of around 40 to 45 per cent.

This basically is higher in the ACT because we have a full range of security classifications in a single facility and we have a large number of people who know each other from the outside and have scores to settle or have ongoing disputes from the outside, if I can put it a bit colloquially. What that means is that there is a greater level of need for protection, and that has put additional pressure on the facilities that are there. It certainly provides a high level of operational pressure for the staff to manage on a day-to-day basis, to make sure the right group of people are either together or not together, as the case may be.

DR BOURKE: What were the alternatives to this expansion within the AMC?

Mr Rattenbury: I think if we were not to build additional facilities we would essentially need to look at options for sending prisoners back to New South Wales. That very much flies in the face of the intent of having a facility in the ACT, which is that those who are in custody should be closer to family and friends and closer to community connections. We see it as a very important part of the rehabilitation of

people who are in the AMC to maintain those connections, ideally, so there is a stronger motivation to get out and not go back in.

DR BOURKE: Was any consideration given to a minimum security facility which might have been able to move some people with that particular classification out of the AMC and into another facility?

Mr Rattenbury: Not specifically. I think any question of separate facilities has been canvassed more in the context of whether there should be a separate women's facility, through the conduct of the audit by the Human Rights Commission. That was one issue that was canvassed in that context. The counter consideration there is one of efficiency in the broad, and having one facility, where we can concentrate things like educational resources as well as corrections resources, points to maintaining a single facility at this point in time.

DR BOURKE: How many female prisoners do you have at the moment?

Mr Rattenbury: Today we have 22.

DR BOURKE: Surely that creates difficulties, with such a small number, in providing the full suite of programs that are available in other states and territories.

Mr Rattenbury: I do not believe so. A lot of effort goes into supporting the female detainees. They have access to a full range of programs. Perhaps the bigger challenge we have is actually encouraging them to want to participate in those programs. We can provide all the programs and all the support in the world, but if people do not want to access those facilities or those opportunities then there is a limit to what corrections can do.

DR BOURKE: You have got a facility at Symonston which you currently use for weekend detention. Was there any capacity to reutilise that to undertake some of the overflow from the AMC?

Mr Rattenbury: Certainly, the Symonston facility is available to corrections as a contingency plan, but I do not believe it provides a long-term solution. The facilities are of a certain age. The ongoing maintenance bill would be significant, just because of having an older building, and obviously there is the issue of having a second site and the cost of having to have a complete other set of staff to operate a second facility, which goes to my earlier point.

DR BOURKE: What about human rights compliance for long-term incarceration?

Mr Rattenbury: At Symonston?

DR BOURKE: Yes.

Ms Mitcherson: In terms of human rights compliance, it covers a whole suite of things. There are certainly issues around providing hygiene and education. They are not necessarily issues, but it is an old building and the issue for us is that while we could use it, and may have to use it, as an overflow pending some more beds for a

small cohort, security is not high. So you would have to really think about the cohort you put in there. When you think about the PDC, they are obviously deemed to be appropriate to be in the community five days a week, so it is low security. So we are down to that sort of level.

The biggest issue is about splitting staff and having people who require maybe complex health services. You could do some minor health services on site but you could not do anything complex. The visiting doctors would still go to Hume health centre at AMC. So there are a lot of complexities around that.

DR BOURKE: Minister, you have talked about reconsidering periodic detention as well.

Mr Rattenbury: Yes, we have announced an intention to end periodic detention. This is based on policy advice from corrections that periodic detention is not the most effective form of rehabilitation. The ACT is the last jurisdiction to have periodic or weekend detention. Other jurisdictions have formed a view that you can provide better services—and certainly that is the view we have formed here in the ACT. The intent is to move towards a suite of measures that can broadly be called intensive community corrections orders. They can take a number of forms. For example, they can be things like targeted programs—alcohol and other drug programs. They can include curfews and a range of measures which seek to more specifically target offenders' behavioural issues that have led to their incarceration than simply weekend detention.

The full details of it have not been worked out yet. The announcement that we are closing PDC is that it will be closing in 2016-17. So there is a significant lead time. During that period corrections and the government will both need to undertake a range of consultations with stakeholders and also undoubtedly make some legislative changes arising from the new proposals.

DR BOURKE: Will cost savings accrue from that?

Mr Rattenbury: There will be some cost savings that accrue from that, yes. That is a bonus, I guess, in addition to the fact that we believe this is a better way to undertake corrections.

THE CHAIR: I have a supplementary along that line. If we got the numbers so wrong when we opened it up, when we were told that there was capacity for 20 to 25 years, whereas it was virtually full the day it opened, how can we trust the work that is being done now?

Mr Rattenbury: Corrections has sought the advice of John Walker, the respected criminologist. He has done a full range of modelling that was based on his expertise and, as well, he conducted workshops here in the ACT with a range of the key stakeholders, including people like the Director of Public Prosecutions, the Federal Police and all of the relevant justice sector stakeholders to help him inform his assumptions and modelling. That work, John Walker's work, has then been peer reviewed. The government have used that as a key basis for making their decision. It is not the only basis, I might add. A number of other factors form the basis for the

choice, including operational experience. The design of the new facilities is very much about giving maximum operational flexibility for segregation in particular. That also delivers better safety for both detainees and corrections staff, as well as considerations of value for money, what is the best size build in terms of efficiency et cetera.

THE CHAIR: But surely that work was done initially, before the prison was even designed?

Mr Rattenbury: There was work done, as I think has been well canvassed in a range of committees previously, in 2001 and 2003. This work is all new work. It is based on an updated understanding of where we are up to. The intent is to review that modelling every year, once every 12 months, so that the government can also quickly identify that, if the real-life situation does not match the modelling, there is flexibility to move quickly if required.

THE CHAIR: But that sort of work that Mr Walker has done was done before the original design of the prison was put to—

Mr Rattenbury: Yes, Mr Walker did do work in 2001 or 2002.

THE CHAIR: Without impugning his reputation, and if that work back then dictated that we build a prison that was full when it opened, how have you satisfied yourself that we have got this right this time?

Mr Rattenbury: As you know, Mr Smyth, Mr Walker's modelling was not fully followed on the previous build. But I believe that Mr Walker's work is the best advice that the government can obtain. I think it is fair to say that modelling, or projections of detainee numbers, is a very imprecise activity. It is one that is affected by a range of external vagaries. So I am not sitting here and saying that the numbers that Mr Walker has produced are the definitive set of numbers, but the decision that has been taken has used that as the best advice we can get, with a level of flexibility built into the decision.

THE CHAIR: Given that his advice was not followed last time, are you going to follow his advice this time?

Mr Rattenbury: Yes, we have used Mr Walker's projections as the key numbers advice. He, of course, produces a range of projections. I am happy to provide a copy of Mr Walker's report to the committee.

THE CHAIR: That would be kind.

Mr Rattenbury: He produces a set of projections that are low, medium and high. The government has taken a deliberate decision to use the medium-range projections. To go with that, there is some flexibility in the design but also an intent to deliver a justice reform strategy which targets offending behaviour and seeks to minimise the number of people actually going to jail or going back to jail as repeat offenders, as the case may be.

THE CHAIR: Do we know whether on the previous work the government used his low, medium or high projections last time?

Mr Rattenbury: I do not know, I am afraid, Mr Smyth.

THE CHAIR: Could you take that on notice, please?

Mr Rattenbury: I think so. It would be subject to whether I have access to the information. If it was a previous cabinet decision, I will not have access to that information.

THE CHAIR: But the department will have the documents.

Mr Rattenbury: Yes, I will endeavour to provide you with the best answer we can.

THE CHAIR: A new question, Ms Lawder.

MS LAWDER: On page 103 of the supplementary budget papers there is an item “AMC crisis support unit upgrade”. Could you explain what that will be used for and why it is necessary?

Ms Mitcherson: The upgrade is to do a number of things. It is to reconfigure a couple of the cells to make them safer in terms of people at higher risk, and to reconfigure some of the areas where the officers’ station is. There is some other work around air filtration as well. It is quite a complex piece of work in terms of design. Obviously we have involved staff in the work as well. It is still going to be an operating unit, so it does pose some challenges going forward. We are up for that challenge, but it is basically about reconfiguring some office space, an interview room and a couple of cells, and the officers’ station.

MS LAWDER: Is that something that you have found necessary after a period of operation or is it that the original design did not cover that?

Ms Mitcherson: I felt it was necessary to reconfigure a couple of cells to have a different standard in relation to hanging points and those sorts of things. There are other ways we can manage that to make people safe and to make it easier in relation to officer supervision.

MS LAWDER: When the new part is built, those design elements would also be taken into account?

Ms Mitcherson: We have certainly looked at the most current minimum standard in relation to cell design for both of the new units. We have taken that into account, absolutely. Don and I have both worked on jail sites before. We have both worked on commissioning a new jail; we have also both worked on sites where they have had to reconfigure parts of it. We have involved staff in decision making in relation to walking through exactly what would happen on a day when you come in, and in looking at some of the lessons learnt from the other designs.

DR BOURKE: How are you going to manage the construction going on in the secure

facility?

Mr Rattenbury: I will let Mr Hammond provide the details of that.

Mr Hammond: Effectively, there will be a quarantined area with hoardings to prevent any interaction, including visual interaction, between those that are being detained in the centre and those that are going to be working inside the main perimeter wire. The works will include staging or bringing people through the sally port outside the traditional operating arms of the AMC, so that we do not impact on our operations. They will travel around the perimeter into the quarantined area away from the rest of the centre.

DR BOURKE: Are you going to undertake background checks and security checks for other workers?

Mr Hammond: Yes, of course. You are correct. There will be police checks on all of those that are involved. There will still be the same requirements, for anybody that is coming into the AMC, for searches et cetera. And also there will be requirements for everything down to accountability around tools going in and tools going out and for management of any equipment outside the facility as well for security matters.

DR BOURKE: So you are going to be doing the same kinds of searches and security on the builders that you do on people who visit the AMC? They are going to be handled in the same way you handle a visitor to the AMC?

Mr Hammond: Yes. Obviously, there will be checks to ensure that contraband is not being brought into the AMC. Also, they will not be allowed to bring mobile phones inside the AMC, just like everybody else. We will have to look at other forms of communication with them. It is a quarantined and controlled area, separate. Also involved in that, there will be additional custodial officers on the hoarding to ensure that there is no transfer of any matter.

DR BOURKE: So every morning you will be processing a series of workers that go into the centre and then you will be letting them out at the end of the day.

Mr Hammond: That is correct.

DR BOURKE: How long is it going to take?

Mr Hammond: We have to factor that in and consider that, but it will depend on—I could not give you the figure today—the staging of the works and the number of workers in the footprint on the day. It is a large body of work and there are additional custodial officers that will be engaged in the processing of workers in and out of the prison.

DR BOURKE: How many workers a day are we talking about?

Mr Hammond: My expectation is that when we have two building footprints in full construction we are looking at numbers between, I would say, 120 and 180 people. At the peak of the construction, when the two facilities are under construction, you would

be looking at a substantial number of people inside that quarantined area.

DR BOURKE: Have you had experience of doing this before, Ms Mitcherson?

Ms Mitcherson: I have, yes. All jurisdictions struggle with numbers all the time. I have certainly been the governor or general manager of a number of facilities where we have had to. There was Silverwater women's, for example, which is a large site on the Silverwater site. We did a lot of renovations there when it was operating. We pulled down and demolished old, inappropriate cell accommodation and put up new mental health units in the middle of the site. It is complex, and everyone would much prefer to work with a greenfield site, but it is certainly doable, and people all over the country do it all the time. I am not going to say that it is easy, and you have to have good processes and procedures, but it is doable.

DR BOURKE: And builders put up with this?

Ms Mitcherson: If builders want the work, they put up with it.

THE CHAIR: Mr Wall has a supplementary; then I have one as well.

MR WALL: I have a supplementary relating to the workers that are involved in the construction of the new facilities. Will there be any arrangements should any of them fall foul of the law and end up serving a custodial sentence in the ACT—as to how they would be treated within the prison and how they would serve their sentence?

Ms Mitcherson: If anything, over a two-year period, there is a chance that things happen. I guess we would risk-assess that at the time. It would not be known to the detainees in the jail because they will not be coming and going at the same time. We would do a risk assessment in relation to that. Certainly, I hope that does not occur. Everyone who comes in will also be subject to a security training awareness course we run, which happens for all our visitors now; even the ones that come on a regular basis have to do a full day's training in terms of security, along with criminal record checks and those kinds of things. Hypothetically, that could happen. We would risk-assess that at the time depending on the nature of the events.

THE CHAIR: Is there an industry standard as to how much it costs additionally, because of the security, to build inside a prison compared to having built these additional facilities back in 2003?

Ms Mitcherson: I do not know what the standard is, but obviously there are more costs involved because you are going onto a site and you have to employ staff for help with the supervision and manage that.

THE CHAIR: But in your experience, building inside a prison is how much more expensive than building outside?

Ms Mitcherson: That it is not my background to make a comment on. I would not know how much, but I do know that you have to make other arrangements in terms of bringing people in, bringing people out and putting on staff. I am not able to quantify that.

Mr Hammond: I do not believe there is an industry standard, because it would vary from site to site. But for the project, what we are forecasting is a complexity factor of 20 per cent.

THE CHAIR: Twenty per cent.

Mr Hammond: Complexity factor. But obviously, as we progress this project, we are looking at all opportunities to manage and find savings, and to return funding to budget.

THE CHAIR: Is there an operational cost? In effect, you will be running a secure zone within a prison. You have said that there will be additional officers required to man the sally port et cetera. What is the operational cost and how will you cover that?

Mr Rattenbury: Do you want us to take that on notice, Mr Smyth?

THE CHAIR: If you need to take it on notice, yes.

DR BOURKE: Of course, minister, there would be an opportunity benefit from not having done the work 10 years ago and the savings you have made over the last 10 years from not having done the work.

Mr Rattenbury: I think there are a couple of factors there. I will mention two things. One is that the benefit of work now is that the new design is very much informed by the operational experience. I think that we will see a different design configuration from some of the cell blocks that are already there. I think that is a benefit. The other, of course, and it is a factor that we have had to think about, and it goes to the earlier questions, is what size you build. Anything you build now that you do not need sits around unused. That is a weigh-off that must be made. We do not want to build too much capacity. There are other things the government wants to be spending its money on.

THE CHAIR: But had the original proposed 374-bed facility been built, based on the numbers you have been having, it would have been used. But if you want to take it on notice, that is fine.

Mr Hammond: I do have to take it on notice. We have a budget allocated for that, but I will take it on notice.

THE CHAIR: Mr Wall, do you have a quick question to finish?

MR WALL: A very quick one. On page 104 of the appropriation, there is mention of a revised funding profile for AMC security systems upgrades. I was wondering what upgrades were proposed—what the upgrades were and when they will be completed now.

Ms Mitcherson: That money has been over the last couple of financial years. There are a number of components to it. Three components have been completed. I think we discussed one of them at a previous committee hearing—the human heartbeat detector

for the vehicles. All vehicles are subject to that sort of checking in and out. It would include vehicles associated with the new build as well.

We had relocation of our K9 unit, which, if you drive past the AMC, is out the front now. That was relocated from Symonston—to have the canine unit on site. There has been the acquisition of a small refrigerated vehicle for movement of food around the centre. It is actually quite a big footprint; we deliver food to cottages. People cook for themselves; it is a delivery thing, just a small vehicle.

There are the other two parts that we are still working on. The data integration project was the biggest component of that. As I have discussed before, there is a lot of diligence that has gone into that piece of work. We are rolling that over for the next year. We expect that not to happen again, but there has been a lot of work in terms of documenting our systems for our centre management and the architecture and business processes around our data integration. That is an ongoing piece of work. It is a very exciting piece of work for us and the staff. While it is taking a bit longer than we thought, I have been very keen to have diligence around that work and I have been making sure that I have got the right people to do that piece of work.

The KeyWatcher system upgrade relates to a system where, when you go in, you take a fob electronic alarm. There are some software issues around that which we still have not resolved. We are looking at having to resolve that with the new build, because there will be extra keys at that point as well. When I say “keys”, they are actually fobs, because we have an electronic system. But they still go into an electronic cabinet for which we have an auditor who has keys.

THE CHAIR: We will finish there. Minister, thank you to you and your officials for attending this morning. We will provide you with *Hansard*, which Hansard is doing very effectively and efficiently. You may peruse it and send any corrections that you might want to offer. It is our intention to table this report on Tuesday, so if there are any questions taken on notice could we have the answers quickly as well. I understand that the government want to pass their bill in this sitting fortnight.

The committee adjourned at 11 am.