

**INQUIRY INTO ISSUES RELATING TO THE OPERATIONS
AND MANAGEMENT OF THE DEPARTMENT OF
CORRECTIVE SERVICES**

Name: The Hon John D'Orazio MLA
Position: WA Minister for Justice
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Date Received: 24/01/2006

Subject:

Summary

Our Ref: 03186

MINISTER FOR JUSTICE; SMALL BUSINESS

Hon Amanda Fazio MLC
Chairperson
General Purpose Standing Committee No 3
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Ms Fazio

Thank you for your letter dated 7 December 2005 inviting submissions to the Inquiry into the Issues Relating to the Operations and Management of the Department of Corrective Services. In respect of the interstate transfer of prisoners and parolees I enclose the following comments for the committee's information.

Interstate Prisoner Transfers

Prisoners in Western Australia may make application to transfer to another State in accordance with the provisions of the *Prisoners (Interstate Transfer) Act 1983*. A prisoner may apply for transfer either for welfare reasons or for trial purposes.

In respect of welfare transfers the Minister for Justice is responsible for consenting to transfer applications. For Western Australian prisoners wishing to transfer to another State the Department of Justice prepares relevant reports and recommendations as soon as an application is submitted. Once finalised the application and reports are submitted for my consideration and if approved a letter is sent to the Minister in the corresponding State seeking consent to the transfer. It is this State's practise to try and ensure that a decision in respect of the application is forwarded within 3 months to the corresponding State.

For prisoners wishing to transfer to Western Australia the application and relevant reports are received by my office and forwarded to the Department of Justice for consideration. The Department of Justice prepares relevant reports and recommendations for my consideration. Upon receipt I then write to the relevant Minister advising of my decision. Again it is this State's practise to try and ensure a reply is forwarded within 3 months.

Applications for Interstate transfer for trial are considered by the Attorney General of Western Australia. The Attorney General is responsible for providing consent to the transfer. Please note in Western Australia the Attorney General and Minister for Justice are separate persons.

Applications for transfer for trial purposes may be made by either the prisoner concerned or the Director of Public Prosecutions. The Department of Justice and the

Director of Public Prosecutions prepare reports and recommendations for the Attorney General. Again, it is practise that this should be finalised and a decision made within 3 months of any application being received.

In Western Australia the Department of Justice has a dedicated officer, the Manager of the Sentence Information Unit, who handles all interstate transfer applications. They are responsible for the co-ordination of all reports and once Ministerial consent is provided by both States they are responsible for the logistics of transfer.

Interstate Parole Transfers

a. Communication and agreement between authorities

The usual practice for inter-state transfer of Parolees was that a parole order would be registered in an inter-state jurisdiction after the parolee had been supervised by the relevant inter-state authority for sometime. The registration of the parole order is referred to as 'formal transfer' and the supervision prior to registration as 'informal transfer'.

In April 1999, an agreement regarding inter-state transfer of Parolees was reached between all States and Territories in which the following resolutions were adopted:

- As soon as it is established that a parolee has moved inter-state permanently, a formal transfer of parole order to the relevant State will be requested.
- The inter-state authority will respond promptly to the request but may allow a three month assessment of the suitability of the relocation if that is deemed necessary.
- In cases deemed to be high risk, the formal transfer process should be completed as soon as possible.
- The above principles are to be adhered to in order to assist all jurisdictions in meeting the requirements of the legislation and avoid some of the quite serious problems and confusion that have resulted as a consequence of two jurisdictions sharing responsibility for an individual parolee.

Recently, the Department has received written advice from several jurisdictions regarding changes in policy and procedure for inter-state transfer of Parolees. Tasmania, New South Wales, Queensland and South Australia have advised that they will no longer entertain informal transfer. The effect of this change in policy is that a Western Australian parolee applying to transfer to these jurisdictions must secure approval for registration before arrival. In addition, New South Wales will not accept transfer of parole for sex offenders.

b. Ministerial sign-off under the Acts and informal arrangements made between jurisdictions

The *Parole Orders (Transfer) Act 1984* (WA) provides for the Minister to direct the registration of an interstate parole order in Western Australia or request the registration of a Western Australian parole order in an interstate jurisdiction. Equivalent legislation was enacted concurrently by all the other jurisdictions. In

Western Australia, the Minister's delegated authority is the Director General of the Department of Justice.

At present, informal transfers continue to operate between Western Australia and two other jurisdictions, namely Northern Territory and Victoria. Approval for informal transfer to Western Australia is given by the General Manager Community Justice Services. Previously, formal transfer would commence after the parolee had resided in Western Australia for three months. Currently, proceedings for formal transfer will commence after a provisional period of one month for high risk/high profile parolees and three months for other parolees. This requirement applies to parolees transferring in or out of the State.

I trust the above information is of assistance to the Committee.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John D'Orazio', written in a cursive style.

JOHN D'ORAZIO MLA
MINISTER FOR JUSTICE

17 January 2006