



DEPARTMENT OF JUSTICE

Annual Report

Contract for the Provision of Court Security and Custodial Services



September 2003



DEPARTMENT OF J U S T I C E

**CONTRACT FOR THE PROVISION OF
COURT SECURITY AND CUSTODIAL SERVICES
THIRD SERVICE YEAR**

To the Hon Michelle Roberts
Minister for Justice

In accordance with section 45 of the *Court Security and Custodial Services Act 1999*, I hereby submit for your information and presentation to Parliament the Annual Report of the Court Security and Custodial Services Contract for the service year ending 30 July 2003.

The report provides an overview of services provided under the contract by Australian Integration Management Services Corporation (AIMS).

The report provides information which demonstrates the manner in which AIMS has performed in relation to the contract and the extent to which it has complied with the contract.

A handwritten signature in black ink, appearing to read "Alan Piper".

Alan Piper
Director General

30 September 2003

CONTENTS

From the Director General	2
Background	5
Contract operations	6
Court security	7
Court custody	8
Prisoner movement	10
Hospital escorts	11
The AIMS vehicle fleet	12
Staffing	13
Staff training	13
Operational performance	14
Performance measures and performance-linked fee	14
Customer satisfaction survey	15
Incidents	15
Death in custody	16
Escapes	16
AIMS management information systems	16
Monitoring and reviews	17
Contract compliance	17
Monitoring and audit program	17
Record keeping	18
Disability plans	18
Site manuals	18
Contract payments	19
The contract	19
Payments to the contractor	19
Escape dispute arbitration	21
Appendices	
Contract outcomes	22
Guiding principles	22

FROM THE DIRECTOR GENERAL

The management of the Court Security and Custodial Services (CS&CS) contract held by Australian Integration Management Services (AIMS) continues to present enormous challenges for the Department of Justice. There was a strong focus this year on driving efficiencies in a difficult cost-plus contract context.

The contractual difficulties, however, were overshadowed in May 2003 by the first death in custody. A man died while being transferred by AIMS from the East Perth lock-up to his court appearance at the Central Law Courts. This matter is subject to a coronial inquiry.

While relationships with the contractor have improved somewhat from a very low base and the services delivered under the CS&CS contract are *generally* meeting service level expectations, until recently, there had been little effort to drive efficiencies and the cost-plus contract structure means there is little incentive to do so.

AIMS could have earned \$757,893 in performance-link fees for the year, but will not be paid \$95,546 of this fee, and may lose another \$100,000 or more following the coronial inquiry into the death in custody and the resolution of other outstanding PLF issues.

Justice customers around the state express little enthusiasm for the levels of customer service and the contract still feels like an “add-on” rather than a true and integral part of the system.

The current contractual arrangements are an unacceptable framework in which to move forward and the State has invested considerable energy this year in exploring options that deliver better value for money.

In March 2003, the Department undertook a comprehensive review as the first step in identifying more effective, efficient and economical ways of delivering the service elements. This review, which showed the service could potentially be delivered for at least \$1.5 million less, will inform the Government’s decision on the possible renewal of the contract or a different way of delivering the service.

In the meantime, court security and custodial services have been included in the scope of work for the CBD Courts Project and, in August 2003, private sector organisations were invited to submit an expression of interest in the total project by 14 October 2003.

The Department’s review of the court security and custodial services was conducted in the context of the third successive year in which the contract has not met fully the Department’s objectives.

Costly and protracted arbitration last year confirmed a fee structure that does not represent best value for money and is difficult for the Department to manage in terms of price and value. This continues to overshadow any marginal improvements in the efficiency or the quality of service provided.

The need to engage in arbitration with the contractor and to fund a proportion of its Queensland headquarters did not foster the cooperative approach to the service envisaged in the contract.

This has been exacerbated during the year by a lack of engagement by senior AIMS management based in Brisbane.

During the year, the Department of Justice has sought to improve the relationship with AIMS and increase the level of contract monitoring and performance management in a bid to increase accountability.

While the level of trust in senior AIMS management, which continued to transfer operational risk to the Department and take little responsibility for service issues had deteriorated, there had been significant improvement in this area more recently as the service year drew to a close, with AIMS management adopting a more cooperative approach.

The recent appointment of a senior executive in Western Australia to oversee both the CS&CS contract and the Acacia Prison contract is welcome and has resulted in an improved service.

This year, the Department has also invested considerable resources in improving the contractor's efficiency, so that growth in the contract price is restrained. Specifically, the Department has helped develop the contractor's information management systems to allow detailed resource monitoring and management by the contractor. This should result in more efficient service delivery by enabling the contractor to identify the business costs related to each individual component of the service and then reconcile those costs with service level standards.

For the first time, the service was this year delivered within an agreed budget forecast, however, the review of CS&CS contract services mentioned earlier – and AIMS response – demonstrated the contract price was still too high.

The review also highlighted areas in which the Department could improve its management of the contract including taking tighter control of the resource drivers such as the number of trips made, and reviewing the resources required in court in the context of a risk-management approach to court security.



By year-end, the Department had started to shift its approach and the benefits should be demonstrated in the year ahead.

A handwritten signature in black ink that reads "Alan Piper".

Alan Piper
DIRECTOR GENERAL

BACKGROUND

Under the provisions of the *Court Security and Custodial Services Act 1999* (the Act), the Department of Justice entered into a five-year contract (with two three-year options) for the provision of court security and custodial services (CS&CS) with the Corrections Corporation of Australia (CCA) on 17 January 2000.

Subsequent to the execution of the contract, Sodexho Alliance, a French Corporation with a 50 per cent shareholding in CCA, acquired the 50 per cent share holding held by Corrections Corporation of America. In December 2000, CCA was renamed Australian Integration Management Services Corporation (AIMS).

The CSCS contract is executed pursuant to section 18 of the Act and the full contract was tabled in both Houses of Parliament in compliance with statutory requirements.

The intention of the contract is to create an improved, integrated service that releases police and justice staff from non-core activities of court security and prisoner transport.

The contract requires the contractor to provide in-court security and court custody services in all metropolitan courts and seven regional courts – Broome, South Hedland, Carnarvon, Geraldton, Kalgoorlie, Bunbury and Albany. The contract also includes adult offender transport throughout the State and juvenile offender transport in the metropolitan area.

The contracted services are provided by a separate Court Security and Custodial Services (CS&CS) business unit established by AIMS. AIMS is also contracted by the Department to operate Acacia Prison.

The Department of Justice's CS&CS Contracts Management branch, Custodial Contracts directorate, Prisons division manages the contract. Responsibility for day-to-day operational management issues may be delegated to other departmental officers as required.

In taking responsibility for the quality management of the service, the Department's contract management team and the directorate's monitoring team undertakes formal monitoring and auditing of the service and monitoring of the AIMS operational management information systems.

The contract outcomes and guiding principles are included as appendices to this report.

CONTRACT OPERATIONS

The service

For the first time this year, the CS&CS contract operated within an agreed budget and at agreed service levels.

While the service delivered was generally satisfactory, the difficulties in contract management related to driving efficiencies in the context of a cost-plus contract structure, confirmed following a protracted arbitration process last year.

AIMS continued to show little enthusiasm for achieving efficiencies, maintaining a method of operation that involved increasing resources without accepting the risk, transferring costs instead to the Department.

To help drive efficiencies, the Department funded AIMS to develop human resources and vehicle management information systems, which should properly have been developed in the first year of this contract.

Table 1 shows the services provided in court security and custody, people in custody transported and road kilometres covered. Hospital sit hours for year three are included in the court security and custody hours figure.

Table 1. Service dimension

	Year 1	Year 2	Year 3
Court security and court custody hours	293,720	271,513	299,031
Prisoner movement hours	137,741	126,037	122,950
Total service delivery hours	431,461	397,550	421,981
Prisoners in custody transported	43,149	58,641	54,650
Road kilometres	2,205,310	1,991,159	1,890,673

Notes:

1.Data for August, September and October 2000 was not collected because AIMS did not have the appropriate systems in place.

3.Year two does not include hospital sit hours.

Court security

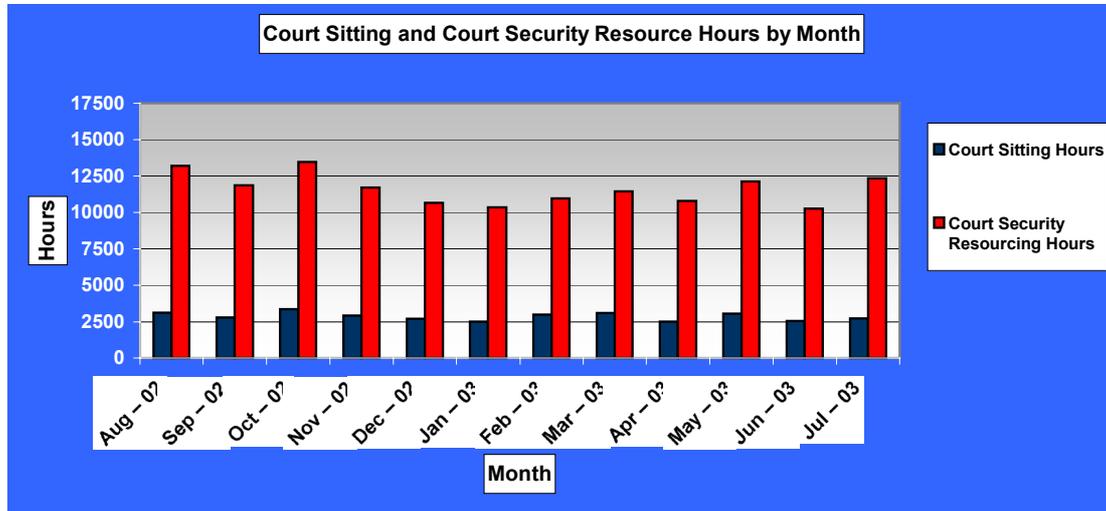
Court security includes the provision of court orderlies in lower courts, gallery guards in superior courts and the provision of perimeter security to the external premises and internal public areas of a court.

Table 2 shows the total hours during which courts sitting in the criminal jurisdiction are presided over by a judicial officer, as recorded by courts. The court security resourcing hours are the staff hours provided by AIMS to the courts for the purpose of court security. The ratios shown are provided to demonstrate the extent to which there is correlation between staff hours and court sitting hours. A lower ratio value may indicate improved service efficiency, however ratios can be distorted by demand for increased staff during high-risk and long-running trials.

Table 2. Court sitting hours and resourcing hours by month: August 2002 – July 2003

Month	Court sitting hours 2001/02	Court sitting hours 2002/03	Court security resourcing hours 2001/02	Court security resourcing hours 2002/03	Ratio of resourcing hours to sitting hours 2001/02	Ratio of resourcing hours to sitting hours 2002/03
Aug	3305	3114	13108	13197	3.97	4.24
Sep	2891	2783	11588	11864	4.01	4.26
Oct	3269	3373	12328	13468	3.77	3.99
Nov	3343	2921	11938	11729	3.57	4.02
Dec	2525	2699	10718	10659	4.24	3.95
Jan	2465	2516	11626	10348	4.72	4.11
Feb	3113	2987	11932	10953	3.83	3.67
Mar	2789	3092	10960	11448	3.93	3.70
Apr	2906	2503	11046	10792	3.81	4.28
May	3754	3055	13073	12120	3.48	3.97
Jun	2822	2552	11308	10269	4.00	4.02
Jul	2933	2733	13001	12352	4.43	4.52

Note: Court sitting hours are derived from court records, while court security resourcing hours are provided from AIMS data (Source: Monthly Contractor Operational Report – July 2003).



Court custody

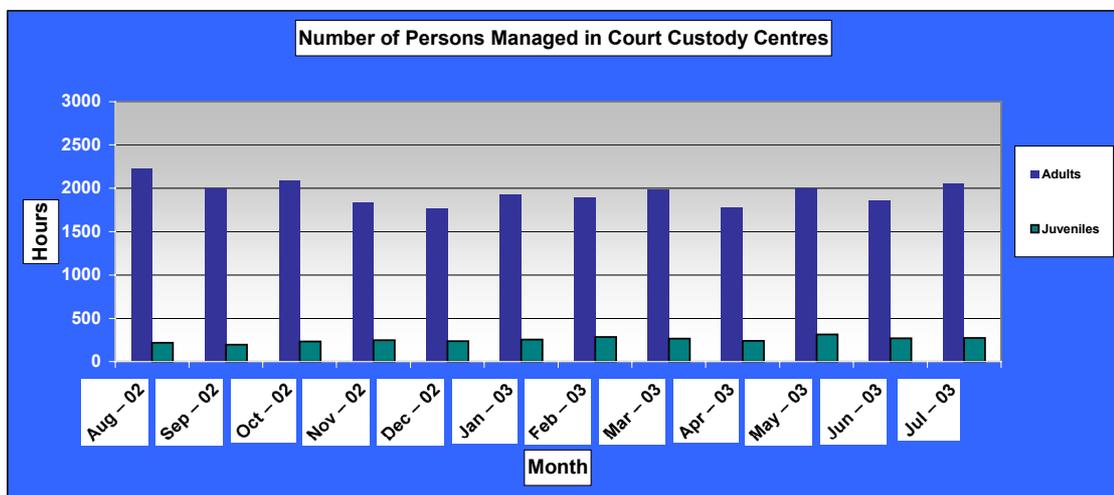
Court custody includes the deployment of dock guards in both higher and lower courts and the management of court custody centres attached to courts.

Table 3 shows the total number of defendants managed in all court custody centres in the State by adult or juvenile status. It is noted that correlation of defendant numbers in custody with service delivery (staffing hours) does not necessarily provide a useful efficiency measure. Court custody service delivery hours are directly influenced by the order of court listings and by the static nature of some custodial functions required in court custody centres, determined by safety and security requirements.

Table 3. People managed in court custody centres and resourcing hours by month: August 2002 – July 2003

Month	Number of people managed in court custody centres					Court custody resourcing hours		
	Adults 2001/02	Adults 2002/03	Juveniles 2001/02	Juveniles 2002/03	Total 2001/02	Total 2002/03	2001/02	2002/03
Aug	2530	2231	278	216	2808	2447	12151	11956
Sep	2129	1996	257	198	2386	2194	9750	10254
Oct	2364	2087	246	235	2610	2322	10970	11840
Nov	2392	1837	311	248	2703	2085	10771	10943
Dec	1920	1760	272	236	2192	1996	9274	9265
Jan	2114	1926	294	254	2408	2180	10525	10124
Feb	2434	1897	277	286	2711	2183	10594	11049
Mar	2273	1986	235	268	2508	2254	10157	10287
Apr	2205	1777	218	242	2423	2019	10397	10308
May	2378	1999	280	313	2658	2312	12340	10964
Jun	1842	1858	194	269	2036	2127	10283	10731
Jul	2174	2053	247	274	2421	2327	11675	11526

Note: Court custody resourcing hours are provided from AIMS data (Source: Monthly Contractor Operational Report – July 2003).



Prisoner movement

Prisoner movement includes the transport of adult prisoners and juvenile detainees (after the initial court disposition) to and from all prisons, detention centres and courts, in all areas of the State but excludes the regional transport of juvenile detainees. In addition, adult prisoners and juvenile detainees removed from a custodial facility for the purposes of medical treatment (including Graylands Hospital), attendance at funerals or visits to close relatives who are ill, also form part of the services.

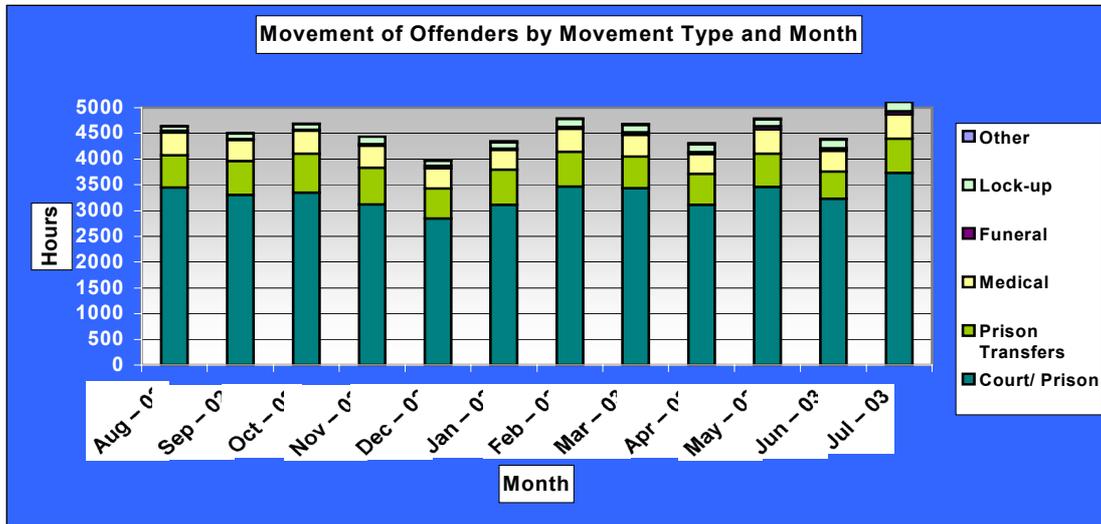
Prisoner movement includes the clearance of remand and sentenced prisoners from Western Australia Police Service lock-ups in regional and remote locations serviced by AIMS. Management of demand for AIMS' services requires constant monitoring by the Department of Justice.

Table 4. Prisoner movements, kilometres travelled and resourcing hours: Type of movement by month: August 2002 – July 2003

Month	Movements							Kms	Resourcing hours
	Court /Prison	Prison Transfers	Medical Appt ¹	Funeral Escorts	Lock-up	Other	Total		
Aug 02	3450	625	438	35	86	2	4636	168877	11004
Sep 02	3309	656	408	17	109	4	4503	157038	9898
Oct 02	3349	758	443	18	116	4	4688	176713	11789
Nov 02	3118	709	432	35	136	4	4434	144582	10113
Dec 02	2847	582	388	52	101	5	3975	139041	8943
Jan 03	3113	678	390	21	117	23	4342	164867	10146
Feb 03	3466	674	451	33	152	10	4786	154552	10933
Mar 03	3439	613	416	54	138	16	4676	144777	9894
Apr 03	3116	596	385	36	152	24	4309	157023	9473
May 03	3462	640	474	60	128	17	4781	157136	10734
Jun 03	3233	524	405	46	173	11	4392	148387	9527
Jul 03	3738	661	468	65	175	21	5128	177680	10494

Notes:

1. Medical appointments include transfers to hospitals for the purpose of admission.
2. Resourcing hours are provided from AIMS data
(Source: *Monthly Contractor Operational Report – July 2003*).

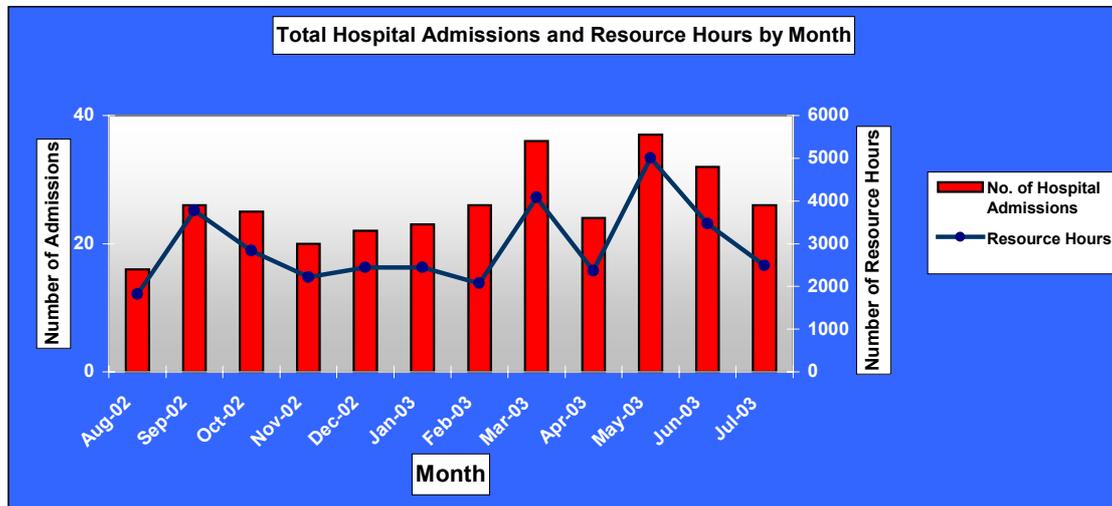


Hospital escorts

The contract requires AIMS to provide hospital guards in all circumstances where a prisoner or juvenile detainee is admitted to a public hospital from a prison or detention centre. The length of hospital-stay and security rating of the people in custody influence the total resource hours involved.

Table 5. Number of hospital admissions, resourcing hours by month and average number of resourcing hours per incident of admission

Month	No. of hospital admissions 2001/2002	No of hospital admissions 2002/03	Resourcing hours 2001/2002	Resourcing hours 2002/2003	Average resourcing hours per admission 2001/2002	Average resourcing hours per admission 2002/03
Aug	67	16	2901	1817	43	114
Sep	62	26	2502	3780	40	145
Oct	70	25	3177	2837	45	113
Nov	63	20	2810	2220	45	111
Dec	45	22	3072	2445	68	111
Jan	35	23	1350	2442	39	106
Feb	34	26	1986	2071	58	80
Mar	38	36	1618	4084	43	113
Apr	37	24	3550	2369	96	99
May	27	37	2389	5007	88	135
Jun	22	32	3456	3467	157	108
Jul	20	26	1099	2489	55	96



Note: Resourcing hours are provided from AIMS data (Source: *Monthly Contractor Operational Report*).

The AIMS vehicle fleet

At year-end, AIMS operated a fleet of 39 operational escort vehicles based at nine service locations around the State.

The Inspector of Custodial Services’ report on adult prisoner transport services last year highlighted that the quality of service provided for people in custody during long-haul transit was sub-standard.

To address this matter, the Department has funded a program to upgrade inter-prison vehicles that was started during the year. The upgrading will continue in the year ahead and involves:

- Improving seating
- Fixing toilets
- Providing fridges in cabs of the vehicles for storage of lunches
- Installing hatches in doors to facilitate the provision of meals, medication etc.

These modifications will ensure improvements in the safety and wellbeing of the people in custody during their movement from facility to facility.

The Inspector of Custodial Services started another inspection of services in May 2003 and will report in the year ahead.

The challenge for the Department is to address the future of the secure vehicle fleet. In the year ahead, the Department will explore options for upgrading the fleet and what features and benefits the replacement fleet might include.

Staffing

At 30 July 2003, AIMS employed 264 permanent, permanent flexi-time and casual staff to deliver and support the contract services. Of these 62 were staff based in regional areas.

Limited staff numbers, particularly in the regions, are an ongoing pressure on service delivery and must be managed carefully by AIMS. The peaks and troughs of service demand, routine workforce management requirements and training all place demands on local supervisors and the coordinators, and often lead to uneconomic officer down-time or overtime payments. The contract management team monitors overtime payments to ensure cost effectiveness of staffing arrangements throughout the State.

During the year, the Department funded an expansion of the management information systems to cover human resources and vehicle management. These improvements mean the systems provide optimum vehicle scheduling and better visibility of resource attribution, facilitating improved management in this area. AIMS should properly have had this level of management information systems operating much earlier in the CS&CS contract period.

Staff training

During the year, one metropolitan entry-level training program was conducted by AIMS, with a total of 37 officers qualifying. A high staff attrition rate is still one of the most significant issues for AIMS.

AIMS has also further responded to the 2001 review of operations which called for better staff training and improved procedures by developing a series of training “grabs” which can be delivered in short bursts of time as the opportunities arise.

AIMS has also committed to 40 hours of training per year for every employee and more for supervisors in the year ahead. Staff training includes verbal judo, training grabs, CPR, senior first aid, the use of force, and soft-hand techniques. Training for supervisors in the Department’s Total Offender Management System (TOMS) will start in the year ahead.

Monitoring during the year showed that communication and interpersonal skills training modules introduced in response to the 2001 review had contributed to improved staff attitudes and service levels.

OPERATIONAL PERFORMANCE

This courts security and custodial services contract was designed to deliver significant benefits including improved accountability and transparency. While the contract has produced some other benefits as intended, it has failed to deliver on these important improvements in accountability and transparency. The introduction of the expanded management information systems (MIS) will provide demonstrable improvements in accountability and transparency.

The performance link fee (PLF) is an incentive for AIMS to improve in the key operational areas measured under the contract, however, the effect of this has been substantially reduced due to the cost-plus nature of the contract, resulting from last year's arbitration.

Performance measures and performance-link fee

Table 6 shows AIMS' performance in each of the fee-link areas compared with the annual service standard and previous service years.

Table 6. Performance measures

Performance measure	1 st year PLF	2 nd year PLF	3 rd year PLF	Annual service standard
Death in custody	0	0	0 (1)	0
Escape	6	2	4 (1)	2
Self-harm	0	1	0	0
Assault upon a judicial officer	0	0	0	1
Loss of control	1	0	0	1
Unlawful release	5	2	4	0
Failure to accurately report contractually required information	3	1	0 (1)	2
Assault on a member of the public	0	0	0	2
Assault on client agency staff	1	0	0	2

Assault on a person in custody	2	0	0	1
Breach of legislation	0	2	0	4
Breach of a service requirement	37	4	3 (2)	5
Disruption to court proceedings	1	0	1	1
Traffic accident	0	0	0	1
Assault on a person in custody by a person in custody	0	0	0	1
Substantiated complaint	3	2	2	10
Untimely prisoner movements	171	75	46	900
Inappropriate use of powers	0	0	0	1
Loss of property of a person in custody	2	0	1	1

Note: Figures in brackets are pending finalisation.

Customer satisfaction survey

Each contract year, 10% of the performance-linked fee relies upon AIMS achieving a minimum level of customer satisfaction that should be measured by a customer satisfaction survey. The contract requires an agreed survey methodology but the Department and AIMS have not achieved agreement on this issue. The Department, however, has nonetheless engaged a consultant to undertake a customer/client agency satisfaction survey in September 2003.

INCIDENTS

Incident reporting

The contract makes provision for reporting of “critical” and “reportable” incidents. These reports are provided in hard copy form by AIMS. All critical incidents are to be reported initially by telephone within an hour and followed up with an interim report.

The Department’s incident reporting database also supports the PLF measurement system. This database provides the Department with ready access to information on incidents. Table seven following shows aggregated data on incidents since the commencement of the contract.

The increase in incident reporting figures reflect better reporting of incidents rather than a significant reduction in performance. The incidents are spread across 23 different categories ranging from untimely prisoner movements to assaults and breaches of contract. Untimely prisoner movements make up 40% of the incidents reported. Significant changes in behaviour (8%) and assaults (6%) were the next most commonly reported incidents.

Table 7. Incidents reported

	Year 1	Year 2	Year 3
Incidents reported	254	313	449

Death in custody

The year was marred by a death in an AIMS vehicle transporting a person in custody from Perth Watch House to the Perth Central Law Courts on 6 May 2003. The escort vehicle departed the East Perth lock-up for the short trip to the courts and, on arrival at the Central Law Courts, the person in custody was found dead in the rear of the vehicle. The Department and Police have investigated the death and will report to the Coronial Inquiry.

Escapes

Table 8. Actual escapes by date and location

Escapes from custody	
6 August 2002	Two at Narrogin
14 March 2003	Two at Armadale

There is no impact on performance-linked fee earnings for the first two escapes occurring during any one service year. Only the Armadale escapes will impact on the performance-linked fee.

These escapes bring the total escapes in the first three service years to 14, compared to 25 in the three years prior to AIMS taking up the contract.

AIMS management information systems (MIS)

The lack of systems to monitor demand and plan resource usage has been a significant hindrance to improvement in the performance.

The Department's contract management team has on-line access to AIMS' operational management information systems (MIS). This means they can access offender

management information, offender tasking, service delivery hours, court sitting times, vehicle scheduling and staff time-sheets and gauge how effectively and efficiently AIMS is using its resources.

In addition to budget management activities, the data is useful in comparing and monitoring client agency reports of actual activity with the activity recorded by AIMS.

At year-end, AIMS was in the process of enhancing its management tools by introducing human resource management and transport management information systems which will provide real time, on-line information on staff activity and location, vehicle movements, passengers, distances travelled, speed and a range of other relevant measures.

MONITORING AND REVIEWS

The Department of Justice is acutely aware that it bears all financial risks under the CS&CS contract arrangements and believes the services can be provided at a significantly lower total cost than is currently being achieved.

The Department has, therefore, undertaken service reviews and investigated options for improving the efficiency of the service.

The Government's State public sector recommended that the services provided by AIMS be taken over under contract by the WA Police Service. However, following a review by the Department of Justice and the WA Police Service, Government did not endorse this recommendation and instructed the Department of Justice and the Police Service to undertake a full review of the service and alternate delivery models.

The Department of Justice and Police have now finalised the review of services under the Court Security and Custodial Services Contract. Business cases were finalised following extensive consultation and analysis. They indicate the cost of the services could be reduced by at least \$1.5 million, by reducing overheads without reducing service delivery. The review and the business cases developed will inform the Government's decision on the possible renewal of the contract or a different way of delivering the service.

Contract compliance

Contract compliance is now subject to formal monthly monitoring of the contract compliance schedule, supported by improved data collection and information systems.

Monitoring and audit program

The Department also operates a program of functional and site audits under its *Court Security and Custodial Services Contract Audit Framework* to ensure the CS&CS contract requirements of demonstrated transparency, dedicated contract management, full

access to information and data, specified performance measures, incentives for good performance, rigorous audit provisions and statutory reporting are met.

The monitoring of AIMS processes and procedures during the year included:

- 1666 programmed tests
- 23 process audits
- 18 site visits including all regional sites.

While the level of service from most regional staff was of a high standard, the audits conducted across AIMS' regional sites during the year revealed shortcomings in administrative areas which are not expected to be reflected in its metropolitan sites.

These included:

- Inconsistent and poor record keeping
- Lack of site-specific orders
- Lack of senior management support
- Operational procedures and company directives not current

The monitoring program tests AIMS' processes, however, in the year ahead, the Department will expand its focus to align the monitoring program more closely with the performance measures detailed in the contract.

AIMS has acted on the most significant issues identified by the Department during the year and they will continue to be carefully monitored in the year ahead.

Record keeping

There has been a lack of consistent record keeping across sites, particularly in the areas of searching and recording occurrences. AIMS has addressed this issue across all sites and this matter will continue to be monitored in the regular site audit reports received from AIMS.

Disability plans

During the year, AIMS has made a disability plan accessible to all staff in printed and electronic forms. The lack of a functioning disability plan at all sites had been a concern.

Site manuals

Site manuals detail the specific work routines of sites and are necessary to take into account the variety of workplace-specific routines that constitute the services. They allow AIMS staff to quickly assimilate the client agencies requirements and the duties of staff at each site.

Many sites still lack up to date site manuals, despite repeated requests by the contract management team and a previous agreement between both parties regarding content and layout. These site manuals should have been developed at the start of the contract period.

This subject will continue to be monitored during audits to ensure outstanding site manuals are completed and kept up to date.

CONTRACT PAYMENTS

The contract

The contract is a “cost-plus” contract, which provides that the contractor operates the service and the Department remunerates the contractor by payment of:

1. All of the direct and indirect costs actually and reasonably incurred
2. The contractor’s margin (1.5% of (1) above)
3. The performance-linked fee (up to 4.5% of (1) above).

The contract is performance-based with 4.5% of total contract price allocated on the basis of the contractor’s performance measured against the 19 performance indicators listed in Table 6.

The percentage of the performance-linked fee (PLF) payments attributed to each performance measure is relative to the risk associated with non-performance, the perceived impact on the services and the reputation of the parties. Other than for deaths in custody and escapes, a percentage of the PLF is reduced in respect of each service breach, up to a capped percentage. There is no cap on PLF for deaths in custody or escapes.

Payments to the contractor

The budgeted cost of the CS&CS contract for the third service year was \$17,852,587, however, the final figure will take into account a reduction in the performance-link fee (PLF) of \$95,546 and a possible further reduction of \$100,000 or more in the PLF following the coronial inquiry into the May 2003 death in custody and the resolution of other outstanding PLF issues.

As detailed earlier in this report, the cost of this contract – and the Department’s inability to leverage efficiencies resulting from the cost-plus structure – is of serious concern and options for a more efficient service that delivers better value for money are under review.

The contract price for the first year of operation was \$11,725,485. There were variations in the contract for the first year following an analysis of the actual contract services and additional services being delivered by AIMS, and projections of their forward demand. The variation added \$4,149,900 to the first year contract cost and, with the addition of the contractor's margin and the performance-linked fee, the final cost for the first year was \$16,170,010.

The total cost of the contract in the second service year was \$17,409,990.

During the period of the contract, AIMS has consistently failed to meet the contract service standard required to receive the maximum performance-linked fee (PLF). In the first and second years of service, AIMS received 79% and 86% of the available PLF.

In the first half of the third service year, 91% of the PLF was payable. However, this will be significantly reduced because of the escapes, the death in custody and other performance standards that were not achieved in the second half of the year.

While AIMS' total PLF payments for the three service years of the contract could have been as high as \$2,317,088 following reconciliation of the third year's PLF payment, the failure to achieve service standards has resulted in total PLF payments of no more than \$1,831,940.

Table 8 summarises the payments made to AIMS under the CS&CS contract.

Table 8. Payments to AIMS

Service year	Budget (cost of service)	Contractor margin (1.5%)	PLF paid	Total (contract price)	Remarks
First year price			495,270	11,725,485	
April 01 variation				4,149,900 ¹	
Invoice dispute settlement				181,818 187,807	30 Jun 02 11 Jul 02
Return from escapes dispute				-75,000	
First year total				16,170,010	
Second year budget	17,424,410	261,366	674,324	18,360,100	
Reconciliation of actuals against costs	-950,110				
Second year total				17,409,990	
Third service year (to be reduced on reconciliation of the PLF)	16,842,063	252,631	757,893 ²	17,852,587³	Pending PLF reconciliation

Notes:

1. *The contract price for the first year of operation was \$11,725,485. The variation in the contract price for the first service year was a result of an analysis of the actual contract services and additional services being delivered by AIMS and projections of their forward demand. Agreement was reached between the parties that AIMS would continue to provide the actual demand and additional services provided since the start of the contract in August 2000. The variation added \$4,149,900 to the first service year contract cost.*
2. *Maximum PLF payment available, however this figure will be reduced following determinations on incidents and subsequent reconciliation of the PLF.*
3. *Maximum cost of third service year. This figure will be reduced following the reconciliation of the PLF.*

Escape dispute arbitration

Negotiations over the first service year escapes dispute continue, with a range of issues being close to satisfactory resolution and agreement between the parties at year-end.

These include:

- Development of a protocol for close consultation before any statements concerning incidents are made or before the State issues any notice under the contract about such incident;
- The introduction of two escape categories for “secure” and “non-secure” people in custody, with non-secure escapes being termed abscondments and a range of consequential amendments which follow from the new categories;
- Amendment to the contract termination provisions; and
- Variation to PLF measures.

APPENDICES

CONTRACT OUTCOMES

The outcomes to be realised by the CS&CS contract are:

- a. Specified levels of safety and security of the public, person in custody, judicial officers, staff, court premises and custodial places involved in the provision of the services are assured;
- b. Appropriate duty of care is applied for all categories of persons in custody;
- c. Service efficiency and effectiveness is improved for the overall service delivery including interfacing components provided by the Western Australian Police Service and the Department of Justice as measured against previously agreed performance measures;
- d. Appropriate use of powers and compliance with client direction by the contractor;
- e. The contractor complies with the terms and conditions of the contract;
- f. The contractor provides ongoing improvement to the services based on strategic service planning;
- g. Minimal risk of disruption to the judicial process; and
- h. Minimal risk of damage to state facilities and the property of a person within custodial places.

Guiding principles

In its *Request for Proposal* the State gave unequivocal expression to the view that the power to detain people in lawful custody must be exercised properly, responsibly and in accordance with the relevant legislative provisions. It stated furthermore that the State's decision to outsource justice-related functions to a private provider did not diminish the State's responsibility to ensure that services were delivered in a compliant manner for which the State remains accountable.

In managing the contract, the Department seeks to fully satisfy its duty of care obligations to people in custody and to maintain community confidence in the delivery of the services. Accordingly, the following guiding principles apply to the operation of court custody centres:

-
- a. All defendants are entitled to presumption of innocence;
 - b. An obligation exists to ensure a duty of care to all persons in custody;
 - c. Provision is to be made to accommodate the needs of people from diverse cultural backgrounds;
 - d. Provision is to be made for persons with special needs;
 - e. The human dignity, privacy, care and well being of every person is to be safeguarded; and
 - f. People in custody are entitled to be detained in a safe and secure environment.

Major benefits arising from the take-up of the contract were to include:

- a. The release of police officers, prison officers and juvenile group workers to other duties, making better use of their training. This is of particular benefit in regional areas, where resources are limited;
- b. The creation of new private sector jobs, approximately 70 of which are in regional areas;
- c. Significantly improved security and safety in courts; and
- d. Improved accountability and transparency in the delivery of court security and custodial services, and prisoner transport services.