



Uniting Church in Australia

Western Australia

Submission to the Economic Regulation Authority

Inquiry into the efficiency and performance of Western Australian prisons

December 2014

Contact:

Rosemary Hudson Miller

Associate General Secretary (Justice & Mission)

Uniting Church in Australia, Synod of Western Australia

Address: GPO Box M952, PERTH WA 6843

Phone: (08) 9260 9800

Fax: 9328 2731

Email: rosemary.miller@wa.uca.org.au

Introduction

The Uniting Church in Australia, Synod of Western Australia welcomes the opportunity to make a submission to the inquiry into the “efficiency and performance of Western Australian prisons”.

The Uniting Church, both through the actions and resolutions of the Western Australian Synod and through the research, actions and resolutions of its Social Justice Board, have been engaged in matters relating to the criminal justice system for many years.

In 1977 at the inauguration of the Uniting Church in Australia, in its *Statement to the Nation*, the Church identified as principles: integrity in public life, proclamation of truth and justice, right for each citizen to participate in decision making, religious liberty, and personal dignity. The Uniting Church pledged itself to seek correction of injustices, to work for the eradication of poverty and racism, and opposed all forms of discrimination which infringe on basic human rights.

In 1997 the Uniting Church reaffirmed this commitment in another *Statement to the Nation* - “to participate in the building of our nation” expressed in many attributes including truth, fair play, diversity and standing firm to our commitment to “human rights, even at cost to itself, as a responsible member of the international community.”

The preceding forms part of the basis on which the Uniting Church has consistently advocated for human rights in Australia and overseas. In this submission we seek to again raise issues of great concern to the Church.

The Uniting Church takes seriously the need to provide services to the most vulnerable in our society and maintains a commitment to social justice by continuing its work as a justice advocate and community service provider. Within the prison justice system, the Uniting Church, through its prison chaplains and agencies, provides chaplaincy services, post-release support and has undertaken research projects. These have informed our work and advocacy in this area.

The Uniting Church has brought considerable resources and developed a depth of expertise in this area over the last decade. In 2000 the Western Australian Association of Heads of Churches held a conference titled *Prison – the last Option: New Directions for the Millennium*. The Uniting Church was a key member of this conference. It is tragic to note that the one resolution and recommendation from this conference over 10 years ago — which is at the heart of the matters relating to the death in custody of Mr Ward¹ — recommends “that the WA Sentencing Act be modified so that prison is always a last resort”.

The Uniting Church is also an active member of the Community Justice Coalition, a coalition of community organisations ‘all of whom hold concerns about the way prisons and justice are being managed in the state of Western Australia’. The Community Justice Coalition ‘are collectively concerned about the ongoing focus of politicians on the punitive side of the ‘law and order agenda’, and while we understand that prisons have a role to play in contributing to a safe WA community,

¹ Uniting Church in Australia, Western Australia (2010) *Moderator Calls for Justice for Mr Ward*. Retrieved from: <http://www.wa.uca.org.au/blog/moderator-calls-for-justice-for-mr-ward/>

we believe that prisons need to be used as just one part of a broader range of methods to address criminal behaviour'.²

Regarding the Term of Reference of this inquiry, the Uniting Church in Australia, Synod of Western Australia submits the following. We have responded only to the areas of the terms of reference where we have had the most involvement and research:

Proposed analytical approach

Do you consider the conceptual approach outlined by the ERA for conducting this Inquiry to be appropriate? If not, why not?

The Uniting Church in Western Australia commends the ERA for undertaking this Inquiry and broadly affirms the conceptual approach outlined by the ERA which prioritises a principles-based methodology. However, principles can be valued in different ways. We are wary that some underlying assumptions of the ERA may skew the value applied to certain principles. In particular, there appears to be an assumption that prisons are themselves always necessary for obtaining the outcomes and efficiencies desired when we would suggest that studies have shown around the world, that preventative measures and alternatives to prison may actually provide better options. To review the prison system in isolation will limit the possible positive outcomes that a more integrated approach could yield.

Objectives of the prison system

Do you agree that incapacitation, deterrence, rehabilitation and retribution are the objectives of the prison system? Are there other objectives that the ERA has not identified?

The Uniting Church in Western Australia does believe that incapacitation and rehabilitation are key objectives of the prison system but has serious concerns about identifying deterrence and retribution as objectives of the prison system.

While deterring people from committing crime is an important role of the justice system more broadly and theUCAWA would strongly advocate for various preventative measures including justice reinvestment strategies, we have a strong objection to linking deterrence to the operation of prisons. Deterrence may be an indirect outcome of the prison system but we do not see it as helpful to prioritise this as a key objective. There is sufficient deterrence inherent in the incarceration model and to prioritise it further can lead to ever harsher prison conditions and sentences that may serve to undermine the rehabilitation component of prison objectives and thus the effectiveness and efficiency of the system. Retribution cannot be a formal objective of the prison system if that system is to be consistently facilitating effective rehabilitation. While victims of crime and members of the public may interpret prison sentences as some form of retribution, the state should lead the public on understanding the effectiveness of the justice system to make for a safe community. While it is understood that justice will require a punishment to be proportionate to the crime committed, there is a danger that this will be corrupted by public outcry of notorious cases. This

² Community Justice Coalition Paper (2012), Produced by CPSU/CSA, Perth. Retrieved from: http://buildcommunitiesnotprisons.org.au/?attachment_id=313

may in turn lead to ever harsher prison conditions and sentences, thus undermining the rehabilitation component of prison objectives and therefore effectiveness and efficiency. We note that as the ERA's issues paper identifies, retribution has no concern about reducing crime.

The UCAWA sees a broad interpretation of rehabilitation to be a primary goal of the justice system. , Rehabilitation is clearly the point of greatest priority on which the prison system should focus, in order to reduce incarceration and recidivism rates. This cannot be achieved in isolation from broader justice system initiatives, however, and requires an innovative and multifaceted approach.

Which objectives can prison operators be held accountable for achieving?

The UCAWA agrees that prison operators can only be held accountable for incapacitation and rehabilitation objectives but argues that some responsibility lies with prison operators for post-release behaviour. While the individual has primary responsibility in this regard, the quest to reduce recidivism necessitates that integrated post-release programs be closely linked to prison rehabilitation programs. To split the task of rehabilitation into separate spheres fails to recognise the underlying drivers of crime and the importance of a holistic, integrated approach, with mutually reinforcing feedback mechanisms.

Efficiency and effectiveness in the context of the prison system

Should some objectives of the prison system be given greater weighting than others? If so, what should the relative weightings be for each objective? What is the reasoning supporting these weightings?

UCAWA suggests that priority should be given to rehabilitation objectives, for the reasons outlined above. Rehabilitation will reduce the need for the state to spend more money building ever larger prisons, filled with people who have not been effectively rehabilitated on their first presentation.

Are the principles outlined by the ERA for designing performance frameworks and performance benchmarks appropriate? Why or why not?

A key concern that the UCAWA has with the ERA's performance frameworks is in the use of 'cost per prisoner per day' as the underlying measurement of efficiency. If prison operators perform to this rubric it could will effectively encourage operators of private prisons to resort to overcrowding or other reduction of programs and conditions in prison, since the greater the number of prisoners per prison, the less it will cost per prisoner per day.

UCAWA believes that the prison system in WA should select benchmarks that encourage excellence in the prison system.

Conclusion

The Uniting Church thanks the Economic Regulation Authority for its consideration of the matters raised above and would be glad, through its officers, to clarify or answer any further questions the committee may have.