



INQUIRY INTO THE EFFICIENCY AND PERFORMANCE OF WESTERN AUSTRALIAN PRISONS

Discussion Paper

RESPONSE AND COMMENTS FROM BAPTISTCARE INC.

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1. INTRODUCTION TO BAPTISTCARE INC

Baptistcare is a faith based community benefit organisation working to provide care and support services across the aged care, disability and mental health sectors.

Our quality care is provided by over 1700 skilled and professional employees and more than 250 volunteers who are all dedicated to transforming and enriching the lives of the people we care for. We operate in regional, rural and metropolitan Perth.

Baptistcare's vision is for people who come into contact with us, to begin to see changes in their lives. We long to see people's lives enriched and made more satisfying, but even more, we see the potential for transformation from hopelessness to hope, from fear to confidence, from loneliness to community and from sadness to joy. Providing a personalised approach is at the core of how we operate. We know everyone is different, which is why it's important for us to get to know you.

Our Vision applies as much to our staff, volunteers and supporters, as it does to those we serve, so our goal is to work together to achieve this goal.

2. FOCUS OF THIS SUBMISSION

Baptistcare's focus in this response is on the human rights issues inherent in the Western Australian prison system. It is our view prison should be the place of last resort and rehabilitation should be the focus of activities for all prisoners while incarcerated. The reasons behind our high incarceration rate, the policies which have created this problem and strategies to address this need also to be examined.

The anecdotal evidence surrounding overcrowding of our prison system and the mismatch of prison types with sentencing is of critical concern to Baptistcare. The ERA report has identified there is a significant shortfall in the provision of rehabilitation services; and in health and wellness activities for prisoners. As we know, both anecdotally and empirically, mental health issues are extraordinarily prevalent in our prison system, with mental health patients indefinitely imprisoned without trial, and the mental health services provided not by the Health Department but by a haphazard arrangement which might vary from prison to prison and is, in any case, woefully inadequate (ERA Discussion Paper, P 12).

While the terms of reference for the inquiry are directed towards developing benchmarks for improving a system which is clearly failing, the first question which needs to be considered is why people are going to prison in unprecedented numbers, what implications this has for the future of our prison system and how we can address and redress the problems caused by our incarceration habit.

3. INCARCERATION

With a government policy of imprisonment, the area on which the document and the terms of reference, is silent is the incarceration rate within WA Prisons. Using prison for fine defaulters is a false economy. With 1,127 fine defaulters reported to have been incarcerated in 2013-14 (*West Australian*, January 13, 2015) for an average of 4.3 days, at a cost of \$351 per day, equates to a cost of around \$1.7 million to incarcerate fine defaulters in 2013-14.

Incarceration of juveniles is equally concerning.

As the Inspector of Custodial Services, in his 2013-14 Annual report states:

Western Australia continues to have the highest level of juvenile incarceration in Australia outside the Northern Territory, and by far the highest rate of Aboriginal juvenile detention in the whole country. Aboriginal children continue to comprise 70 to 75 per cent of the total detention centre population. The younger the child, the more likely it is that he or she will be Aboriginal. Over a third of detainees, including some very young children, come from regional Western Australia and are disconnected from family and culture when in Perth.

The Discussion Paper recognises high utilisation rates and a rapidly increasing prison population, as being a significant issue in the prison system which contributes to some of the problems, including inadequate programs delivered to prisoners. (P 5 of the Discussion Paper) With 271 prisoners per 100,000 adult population, compared to 190 per 100,000 for the national average, Western Australia has the highest rate of imprisonment after the Northern Territory, (ABS [Corrective Services, Australia, December Quarter 2014 \(cat. no 4512.0\)](#))

The Discussion Paper fails to address why Western Australia has an exceptionally high incarceration rate. Is it because we are an essentially lawless society, or one with an onerously punitive system of punishment? Is our Police Force significantly more effective at finding criminals than any other state or is it a judicial system directed to hand out harsh penalties for a wider range of offences than elsewhere in the Commonwealth? While the Discussion Paper notes the Western Australian incarceration rate is unacceptably high, it also notes South Australia appears to be having greater success in reducing the recidivism rate but has not explored the reasons behind this, which could be as simple as a different court environment. Elsewhere in the world, recidivism and imprisonment rates have been reducing, most notably in the Nordic states where prisons have actually been closed rather than new prisons opened. There are potentially lessons to be learned from these countries which have a combined population similar to Australia. Notably, Sweden, with a population approaching 10 million, has fewer prisoners than Western Australia alone. Taking the view that prison is the punishment, the Swedish authorities see their job as to help people become better people who are more skilled at contributing to society.

Without examining why our incarceration rate is so high, we will, as a society, simply build more and more prisons, extracting a greater slice of the limited public funding available to fund incarceration providing little or no rehabilitation. Under this scenario we can expect to see our recidivist rate increase. Without a clear framework and way forward developed from reviewing the reasons behind our extremely high incarceration rate, regardless of what system is introduced to make the prison system more agile and effective, it will suffer from a continuation of reactive policies.

4. REHABILITATION

Without an effective rehabilitation program, our corrective services system will fail. With an already unacceptably high imprisonment rate, this trend will continue unless we come to grips with a positive and effective rehabilitation program.

The Discussion Paper repeatedly refers to a lack of education and training and rehabilitation programs, in both quality and quantity. These are insufficient for the number of prisoners and are frequently culturally inappropriate, particularly for the very high number of indigenous prisoners. A significant component of any rehabilitation program must be effective education. There is little doubt insufficient education opportunities are provided in all prisons. Whether this is due to financial constraints from the Department of Education and Training or the Department of Corrective Services is unclear.

No mention is made of education for juveniles. In the general population, full time attendance at secondary education until reaching the age of 17 is compulsory. It is unclear whether juvenile offenders incarcerated in prisons either on remand or post sentencing are required to attend full-time education or if a full time education service is provided.

A recent report from the Office of Inspector of Corrective Services has identified serious underutilisation of the very expensive work camps, despite apparently being reasonably successful in achieving rehabilitation and reducing recidivism. This appears to be part of the systemic and structural problems within the Department of Corrective Services referred to within the Discussion Paper.

5. HEALTH SERVICES

The Discussion Paper highlights, through commentary relevant to particular submissions, the appalling difficulty prisoners with health issues experience in accessing health services. This is most acute where mental illness is present. As the Discussion Paper points out, the mental illness amongst the prison population bears little resemblance to the proportion of mental illness amongst the total population with up to 40% having a mental illness or mental health issues. While it is difficult to get adequate mental health care in the broader community, in the prison environment these difficulties multiply. The cost of providing sufficient mental health services in a prison environment appears to be so prohibitive minimal services are contracted to private providers or NGOs rather than the Health Department; thus, prisoners appear to be denied access to services available to the general population.

6. INDIGENOUS IMPRISONMENT RATE

According to the ABS, between the 2013 and 2014 December quarters, the imprisonment rate for Aboriginal and Torres Strait Islander males increased by 3% to 4,069 prisoners per 100,000 adult male Aboriginal and Torres Strait Islander population. The imprisonment rate for Aboriginal and Torres Strait Islander females increased by 9% to 438 prisoners per 100,000 of the adult female Aboriginal and Torres Strait Islander population over the same period.

Based on daily averages, the highest Aboriginal and Torres Strait Islander imprisonment rate for the December quarter 2014 was recorded in Western Australia (3,748 Aboriginal and Torres Strait Islander prisoners per 100,000 adult Aboriginal and Torres Strait Islander population), followed by the Northern Territory (2,987 Aboriginal and Torres Strait Islander prisoners per 100,000 adult Aboriginal and Torres Strait Islander population) and South Australia (2,502 Aboriginal and Torres Strait Islander prisoners per 100,000 adult Aboriginal and Torres Strait Islander population).

These figures continue the worrying trend of increased incarceration amongst the indigenous community where additional health problems, including drug and alcohol dependency and mental illness are already in greater numbers than the total population averages.

7. AGEING PRISON POPULATION

The available ABS data indicates that prisoners are ageing. The median age has increased and there are reportedly around 76 prisoners over the age of 65 currently in Western Australian prisons (ABS 45170DO003_2014 Prisoners in Australia, 2014).

An ageing prison population has quite different needs to a younger cohort. The physical health of older prisoners is likely to suffer more acutely in a prison environment, more likely to be susceptible to viruses which might go through a communal environment such as influenza and other contagious diseases, have different physical capacities and need different occupations. Older prisoners' safety is likely to be more precarious and their catering needs likely to differ. Other health issues such as adult onset diabetes, heart problems and stroke risk are likely to be more acute amongst the older prison population as is the possibility of dementia, with the health hazards which accompany dementia. The ERA final report must address this as must the Department of Corrective Services strategic planning for managing a changing prisoner profile.

8. PRIVATE VERSUS PUBLIC PRISON MANAGEMENT

The Discussion Paper contends privately managed prisons are more efficient and effective than the publicly managed prisons. It also points out publicly managed prisons are less transparent, have little strategic intent and possibly suffer from a culture of doing the same thing has always been done which there is no incentive to doing anything differently. The *if it ain't broke, don't fix it* mentality appears to be rife within the system. Conversely, the paper contends privately run prisons are exhibiting higher levels of rehabilitation and lower recidivism rates, better access to education and training and generally much better environments. This seems to be the basis for arguing that a new commissioning system should be set in place.

It is of interest that the Department of Corrective Services was restructured around 12 months' ago. Part of the restructure included the establishment of a reform program, in recognition of the Department's systemic difficulties, highlighted in the Discussion Paper. Such a significant reform program in the life of a large government agency is likely to take more than the six months or so the revised structure has been in place. Rather than further pursue the privatisation agenda, with the inherent risks of developing monopolies and losing a skills and knowledge base, we contend this reform program should be supported for at least two full financial years, enabling the Commissioner and leadership team to address the identified shortfalls and become a more agile and innovative agency.

However, this will never be successful without sufficient funding, appropriate incentives and relevant devolution of responsibilities.

The Department of Corrective Services is a government agency. The prisoners under its care and control are, in the main, Australian citizens. Each and every one of those people have the right to expect access to the same standard of health care, including mental health, and reasonable access to education and training, especially in the case of minors who, by law, should be attending full time secondary education. Just as the residents of Cocos Island, for example, have free access to the Western Australian Department of Education and Training and the Western Australian Health Department, so too should the services of these public agencies be available within the prison system.

9. STRATEGIC PLANNING, INCENTIVES AND STRUCTURAL REFORM

It is clearly concerning that in the main individual facilities do not have a clear vision and strategic and business plan setting out how they intend to achieve their vision. It is interesting to note the ones which do are achieving higher levels of rehabilitation. Additionally, the lack of coherent and comparative data makes it extremely difficult to fully assess a prison's success rates, while the lack of budget control at the prison cost centre means a prison Superintendent has very little say or control in how the facility is managed, where the emphasis is placed and, indeed, whether it is meeting any performance benchmarks.

The ERA Discussion Paper focuses on the need to develop a more strategic approach which incorporates benchmarks; it is our view this doesn't mean the prison systems in general should be contracted out or the commissioning model needs to be installed. The shortcomings identified, can readily be addressed without a significant change to the organisational structure. It is also of concern that in quite a few instances there appear to be no empirical evidence supporting the view contributing to ERA's proposed direction.

It is our view the objectives of achieving a more effective prison system can be reached through establishing performance objectives, including service level agreements with both the privately run and publicly managed prisons. One of the dangers inherent in contracting out the prisons is the reduction of career development, and the likelihood of leaving the more difficult regional prisons in the hands of the public sector, where resourcing difficulties will inevitably come into play and staff will be more difficult and more expensive to attract and retain, let alone providing promotion opportunities.

The proposed approach identifies the following objectives:

- Ensuring public and private prisons are held to the same standards of transparency and accountability; and
- t Superintendents have autonomy they need to ensure good performance.

There is no cogent or convincing argument presented to suggest establishing service level agreements, providing bonuses and devolving authority and responsibility within the public prisons system will not result in the same level of rehabilitation apparent in the two privately run prisons.

10. CONCLUSIONS

Much of the difficulties experienced in the Department of Corrective Services are directly attributable to political positions adopted and subsequent legislative changes. The Western Australian incarceration rate is of serious concern, particularly where other rehabilitation options are available but are not being used.

Health Services provided through the prison system should be provided either by the Department of Health or provided through a Department of Health contractor, as is the case in society in general.

Similarly, Education services should be available at the same level and standards available to the general public particularly secondary education being both accessible and compulsory for juveniles, and access to training programs in sufficient quantity and at appropriate levels for post compulsory education.

Indigenous incarceration rates must be reviewed and the reasons behind it addressed.

The Department of Corrective Services' recent restructure and consequent refocus has not had sufficient time in place to implement any significant cultural changes. This should be acknowledged in the ERA final report.

The discussion paper does not make a case for contracting out the prison system. It does make a case for bringing a more effective business model to the Department of Corrective Services, including the development of service level agreements, devolution of authority, budget control by Superintendents and the establishing of both bonuses and penalties tied to key performance indicators, essentially, professionalising the service. Any such change must be accompanied by respectful and detailed organisational culture changes, with staff having access to education and training appropriate to the service society expects to be provided to prisoners who are, indeed, members of our society and who we hope will complete their prison sentence and leave as people with more skills better able to make a positive contribution to society.