



Uniting Church in Australia

Western Australia

Submission to the Economic Regulation Authority

**Response to the Discussion Paper Re: Inquiry into the efficiency and performance of
Western Australian prisons**

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UCA WA Response to the ERA Inquiry into the Efficiency and Performance of Western Australian Prisons Discussion Paper

The Uniting Church Synod of WA appreciates the opportunity to further comment on the Economic Regulation Authority discussion paper.

We commend the ERA for an accurate assessment of the key issues affecting the performance of the prison system. A number of the suggested reforms made by the ERA are positive, however, we also retain some key concerns regarding the nature and scope of the reforms proposed.

Lack of Benchmarks

The lack of appropriate benchmarks for assessing the performance of the prison system is no doubt fundamental to a number of failures as identified in the report. We therefore support the push to increase the transparency and accountability of prison operations through improved benchmarking.

We do not believe that a private prison *necessarily* operates with greater transparency than a state-run prison. The fact that the contract for services to Acacia prison is publically available does provide some transparency, but in an environment where state-run prisons were given similar publicly accountable standards, we assert that the whole system could be more transparent and accountable. We further state that there are parts of the privately operated prison which are still “commercial in confidence” and that this is a concern when the State is providing the funds to operate this enterprise.

We would strongly urge the ERA to recommend that this benchmarking should be done as a matter of urgency. We would further suggest that benchmarks need to be arrived at by a process of community consultation and engagement, and that they should be aligned closely with Office of the Custodial Inspector’s own guidelines and relevant Human Rights commitments such as International Covenant on Civil and Political Rights (ICCPR) and Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

Autonomy

We agree that superintendents in charge of state-run prisons do need to have control of budgets and use it to manage appropriate service delivery for the individual requirements of their prison.

We are less convinced that giving a superintendent control over the recruitment and management of staff will necessarily improve outcomes for prisoners – which is our main concern. In an environment where prison management has not previously been responsible for Human Resource

management, the tasks which were previously done by a centralised bureaucracy can become time consuming.

We are concerned that this approach is designed to bring the prison officer workforce into a situation where they are likely to be offered casual contracts and variable hours, which in turn may make for a less professional workforce. Australia wide experience of for-profit companies who use such contracts in detention environments shows that there is a high turnover of employees through the system, and a challenge to recruit, train and retain good workers. In many prisons good quality employees can develop a relationship with prisoners, which helps the good order of the prison.

Incentives

It is not clear from the discussion paper what 'incentives and penalties' (Discussion Paper page 21) could be provided to a prison which was run by the State of Western Australia, to ensure that such a prison would meet agreed performance benchmarks. Clearly, a for-profit company running a prison can receive financial incentives. State-run prisons should meet performance benchmarks because the state demands such performance.

We note that on Page 19 of the discussion paper it is suggested that SERCO constantly renegotiates its performance indicators in order to avoid penalties. We are not clear how this fits with the idea that they have to reach publicly available benchmarks on performance.

Clear philosophy and objectives

We agree that prisons need to have a clear philosophy and objectives but do not agree that this should be developed independently of the State, which should know what it wants to achieve in prisons.

The Uniting Church Synod of WA has consistently argued that a restorative justice approach would deliver better outcomes from the justice system. There is a vast range of evidence from around the world highlighting the effectiveness of restorative justice practices. This is similarly the case for prison diversion programmes, post-release support, and early intervention and prevention initiatives, all of which need to be identified as part of the philosophy and objectives of prisons as part of holistic, integrated justice system and community framework. The justice reinvestment approach is a clear way of incorporating these elements.

Lack of Collaboration

To effectively implement such a holistic, integrated approach a clear mandate needs to be provided to prisons to ensure that they operate in broad cooperation with other government and non-government service providers. Preventing incarceration and reducing recidivism are goals that

cannot be achieved by prisons in isolation from other government, non-government and community organisations. Establishing meaningful conversation and functional collaboration between various bodies is vital to the establishment of effective programs addressing these issues. Given that such programs must include community engagement, targeted support services, improved rehabilitation and mental health support, greater engagement with non-government organisations who already demonstrate proficiency in these areas, is essential.

NGO Support Services

Within the prison justice system, the Uniting Church, through its prison chaplains and care agency UnitingCare West, provides chaplaincy services, post-release support and has undertaken research projects. We notice the recognition provided in the discussion paper (page 27) to the positive work of not-for-profit organisations like ourselves and question why there is not greater support and funding offered to groups like ours to provide further services. Given the repeated acknowledgement of the lack of welfare and rehabilitation services provided by prisons throughout the discussion paper it would seem simple and appropriate to give greater strength to the NGO sector that has proven to be efficient and effective in providing the services required.

Challenges and complexities in implementing the proposed approach

We are concerned that the ERA has not identified the challenges and complexities of moving to the proposed commissioning style system, or given enough weight to them.

It is hard to see how the public prison system staff could be upskilled enough to compete against multinationals like SERCO who have shown themselves extremely skilled at both tendering for contracts and lobbying to get them. We cannot see how the public prison system could ethically lobby, using former government ministers, for example, in the way that private companies are known to do.

Given the fact that there is a lack of experience in the state run prison system to tender for contracts, and that the state system would be handicapped by a lack of ability to lobby politicians, it seems this approach will result in greater privatisation of prisons.

We note that the paper virtually admits that NGOs are unlikely to be capable of running prisons, or see that it is their mandate to do so - this leaves just SERCO and other multinationals to tender. (Report page 42-43)

We are concerned that the proposed shake-up of the governance system will require significant time and resources given the huge organisational change required. We are concerned that this will bog the prison system down for years before it shows any concrete improvements, which are so urgently needed.

Finally we observe that the experience of privately run prison systems in US seems linked to enormous rises in prison population. Where is the ‘incentive’ in this system to reduce prison populations? In the scenarios outlined in the paper, where do the experiments at new alternatives to incarceration come from? Where does the incentive come from for diversion programs for example?

Conclusion

Whilst the Uniting Church in Western Australia commends the undertaking of a prison review and appreciates the opportunity to contribute to that process, we still hold some persistent reservations about the scope, content and suggested reforms recommended by the ERA. As a summarizing statement of our concerns we conclude with a quote from the UCA submission provided previously:

“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.”

The Uniting Church again 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.